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February 1, 2019 Volume 43, Issue 5

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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 DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Forever Green Illinois Program
- 2) Code Citation: 8 Ill. Adm. Code 241
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
241.10	Repealed
241.20	Repealed
241.30	Repealed
241.40	Repealed
241.50	Repealed
241.60	Repealed
- 4) Statutory Authority: Implementing and authorized by Section 205-103 of the Civil Administrative Code of Illinois [20 ILCS 205/205-103] repealed by PA 100-844.
- 5) A Complete Description of the Subjects and Issues Involved: Statute repealed by PA 100-844.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this repealer replace any emergency rule in effect? No
- 8) Does this repealer contain an automatic repeal date? No
- 9) Does this repealer contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: It does not create or expand a State mandate under the State Mandates Act [30 ILCS 805].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the Notice of Proposed Amendment appears in the *Illinois Register*. Please mail written comments on the proposed rulemaking to the attention of:

Pamela Harmon
Illinois Department of Agriculture

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

State Fairgrounds, P. O. Box 19281
Springfield IL 62794-9281

217/524-6905
fax: 217/785-4505

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: There is no adverse impact on small business.
- 15) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not summarized in a regulatory agenda, but it is necessary in the judgment of Acting Director Warren D. Goetsch, P.E..

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

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER h: PESTS AND PLANT DISEASES

PART 241

FOREVER GREEN ILLINOIS PROGRAM ([REPEALED](#))

Section

241.10	Definitions
241.20	General Provisions and Purpose
241.30	Eligibility
241.40	Priority to Existing Tree City USA Communities
241.50	Government Record of Problem Trees
241.60	Tree Removal and Greenery Placement

AUTHORITY: Implementing and authorized by Section 205-103 of the Civil Administrative Code of Illinois [20 ILCS 205/205-103].

SOURCE: Adopted at 38 Ill. Reg. 23374, effective November 26, 2014; repealed at 43 Ill. Reg. _____, effective _____.

Section 241.10 Definitions

"Participating Entity" means a State agency or unit of local government that has been selected by the Department as a participant of the Forever Green Illinois Program.

"Problem Trees" means trees located on property owned or controlled by the State or a unit of local government in a pilot project area that are currently damaging public or private infrastructure; are of ill health and are presently or may soon pose a threat to public safety; or are currently infested with an invasive insect pest or plant disease such as, but not limited to, the Emerald Ash Borer.

"Greenery" means grass, weeds, trees, shrubs, bushes, plants and other plant material.

Section 241.20 General Provisions and Purpose

ILLINOIS DEPARTMENT OF AGRICULTURE

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Section 205-103 of the Civil Administrative Code of Illinois [20 ILCS 205/205-103] creates within the Department the Forever Green Illinois Program, to be administered by the Department as provided in the Code and this Part. The program is established to maintain and beautify greenery on property owned or controlled by the State or a unit of local government. The goals of the program are to:

- a) Assist participating entities in dealing with negative impacts on community and private infrastructure from improperly maintained trees on public rights of way;
- b) Assist participating entities in dealing with the aftermath of devastating invasive insect pests and plant disease infestations, including, but not limited to, the Emerald Ash Borer; and
- c) Promote adoption of tree planting and maintenance programs for trees and other greenery intended to avoid future infrastructure damage from those plantings.

Section 241.30 Eligibility

- a) Participation in the Forever Green Illinois Program is limited to State agencies and units of local government for the maintenance and beautification of property owned or controlled by the State or a unit of local government.
- b) The Department will select and approve pilot projects for the Forever Green Illinois Program. These pilot projects will be identified and selected by the Department based on geographic size, location, need, local government interest, availability of local government resources, available funding, available contractors, and available Department staffing.
- c) Pilot projects may be conducted in one or more of the following counties: Cook, DeKalb, Jefferson, McDonough, McLean, Sangamon and St. Clair.

Section 241.40 Priority to Existing Tree City USA Communities

To assist the Department in establishing the pilot projects, existing Tree City USA communities shall be given priority for participation in the Forever Green Illinois Program.

Section 241.50 Government Record of Problem Trees

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A participating entity shall maintain a prioritized list of problem trees. The participating entity shall make this record available to the Department.

Section 241.60 Tree Removal and Greenery Placement

- a) After reviewing the participating entity's prioritized list of problem trees, the Department will determine the number of trees to be removed, as well as the number and type of trees and other greenery to be planted back on the public property.
- b) The Department may enter into intergovernmental agreements with participating entities whereby the participating entities would allow the Department's approved and credentialed contractors to remove up to 150 problem trees located on public property and to replace the removed trees with an appropriate combination of trees and/or other greenery from predetermined lists. The predetermined lists are entitled "Increasing Tree Diversity in the Urban Landscape – Northern Illinois", "Increasing Tree Diversity in the Urban Landscape – Central Illinois", and "Increasing Tree Diversity in the Urban Landscape – Southern Illinois" (revised 11/27/07) and are available from the Department at http://www.agr.state.il.us/eab/PDFs_for_web/Reforestation/Northern_IL.pdf, http://www.agr.state.il.us/eab/PDFs_for_web/Reforestation/Central_IL.pdf, and http://www.agr.state.il.us/eab/PDFs_for_web/Reforestation/Southern_IL.pdf, respectively.
- c) The Department may enter into intergovernmental agreements with participating entities whereby the participating entities would allow the Department's approved and credentialed contractors to place greenery on property owned or controlled by the participating entities.
- d) The participating entity shall be responsible for the removal and/or repair of any infrastructure that would be disturbed as a result of the tree removal or greenery placement process, such as, but not limited to, sidewalks, pavement and curbing.

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Governor's Agricultural Heritage Award
- 2) Code Citation: 8 Ill. Adm. Code 305
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
305.10	Repealed
305.20	Repealed
305.30	Repealed
305.40	Repealed
305.50	Repealed
305.60	Repealed
305.70	Repealed
- 4) Statutory Authority: Statute repealed by PA 89-657.
- 5) A Complete Description of the Subjects and Issues Involved: Statute repealed by PA 89-657.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this repealer replace any emergency rule in effect? No
- 8) Does this repealer contain an automatic repeal date? No
- 9) Does this repealer contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: It does not create or expand a State mandate under the State Mandates Act [30 ILCS 805].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the Notice of Proposed Amendment appears in the *Illinois Register*. Please mail written comments on the proposed rulemaking to the attention of:

Pamela Harmon
Illinois Department of Agriculture

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

State Fairgrounds, P. O. Box 19281
Springfield IL 62794-9281

217/524-6905
fax: 217/785-4505

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: There is no adverse impact on small business.
- 15) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not summarized in a regulatory agenda, but it is necessary in the judgment of Acting Director Warren D. Goetsch, P.E.

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

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER m: MARKETING PROGRAMS

PART 305

GOVERNOR'S AGRICULTURAL HERITAGE AWARD (REPEALED)

Section

305.10	Purpose
305.20	Definitions
305.30	Eligibility
305.40	Selection Criteria
305.50	Applications
305.60	Selection Process
305.70	Application Fees

AUTHORITY: Implementing and authorized by Section 40.40 of The Civil Administrative Code of Illinois (Ill. Rev. Stat. 1991, ch. 127, par. 40.40, as amended by P.A. 87-152, effective January 1, 1992).

SOURCE: Adopted at 16 Ill. Reg. 13788, effective August 26, 1992; repealed at 43 Ill. Reg. _____, effective _____.

Section 305.10 Purpose

The purpose of the Governor's Agricultural Heritage Award program is to recognize persons for their outstanding contributions, efforts, dedication and support to Illinois agriculture.

Section 305.20 Definitions

"Award Winner" means a candidate chosen to receive the Governor's Agricultural Heritage Award.

"Candidate" means a person who has been nominated for the Governor's Agricultural Heritage Award.

"Director" means the Director of the Illinois Department of Agriculture, or a duly authorized representative.

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"Person" means any individual (deceased or living), family, association, firm, corporation or other business entity.

"Selection Committee" means individuals who are appointed by the Director of Agriculture to review applications and select the award winner(s).

"Sponsor" means the person who nominates the candidate.

Section 305.30 Eligibility

Any person may be nominated for the Governor's Agricultural Heritage Award who has made an outstanding contribution to Illinois agriculture. An outstanding contribution includes, but is not limited to, the following: a breakthrough in livestock genetics; the implementation of an effective, measurable conservation program; the development of a new consumer product made from an agricultural commodity; or an agricultural teaching career.

Section 305.40 Selection Criteria

- a) The selection committee shall consider outstanding contributions in the field of agriculture in one or more of (but not limited to) the following areas:
- 1) Agricultural Communications
 - 2) Agricultural Economics/Marketing
 - 3) Agricultural Engineering
 - 4) Agricultural Genetics
 - 5) Animal Science
 - 6) Biotechnology
 - 7) Conservation Practices
 - 8) Crop Science
 - 9) Environmental Practices

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- 10) Fertilizer and Chemicals
 - 11) Food Science
 - 12) Horticulture
 - 13) Legal and Legislative
 - 14) Education or Extension
 - 15) Research
 - 16) Product Development
 - 17) Person who has been involved in production agriculture consecutively for 50 or more years.
- b) Major contribution shall have been accomplished in Illinois.
 - c) In addition, the Selection Committee shall consider the accomplishment or combination of accomplishments of the candidate regarding agriculture or the agricultural industry that may be of a personal nature, such as the enhancement of community relations or an active involvement in agriculture.

Section 305.50 Applications

- a) Applications for the Governor's Agricultural Heritage Award shall be available July 1 of each year through agricultural organizations and the Illinois Department of Agriculture. Publicity concerning the program and applications will be disseminated beginning July 1 of each year.
- b) Sponsor shall provide the name, address, telephone number of the candidate, and a description of the contribution with the time frame in which it was accomplished. Letters of support from the sponsor and any other persons may be included with the application.
- c) Application deadline shall be November 1 of each year.
- d) Applications and the required fee are to be returned to the Illinois Department of

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

Agriculture, Division of Marketing and Promotion, P.O. Box 19281, State Fairgrounds, Springfield, Illinois 62794-9281.

Section 305.60 Selection Process

- a) The Director shall appoint a Selection Committee consisting of three agricultural/agri-business representatives, two government representatives and one education representative.
- b) The Selection Committee shall meet within 60 days following the application deadline to review all applications received prior to the deadline and select award winner(s).
- c) No more than 10 award winners shall be selected each year. Of the ten awards, up to two awards will be presented to persons who have been involved in production agriculture consecutively for 50 or more years.
- d) All sponsors and award winner(s) shall be notified in writing of the actions of the Selection Committee within 90 days after the application deadline. The award winners shall be recognized at an awards ceremony. The Director shall set the date, time and place for such ceremony.

Section 305.70 Application Fees

The applications for the Governor's Agricultural Heritage Award shall be accompanied by a \$45 fee. This application fee is non-refundable.

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Illinois AgriFIRST Program Act
- 2) Code Citation: 8 Ill. Adm. Code 950
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
950.10	Repealed
950.20	Repealed
950.30	Repealed
950.40	Repealed
950.50	Repealed
950.60	Repealed
950.70	Repealed
950.80	Repealed
950.90	Repealed
950.100	Repealed
950.110	Repealed
950.120	Repealed
950.130	Repealed
950.140	Repealed
950.150	Repealed
950.160	Repealed
950.170	Repealed
950.180	Repealed
950.190	Repealed
950.200	Repealed
950.210	Repealed
950.220	Repealed
950.230	Repealed
950.240	Repealed
950.250	Repealed
950.260	Repealed
950.270	Repealed
950.280	Repealed
950.290	Repealed
- 4) Statutory Authority: Implementing and authorized by the Illinois AgriFIRST Program Act [505 ILCS 19] repealed by PA 100-844.

ILLINOIS DEPARTMENT OF AGRICULTURE

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- 5) A Complete Description of the Subjects and Issues Involved: Statute repealed by PA 100-844.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this repealer replace any emergency rule in effect? No
- 8) Does this repealer contain an automatic repeal date? No
- 9) Does this repealer contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: It does not create or expand a State mandate under the State Mandates Act [30 ILCS 805].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the Notice of Proposed Amendment appears in the *Illinois Register*. Please mail written comments on the proposed rulemaking to the attention of:

Pamela Harmon
Illinois Department of Agriculture
State Fairgrounds, P. O. Box 19281
Springfield, IL 62794-9281

217/524-6905
fax: 217/785-4505
- 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

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

- 14) Small Business Impact Analysis: There is no adverse impact to small business.
- 15) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not summarized in a regulatory agenda, but it is necessary in the judgement of Acting Director Warren D. Goetsch, P.E.

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

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER u: GENERAL RULES

PART 950
ILLINOIS AGRIFIRST PROGRAM ACT (REPEALED)

SUBPART A: GENERAL PROVISIONS

Section	
950.10	Purpose
950.20	Applicability
950.30	Severability
950.40	Definitions
950.50	Waiver, Modification, Alteration, and Extension
950.60	Computation of Time
950.70	Eligibility
950.80	Fund Availability and Submission Deadlines
950.90	Application Requirements
950.100	Application Procedures
950.110	Review of Grant Applications
950.120	Award of Grants
950.130	Acceptance and Time Restrictions of Applicant
950.140	Grant Agreement
950.150	Equity Contribution
950.160	Reporting
950.170	Maintenance of Records and Audit
950.180	Inspection
950.190	Additional Notification Requirements
950.200	Default or Termination of Grant Agreement
950.210	Administrative Standards for Grant Recipients
950.220	Appeal Process

SUBPART B: GRANT PROGRAM FOR NON-CONSTRUCTION PROJECTS

Section	
950.230	Purpose
950.240	Eligible Costs

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SUBPART C: GRANT PROGRAM FOR CONSTRUCTION PROJECTS

Section	
950.250	Purpose
950.260	Eligible Costs
950.270	Prevailing Wage

SUBPART D: REVIEW COMMITTEE

Section	
950.280	Review Committee
950.290	Conflict of Interest

AUTHORITY: Authorized by the Illinois AgriFIRST Program Act of 2001 [505 ILCS 19].

SOURCE: Emergency rule adopted at 25 Ill. Reg. 12098, effective September 6, 2001, for a maximum of 150 days; emergency expired February 2, 2002; adopted at 26 Ill. Reg. 3451, effective March 1, 2002; repealed at 43 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 950.10 Purpose

This Part provides regulations for the implementation and operation of a grant program for the purpose of adding value to Illinois agricultural commodities.

Section 950.20 Applicability

This Part applies to facilities located in Illinois for which a grant application has been filed with the Department *to pay the costs of technical assistance and feasibility studies and acquiring, constructing, reconstructing, or improving agricultural facilities for the purpose of adding value to Illinois agricultural commodities or to agribusinesses located in Illinois that have filed a grant application with the Department that operate or will operate a facility located in Illinois for the purposes of adding value to Illinois agricultural commodities.* [505 ILCS 19/25]

Section 950.30 Severability

If any provision of this Part or its application to any person or under any other circumstances is adjudged invalid, such adjudication does not affect the validity of this Part as a whole or of any

ILLINOIS DEPARTMENT OF AGRICULTURE

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portion not adjudged invalid.

Section 950.40 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part shall be the same as that applied to the same word or terms in the Civil Administrative Code of Illinois. For the purposes of this Part, the terms included in this Section shall have the following meanings:

"Act" means the Illinois AgriFIRST Program Act of 2001 [505 ILCS 19].

"Agreement" means a written document executed between the grantee and the Department setting forth the terms of the grant.

"Agribusiness" means any sole proprietorship, limited partnership, co-partnership, joint venture, corporation, or cooperative that operates or will operate a facility or agricultural process located within the State of Illinois that is related to the processing of agricultural commodities (including, but not limited to, the products of aquaculture, hydroponics, and silviculture) or the manufacturing, production, or construction of agricultural buildings, structures, equipment, implements, and supplies, or any other facilities or processes used in agricultural production. "Agribusiness" includes but is not limited to the following:

- 1) *grain handling and processing, including grain storage, drying, treatment, conditioning, milling, and packaging;*
- 2) *seed and feed grain development and processing;*
- 3) *fruit and vegetable processing, including preparation, canning, and packaging;*
- 4) *processing of livestock and livestock products, dairy products, poultry and poultry products, fish or apiarian products, including slaughter, shearing, collecting, preparation, canning, and packaging;*
- 5) *fertilizer and agricultural chemical manufacturing, processing, application and supplying;*

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- 6) *farm machinery, equipment, and implement manufacturing and supplying;*
- 7) *manufacturing and supplying of agricultural commodity processing machinery and equipment, including machinery and equipment used in slaughter, treatment, handling, collecting, preparation, canning, or packaging of agricultural commodities;*
- 8) *farm building and farm structure manufacturing, construction, and supplying;*
- 9) *construction, manufacturing, implementation, supplying, or servicing of irrigation, drainage, and soil and water conservation devices or equipment;*
- 10) *fuel processing and development facilities that produce fuel from agricultural commodities or by-products;*
- 11) *facilities and equipment for processing and packaging agricultural commodities specifically for export;*
- 12) *facilities and equipment for forestry product processing and supplying, including sawmilling operations, wood chip operations, timber harvesting operations, and manufacturing of prefabricated buildings, paper, furniture, or other goods from forestry products; and*
- 13) *facilities and equipment for research and development of products, processes, and equipment for the production, processing, preparation, or packaging of agricultural commodities and by-products. [505 ILCS 19/5]*

"Agricultural commodities" means Illinois crops of fiber, food, oilseeds, seeds, fruit, vegetables, horticulture, grain, and their products or by-products and products of aquaculture, horticulture, hydroponics, silviculture, livestock, dairy, poultry, bees, ratites and any other products or by-products.

"Agricultural facility" means land, any building or other improvement on or to land, and any personal properties deemed necessary or suitable for use, whether or not now in existence, in farming, ranching, the production of agricultural commodities (including, but not limited to, the products of aquaculture, hydroponics, and silviculture) or the treating, processing, or storing of

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agricultural commodities. [505 ILCS 19/5]

"Agricultural land" means land suitable for agriculture production. [505 ILCS 19/5]

"Applicant" means a person or agribusiness, as defined in this Part, submitting a written request for program funds appropriated under the Act.

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

"Asset" means, but is not limited to, the following cash crops or feed on hand: livestock held for sale; breeding stock; marketable bonds and securities; securities not readily marketable; accounts receivable; notes receivable; cash invested in growing crops; net cash value of life insurance; machinery and equipment; cars and trucks; farm and other real estate, including life estates and personal residence; value of beneficial interest in trusts; government payment or grants; and other assets. [505 ILCS 19/5]

"By-product" means something produced from an agricultural commodity.

"Crop" means a product produced from an agricultural commodity.

"Department" means the Illinois Department of Agriculture. [505 ILCS 19/5]

"Director" means the Director of the Illinois Department of Agriculture. [505 ILCS 19/5]

"Economic impact" means the financial result of the project on the State's agriculture and agribusiness sectors.

"Eligible project" means a project that is eligible for funding as defined in Sections 950.240 and 950.260 of this Part.

"Fiscal year" means July 1 of one year through June 30 of the following year, the fiscal year of the State of Illinois.

"Fund" means the Illinois AgriFIRST Program Fund. [505 ILCS 19/5]

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"Grant" means an Illinois AgriFIRST Program grant authorized by the Act and this Part.

"Grant amount" means an amount that the Department shall pay to a Grantee for its use on an eligible project.

"Grantee" means an Illinois person or agribusiness that has been awarded a grant in accordance with the Act and this Part.

"Lender" means any federal or State chartered bank, federal land bank, production credit association, bank for cooperatives, federal or State chartered savings and loan association or building and loan association, small business investment company, or other institution qualified within this State to originate and service loans, including, but not limited to, insurance companies, credit unions, and mortgage loan companies. "Lender" includes a wholly owned subsidiary of a manufacturer, seller or distributor of goods or services that makes loans to businesses or individuals, commonly known as a "captive finance company". [505 ILCS 19/5]

"Liability" includes, but is not limited to, the following: accounts payable; notes or other indebtedness owed to any source; taxes; rent; amounts owed on real estate contracts or real estate mortgages; judgments; accrued interest payable; liens and any other liability. [505 ILCS 19/5]

"Person" means, unless limited to a natural person by the context in which it is used, a person, corporation, association, trust, partnership, limited partnership, joint venture, or cooperative. [505 ILCS 19/5]

"Processor" means a person or agribusiness that processes, packages or otherwise enhances the value of agricultural commodities produced in Illinois.

"Product" means an agricultural commodity produced in Illinois.

"Project" means the activity or program of activities described by the Applicant in the Application and approved by the Department.

"Research" means activities related to feasibility studies, technical assistance, market research, technical product design, development and market testing, business plan development and pre-design of facilities for the purpose of adding

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commercial value to agricultural commodities.

"Review Committee" means the committee appointed by the Director to review and evaluate grant applications and make recommendations to the Director for the award of grants.

"State" means the State of Illinois. [505 ILCS 19/5]

"Technical assistance" means the paying for services or wages of persons to aid in the growth or progress of a project.

"Total project cost" means all necessary and reasonable costs related to the completion of the project as identified in the budget of the grant agreement.

"Value-added" means processing, packaging, or otherwise enhancing the value of farm and agricultural products or by-products produced in Illinois. [505 ILCS 19/5]

Section 950.50 Waiver, Modification, Alteration, and Extension

- a) *All requests for waiver of any requirements in this Part must be made in writing to the Department.* [505 ILCS 19/35(b)] A request for waiver will be granted upon a showing of due cause to the Director. The Department shall notify the applicant in writing of its determination within 15 days after receipt of the request for waiver.
- b) The Director of the Department may waive the application submittal deadlines set forth in Section 950.60 if:
 - 1) the Director finds that to do so would allow the Department to consider a project that would further the purposes of the Act and that is otherwise compliant with the provisions of this Part; and
 - 2) funds remain available for expenditure on such a project. The Director's written waiver shall be sufficient to allow for evaluation of the application in accordance with Section 950.110.
- c) All requests for modification or alterations to the grant agreement must be made in writing. *A grant award is subject to modification or alteration under, but is not*

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limited to, the following conditions:

- 1) *The grant award is subject to such modifications as may be required by changes in State law or regulations. Any such required modification shall be incorporated into and made a part of the grant as within the provisions of the Illinois Grant Funds Recovery Act [30 ILCS 705]. The Department shall notify the recipient in writing of any amendment to such regulations and the effective date of those amendments.*
- 2) *If either the Department or the recipient requests to modify the terms of the grant award other than as set forth in subsection (b)(1), written notice of the proposed modification shall be given to the other party. No modification shall take effect unless agreed to in writing by both the Department and the recipient. [505 ILCS 19/35(b)]*
- 3) A recipient's request for budget variations in the amount or line item costs shall be in writing by certified mail and shall give justifications for the requested variations. The Department may approve modification requests if the Department determines such is necessary to achieve program objectives. Any changes in cost categories or line items shall not alter the activities, deliverables, or program objectives for the project. If the Department approves the modification request, the recipient will be notified in writing of the change and the effective date of the change.
- d) A Grantee must make a written request for an extension of the agreement not later than 10 days prior to the termination date explaining the reasons an extension is needed. The Director may grant an extension if necessary. The Director may grant extension for successful completion of the grant project and determination of grant objectives. The Director may modify the terms of the agreement to comply with the extension.

Section 950.60 Computation of Time

Computation of any period of time prescribed by this Part shall begin with the first business day following the day on which the act, event or development initiating that period of time occurs, and shall continue until the end of the last day or the next business day if the last day is a Saturday, Sunday or federal or State holiday. When the period of time is 5 days or less, Saturday, Sunday and federal or State holidays shall be excluded in the computation of time. Computation of time shall be determined by the postmark date or the date of hand delivery.

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Section 950.70 Eligibility

Any person or agribusiness residing in Illinois that will or does process, package, or otherwise enhance the value of farm products or by-products produced in Illinois is eligible to receive a grant from the Fund.

Section 950.80 Fund Availability and Submission Deadlines

- a) Upon request, the Department will supply applicants with an application package.
- b) Applications for funding under the Fund will be made available on a schedule determined by the Department. Public notice of the availability of funding and the application due dates will be published in the State newspaper and on the Department's website. Applications received after 5:00 p.m. on the appropriate submission date will be held for consideration during the next review cycle. Final award announcements will be made within 90 days after the application deadline.
- c) Persons or agribusinesses may not be awarded more than one grant for technical assistance pursuant to Section 950.240(a) per project.
- d) Technical assistance grants pursuant to Section 950.240(a) may not be awarded to different persons or agribusinesses for the same project.
- e) Persons or agribusinesses may be awarded more than one grant in a year for the same project or a different project for expenses related to feasibility studies, competitive assessments, and consulting or productivity services pursuant to Section 950.240(b) provided that the total grant amount awarded in a year shall not exceed \$300,000.

Section 950.90 Application Requirements

- a) All communications relating to the application procedures defined in this Subpart shall be sent to the Illinois Department of Agriculture, Office of AgriFIRST, State Fairgrounds, P.O. Box 19281, Springfield, Illinois 62794-9281.
- b) An application shall be typed or computer generated using the current approved format provided by the Department. The application will include identifying information about the applicant, project name and cost estimates, funding request,

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a description of matching funds and in-kind contributions, and related information.

- c) An application shall contain one original and the designated number of copies as required by the Department.
- d) An applicant must complete and sign an application before it is submitted to the Department. The application must include information and supporting documents that will enable the application to be evaluated based on the criteria described in Section 950.120 of this Part.

Section 950.100 Application Procedures

- a) Within 15 days after the Department receives the application, the Department shall notify the applicant whether, after an initial review, the application and attachments, if any, are complete. This notification is not an acknowledgment by the Department as to the adequacy of the substance of the application. If the application and attachments are incomplete, the applicant shall be notified of the deficiencies, specifying the additional information required. The applicant will then have 15 days to cure any deficiencies. In the event the applicant fails to cure all deficiencies within 15 days, the application shall be considered null and void and returned to the applicant. An applicant may choose to correct such deficiencies through resubmission during the next cycle of funding.
- b) The Department may require the applicant to submit other information reasonably related to a determination of applicant or project eligibility or project feasibility.
- c) The Department may request the applicant or representative to present an oral presentation to the Review Committee of the project. Such presentation must be made by the project applicant.
- d) If the application is rejected, the notification shall state the reasons for that determination.

Section 950.110 Review of Grant Applications

- a) Those applications that are deemed complete under Section 950.100 by the Department will be sent to a Review Committee for the review of the grant applications.

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- b) The Review Committee will meet and review and evaluate the applications in accordance with the criteria listed in this Section, as applicable:
- 1) *The project has a reasonable assurance of enhancing the value of agricultural products or will expand agribusiness in Illinois.*
 - 2) *Preliminary market and feasibility research has been conducted by the applicant or others and there is a reasonable assurance of a potential market.*
 - 3) *The applicant has demonstrated the ability to manage the business or commercialize the idea.*
 - 4) *There is favorable community support for the project.*
 - 5) *There are favorable recommendations from local economic development groups, university-based technical specialists, or other qualified service providers.*
 - 6) *The applicant demonstrates a personal commitment and a commercialization development plan.*
 - 7) *There is an adequate and realistic budget projection.*
 - 8) *The application meets the eligibility requirements and the project costs are eligible under the Act.*
 - 9) *The applicant has established a need for the grant.*
 - 10) *The economic impact of the project on the State's agriculture and agribusiness sector. [505 ILCS 19/15(a)]*
 - 11) Geographical location of project.
- c) Preference for grants will be given to, but is not limited to, the following:
- 1) *Proposals for industrial and nonfood production processes using Illinois agricultural products.*

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- 2) *Proposals for food, feed, and fiber products that use Illinois agricultural products and add to the value of Illinois agricultural products.*
 - 3) *Research proposals that have not been duplicated by other research efforts.*
 - 4) *Proposals that demonstrate that the applicant has invested his or her own funds, time, and/or other valued consideration in the project.*
 - 5) *Proposals that are reasonably expected to result in a viable commercial application.*
 - 6) *Proposals that have a positive economic impact on the State's agriculture and agribusiness sector. [505 ILCS 19/15(b)] Factors to be considered shall include:*
 - i) the numbers of farmers in the project;
 - ii) the number of employees to be involved in the project; and
 - iii) the primary and subsequent economic impact.
- d) If an applicant has received a grant in previous grant cycles and the Department experienced any problems with the applicant's handling of the grant, the Review Committee may evaluate an application based upon the applicant's previous grant performance in the areas of:
- 1) Accountability;
 - 2) Timeliness; and
 - 3) Effectiveness.
- e) After the Review Committee has completed evaluating each application, the Review Committee will submit its recommendations for awarding the grants to the Director. The Director will determine whether an eligible applicant is awarded a grant, as outlined in Section 950.120.

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- f) The Review Committee may also recommend to the Director that conditions be placed on certain grants deemed necessary by the Review Committee.
- g) The Committee may extend the time for consideration of an application until the next application period by advising the applicant in writing of the extension.

Section 950.120 Award of Grants

- a) The Director will award grants to applicants until all the grant money for that period is expended or all grants have been awarded. The Director may *impose additional or lesser requirements for the grant* [505 ILCS 19/15(b)] as deemed necessary and may change the amount recommended by the Review Committee if the grant amount does not meet the requirements of Section 950.110.
- b) If the Review Committee recommends to award a grant less than the amount requested, and the Director concurs, the Department shall confer with the applicant to determine whether a reduction in the grant request will preclude the applicant from performing the project's stated or modified scope of work. The Director will consider the applicant's response in deciding whether to award a grant for that project.

Section 950.130 Acceptance and Time Restrictions of Applicant

Within 45 days after receipt of the grant notification, the applicant must accept the grant as proposed in writing or the approval shall be withdrawn. Within 6 months after written acceptance, the applicant must commence the project. If mitigating circumstances prevent the start of the project and a diligent effort has been made, an applicant may apply to the Director for an extension of time. The request for extension must be submitted in writing prior to the expiration of the 6-month period. The Director shall decide the length of the extension period, if any, based on the mitigating circumstances.

Section 950.140 Grant Agreement

- a) When a grant has been awarded, the grantee and the Department or the Director's designee shall execute an agreement. The project shall not be initiated and costs shall not be incurred prior to the time the Department approves the application for funding eligibility.
- b) The agreement shall contain substantive provisions, including, but not limited to,

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the following:

- 1) A recitation of legal authority pursuant to which the agreement is made;
- 2) An identification of the project scope and schedule, and the work or services to be performed or conducted by the grantee;
- 3) An identification of the grant amount;
- 4) The conditions, timing, and manner in which the Department shall pay the grant amount subject to annual appropriation by the General Assembly;
- 5) The irrevocable promise of the grantee to pay the equity contribution of the total project cost;
- 6) A promise by the grantee not to assign or transfer any of the rights, duties or obligations of the grantee without the written consent of the Department;
- 7) A promise by the grantee not to amend the agreement without the written consent of the Department. Failure to do so will result in a cost disallowance. The project must be completed by the completion date of the notice of grant award unless a written request for an extension is submitted no later than 30 days prior to the award completion date;
- 8) A covenant that the grantee shall expend the grant amount and any accrued interest only for the purposes of the project as stated in the grant agreement and approved by the Department;
- 9) A covenant that the grantee shall refrain from entering into any written or oral agreement or understanding with any party that might be construed as an obligation of the State of Illinois or the Department for the payment of any funds under the Act;
- 10) The starting and termination dates of the agreement; and
- 11) Dates for submitting progress reports and other requirements.

Section 950.150 Equity Contribution

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- a) An applicant must provide at least 10 percent of the total cost of the project for which the grant will be spent that is:
 - 1) identified in the budget of the grant agreement;
 - 2) not funds from other Department funded grant programs;
 - 3) necessary and irrevocably obligated to the project; and
 - 4) *Cash, cash-equivalent; investments, bonds, irrevocable letters of credit or any combination thereof.* [505 ILCS 19/35(a)]

- b) The applicant must provide proof of the percentage. The balance of the project's total cost must be available from other sources, including, but not limited to:
 - 1) *commercial and private lenders;*
 - 2) *leasing companies;*
 - 3) *grants;* [505 ILCS 19/35(a)] and
 - 4) in-kind contributions, not to exceed 20% of the total project cost.

Prior expenditures, approved by the Director, may be used to meet the Equity Contribution required in this Section.

Section 950.160 Reporting

The applicant of a funded project shall submit to the Department periodic reports, as specified in the grant agreement, outlining progress, and time line and budget compliance. Each progress report must include a narrative statement of the progress toward project objectives and work tasks, an itemized statement of project funds, including grant funds received and the grantee's contributions, and an itemized statement of project expenditures. Deviations from the agreement may result in the withholding of further funding or in a grant default. A final written report, describing the work performed, results obtained, and economic impact, is required within 30 days after a project is completed. The final report shall also include a copy of the feasibility study, competitive assessment or other study produced, an evaluation of the success of the project utilizing performance measures and criteria contained in the project narrative, and a

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financial report of all expenses actually incurred and income generated by the project, if any. *The applicant must return any unused funds to the Department consistent with the Illinois Grant Funds Recovery Act [30 ILCS 705]. Grant recipients may be required to submit to the Department the following information: employment reports, federal tax returns or financial statements, and other information as requested by the Department where economic or business conditions may be necessary to determine conformance with grant conditions. The Department may require the financial statements be compiled, reviewed or audited by an independent accountant at the expense of the grantee at any time for 3 years following the completion of the grant. [505 ILCS 19/40]*

Section 950.170 Maintenance of Records and Audit

The grantee must keep records of all activities undertaken in connection with implementation of the grant proposal. The books, records, documents, and accounting procedures and practices of the grantee related to the grant are subject to review by the Director. The grantee must give the Director access during normal business hours to all business records related to the project. All financial documents, books, receipts, orders, expenditures, electronic data and accounting procedures and practices of the grantee are subject to examination by or for the Department at any time for 3 years following the completion of the grant.

Section 950.180 Inspection

During the term of a grant, the Director, or his designee, may inspect the operation of the business, and any of the grant projects.

Section 950.190 Additional Notification Requirements

The applicant shall notify the Director within 30 days of any changes in top-level management of the business or of any plans for sale, public offering or lease of the business that materially differ from the original intent of the grant application. Any sale, public offering or lease of the business that was not suggested or defined in the grant request requires a prior approval of the Director during the pendency of any grant approved. If the notification and prior approval required in this Section are not satisfied, the Director may cease any further grant payments and consider the grant in default.

Section 950.200 Default or Termination of Grant Agreement

- a) *If the grantee violates any of the terms of the grant agreement, the Department shall send a written notice to the applicant that he is in default and will be given*

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the opportunity to correct the violations. If the violation is not corrected within 10 days after receipt of the notification, the Director may do one or more of the following:

- 1) *Declare due and payable the amount of the grant and cease additional grant payments not yet made to the grantee; and*
 - 2) *Take any other action considered appropriate to protect the interest of the project.*
- b) Circumstances that will result in the termination of a grant include, but are not necessarily limited to, the following: *repeated failure to submit required reports; misapplication of grant funds; failure to provide required percentage Department funds; evidence of fraud and abuse; failure to maintain required records; repeated failure to meet performance timelines or standards; failure to resolve negotiated points of the agreement; and failure to develop and implement a corrective action plan within 30 calendar days after the Department's notice.*
- c) A grant may be terminated under, but termination is not limited to, any of the following circumstances:
- 1) *In the absence of State funding for a specific year, all grants that year will be terminated in full. In the event of a partial loss of State funding, the Department will make proportionate cuts to all recipients. In the event the Department suffers such loss of funding in full or part, the Department will give the grantee written notice setting forth the effective date of full or partial termination or, if a change in funding is required, setting forth the change in funding and changes in the approved budget.*
 - 2) *If the Department determines that the recipient has failed to comply with the terms and conditions of the grant agreement, the Department shall terminate the grant in whole, or in part, at any time before the date of completion.*
 - 3) *The Department may terminate the grant in whole, or in part, when the Department determines that the continuation of the project would not produce beneficial results commensurate with the continual expenditures of funds.*

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- d) *The recipient may refuse or elect not to complete the grant agreement and terminate the grant. The recipient shall notify the Department within 10 days after the date upon which performance ceases. The Department may declare due and payable the amount of the grant and may cease additional grant payments not yet made to the grantee. [505 ILCS 19/55]*
- e) Any money collected from the default or termination of a grant shall be placed into the fund and expended in the next period after receipt of the money.

Section 950.210 Administrative Standards for Grant Recipients

- a) The grant shall have a period of completion as determined by the Department.
- b) Payments pursuant to a grant are subject to the availability of funds appropriated to the Department by the Illinois General Assembly. Grant funds must be expended or obligated within the period of the grant agreement and liquidated within the period of time in accordance with the Illinois Grant Funds Recovery Act [30 ILCS 705].
- c) Payments to the recipient pursuant to a grant are subject to the initiation of an invoice voucher and receipt of an expenditure summary or documentation of expenses.
- d) The recipient is accountable for funds received under the grant and shall maintain effective control and accountability over all funds and other assets under the grant. The recipient shall maintain records that detail and accurately document the recipient's expenditures of grant funds for a period of 2 years following the end of the grant agreement.
- e) In accordance with Section 10 of the Illinois Grant Funds Recovery Act, all interest earned under the grant shall become part of the grant when earned. Any interest earned during the term of the grant, and not expended as grant principal during the term of the grant, shall be returned to the Department.
- f) If the grant recipient expends funds contrary to the provisions of the grant agreement, such action shall require the repayment of those funds.
- g) Recipients and their subcontractors, if any, must permit any agent authorized by the Department, upon presentation of credentials, to have full access to and the

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right to examine any documents, papers and records of the recipient involving transactions related to a grant from the Department.

- h) Grant recipients must submit, as specified in the grant agreement, reports on the financial status of the project and provide narrative reports on the activities and achievement results based on the objectives of the project.
- i) The recipient shall be responsible for securing any compliance audit of grant records required by this subsection. The audit must be performed by an independent certified public accountant, licensed by authority of the State of Illinois pursuant to the Illinois Public Accounting Act [225 ILCS 450]. The audit must be conducted in accordance with generally accepted government auditing standards adopted by the AICPA (1989, no later amendments or editions included). A grantee shall be responsible for securing a compliance audit for any grant award exceeding \$300,000. Additionally, a compliance audit may be required when certain risk conditions exist, including, but not limited to, a negative compliance history and disclosure of previous material audit findings. The audit shall be performed by an independent certified public accountant, licensed by authority of the State of Illinois pursuant to the Illinois Public Accounting Act. The audit shall be conducted in accordance with generally accepted auditing standards contained in the publication entitled AICPA Professional Standards, American Institute of Certified Public Accountants, Harborside Financial Center, 201 Plaza 3, Jersey City, New Jersey 07311 (June 2000, no later editions are incorporated).
- j) The Department reserves the right to conduct special audits, including but not limited to an agency-wide audit, at any time during normal working hours, regarding funds expended under Department grants.
- k) In accordance with Section 4 of the Illinois Grant Funds Recovery Act [30 ILCS 705/4], all funds, including any interest, remaining at the end of the grant period or at the expiration of the period of time grant funds are available for expenditure or obligation by the grantee, shall be returned to the Department within 45 days after the end of the relevant period. The grantee agrees to repay the Department for any funds that are determined by the Department to have been spent in violation of the grant agreement.
- l) Grantee shall permit any agent authorized by the Department, upon presentation of credentials, in accordance with the constitutional limitation on administrative

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searches, to have full access to and the right to examine any documents, papers, and records of the grantee involving transactions related to a grant from the Department. Once the Department has concluded its monitoring activities, the grantee will be notified of the Department's findings. If the Department has made a determination of noncompliance, the grantee will be allowed an opportunity to cure any and all noncompliance issues. If any noncompliance issues cannot be resolved, the Department will issue a notice requesting that the grantee repay any funds that are determined by the Department to have been spent in violation of the agreement. If the grantee fails to comply with the Department's notice, the Department shall issue a final notice providing the grantee the opportunity to request an administrative hearing pursuant to the Department's Administrative Hearing Rules found at 8 Ill. Adm. Code 1.

Section 950.220 Appeal Process

Any determination by the Department is subject to the appeal process set forth in the Department's procedural rules [8 Ill. Adm. Code 1].

SUBPART B: GRANT PROGRAM FOR NON-CONSTRUCTION PROJECTS

Section 950.230 Purpose

The purpose of this Subpart is to provide grants to persons and agribusinesses in Illinois for technical assistance to develop a project to enhance the value of agricultural products or to expand agribusiness in Illinois and for undertaking feasibility studies, competitive assessments, and consulting or productivity services that may result in the enhancement of value-added agricultural products.

Section 950.240 Eligible Costs

- a) A grant under this Part may provide:
 - 1) *Up to 75% of the cost for technical assistance to develop a project to enhance the value of agricultural products or to expand agribusiness in Illinois, but not to exceed \$25,000; and*
 - 2) *Up to 50% of the cost of undertaking feasibility studies, competitive assessments, and consulting or productivity services that the Department determines may result in the enhancement of value-added agricultural*

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products; and

- b) *Notwithstanding any other provision of this Section, the grant moneys may not be used for the purpose of compliance with the provisions of the Livestock Management Facilities Act. [505 ILCS 19/35(a)]*

SUBPART C: GRANT PROGRAM FOR CONSTRUCTION PROJECTS

Section 950.250 Purpose

The purpose of this Subpart is to provide grants to persons and agribusinesses in Illinois, on or after July 1, 2003, for capital construction projects in Illinois.

Section 950.260 Eligible Costs

- a) On or after July 1, 2003, a grant under this Subpart may provide *up to 10% of the project's total capital construction cost not to exceed \$5,000,000, including by not limited to:*
- 1) *Purchasing land;*
 - 2) *Purchasing, constructing, or refurbishing buildings;*
 - 3) *Purchasing or refurbishing machinery or equipment;*
 - 4) *Installation;*
 - 5) *Repairs;*
 - 6) *Labor; and*
 - 7) *Working capital.*
- b) *Notwithstanding any other provision of this Section, the grant moneys may not be used for the purpose of compliance with the provisions of the Livestock Management Facilities Act. [505 ILCS 19/35(a)]*

Section 950.270 Prevailing Wage

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Grants awarded under this Subpart may be subject to the Prevailing Wage Act [820 ILCS 130].

SUBPART D: REVIEW COMMITTEE

Section 950.280 Review Committee

- a) The Review Committee shall review and evaluate all grant applications based upon the criteria specified in this Part and make recommendations to the Director for the award of grants.
- b) The Committee shall consist of the Director, or his designee, various employees of the Department selected by the Director, and others deemed appropriate by the Director. The Director or his designee shall be the Chairman of the Committee.

Section 950.290 Conflict of Interest

No member of the Review Committee may participate in, or vote on, a decision of the Committee relating to an organization or entity in which that individual has a direct personal financial interest.

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- 1) Heading of the Part: Specialty Farm Product Buyers Act
- 2) Code Citation: 68 Ill. Adm. Code 580
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
580.10	Repealed
580.20	Repealed
580.30	Repealed
580.40	Repealed
580.50	Repealed
- 4) Statutory Authority: Authorized by and implementing the Specialty Farm Product Buyers Act [225 ILCS 660, formerly Ill. Rev. Stat. 1991, ch. 5, pars. 2751-1], repealed by PA 100-117, effective August 15, 2017.
- 5) A Complete Description of the Subjects and Issues Involved: Statute repealed by PA 100-117, effective August 15, 2017.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this repealer replace any emergency rule currently in effect? No
- 8) Does this repealer contain an automatic repeal date? No
- 9) Does this repealer contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: It does not create or expand a State mandate under the State Mandates Act [30 ILCS 805].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the Notice of Proposed Amendment appears in the *Illinois Register*. Please mail written comments on the proposed rulemaking to the attention of:

Pamela Harmon
Illinois Department of Agriculture

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

State Fairgrounds, P.O. Box 19281
Springfield IL 62794-9281

217/524-6905
fax: 217/785-4505

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: There is no adverse impact to small business.
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized in a regulatory agenda, but it is necessary in the judgment of Acting Director Warren D. Goetsch, P.E..

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

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER II: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 580

SPECIALTY FARM PRODUCT BUYERS ACT (REPEALED)

Section

580.10	Definitions
580.20	Application of Rules
580.30	Registration
580.40	Complaint
580.50	Administrative Hearing

AUTHORITY: Authorized by and implementing the Specialty Farm Product Buyers Act (Ill. Rev. Stat. 1991, ch. 5, pars. 2751-1 et seq.). Repealed by Public Act 100-117.

SOURCE: Adopted at 16 Ill. Reg. 15913, effective September 30, 1992; repealed at 43 Ill. Reg. _____, effective _____.

Section 580.10 Definitions

"Act" means the Specialty Farm Product Buyers Act (Ill. Rev. Stat. 1991, ch 5, pars. 2751-1 et seq.).

Section 580.20 Application of Rules

- a) Except as otherwise set forth in this Section, any buyer who buys specialty farm products from producers in Illinois shall be covered under the Act and these rules for that part of the business that comes from Illinois. Any Illinois producer purchasing specialty farm products incidental to his or her own production operation shall not be considered to be a specialty farm product buyer.
- b) Specialty farm products shall include sweet corn, snap beans, green peas, tomatoes, cucumbers, popcorn, potatoes and pumpkins.

Section 580.30 Registration

- a) The application for registration as a buyer shall be accompanied by a current

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

financial statement and the registration fee required by Section 20 of the Act. The financial statement shall set forth the assets and liabilities and the net worth of the applicant. For a financial statement to be current, it must be received by the Department within five months after the financial statement date.

- b) When any registrant changes the address of the permanent business location or adds or deletes additional locations or agents, the buyer shall file within 30 days an amendment to his or her registration application on a form provided by the Department.
- c) Registrations shall expire one year from the date of issuance. Applications for registration renewal shall be submitted prior to expiration of the current registration. Applications for renewal shall also be accompanied by a current financial statement and a renewal fee of \$100.

Section 580.40 Complaint

The Department shall accept any written complaint setting forth facts which if proved would constitute a violation of the Act. Such written complaint shall at a minimum contain the following information:

- a) The name and address of the complainant.
- b) The name and address of the buyer.
- c) The specialty farm product involved.
- d) A description of the facts which if proved would constitute grounds for refusal, suspension or revocation of a registration under the Act.

Section 580.50 Administrative Hearing

All decisions and actions of the Department are subject to the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1001-1 et seq.) and the Department's Administrative Rules (8 Ill. Adm. Code 1) which pertain to administrative hearings, petitions, proceedings, contested cases and availability of Department files for public access. Administrative hearings are governed by the Illinois Administrative Procedure Act and Subpart B of the Department's Administrative Rules.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Procedures for Collection of Air Pollution Site Fees
- 2) Code Citation: 35 Ill. Adm. Code 251
- 3) Section Number: 251.210 Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Section 9.6 of the Illinois Environmental Protection Act. [415 ILCS 5/9.6].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking will amend Part 251 to allow electronic payment of certain air permitting fees. The Illinois EPA does not expect its proposed revisions to have any substantive impact upon regulated sources.
- 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 proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This proposed amendment establish procedures for allowing electronic payment of certain air permitting fees.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Illinois Environmental Protection Agency will accept written public comments on this proposal for a period of 45 days after the date of publication in the *Illinois Register*. Comments should reference the Procedures for Collection of Air Pollution Site Fees and be addressed to:

Charles E. Matoesian
Assistant Counsel
Illinois Environmental Protection Agency
Division of Legal Counsel

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENT

1021 North Grand Avenue East
P.O. Box 19726
Springfield IL 62794-9276

217/782-5544
charles.matoesian@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This amendment will allow all sources which would include small businesses, municipalities, or not-for-profit corporations subject to certain air permitting requirements to pay their air permitting fees electronically.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: The Agency did not prepare a small business impact analysis as this rulemaking will not have an adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2019

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

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCYPART 251
PROCEDURES FOR COLLECTION OF AIR POLLUTION SITE FEES

SUBPART A: INTRODUCTION

Section	
251.101	Purpose
251.103	Definitions

SUBPART B: PROCEDURES FOR BILLING AND COLLECTION
OF AIR POLLUTION SITE FEES

Section	
251.201	Amount of Air Pollution Site Fee
251.202	Withdrawal of Permits
251.203	Agency Billing Procedures
251.208	Time and Method of Payment
251.210	Form of Payment
251.212	Return of Site Fee (Repealed)
251.215	Prohibition Against Refund

SUBPART C: RESOLUTION OF DISPUTES

Section	
251.301	Request for Reconsideration
251.305	Effect of Request for Reconsideration
251.308	Agency Response
251.310	Appeal of Final Agency Action

AUTHORITY: Implementing and authorized by Section 9.6 of the Environmental Protection Act [415 ILCS 9.6.].

SOURCE: Adopted at 10 Ill. Reg. 19968, effective November 14, 1986; emergency amendments at 13 Ill. Reg. 955, effective January 1, 1989 for a maximum of 150 days; amended at 13 Ill. Reg. 8867, effective May 30, 1989; amended at 22 Ill. Reg. 6652, effective March 31,

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENT

1998; amended at 28 Ill. Reg. 1370, effective January 7, 2004; amended at 34 Ill. Reg. 19007, effective November 22, 2010; amended at 36 Ill. Reg. 6803, effective April 20, 2012; amended at 43 Ill. Reg. _____, effective _____.

SUBPART B: PROCEDURES FOR BILLING AND COLLECTION
OF AIR POLLUTION SITE FEES**Section 251.210 Form of Payment**

- a) Payment shall be made through the Illinois E-Pay system or by a ~~by~~ check or money order payable to either the "Treasurer, State of Illinois," or the "Illinois Environmental Protection Agency". ~~The check or money order~~ shall be accompanied by the billing statement that includes the site name and identification number assigned by the Agency's Division of Air Pollution Control.
- b) If paying by check or money order, payment ~~Payment~~ shall be mailed to:
- Illinois Environmental Protection Agency
Fiscal Services Section
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
- c) Payment shall not include any fees due to the Agency for any purpose other than the air pollution site fee.

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

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Clean Air Act Permit Program Procedures
- 2) Code Citation: 35 Ill. Adm. Code 270
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
270.603	Amendment
270.605	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 39.5 of the Illinois Environmental Protection Act [415 ILCS 5/39.5].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking will amend Part 270 to allow electronic payment of Clean Air Act Permitting Program (CAAPP) air permitting fees and to update fee amounts for CAAPP permits based upon amendments to the Environmental Protection Act. The Illinois EPA does not expect its proposed revisions to have any substantive impact upon regulated sources.
- 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 establish procedures for allowing electronic payment of CAAPP air permitting fees and update fee amounts for CAAPP permits based upon amendments to the Environmental Protection Act.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Illinois Environmental Protection Agency will accept written public comments on this proposal for a period of 45 days after the date of publication in the *Illinois Register*. Comments should reference the Clean Air Act Permit Program Procedures and be addressed to:

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

Charles E. Matoesian
Assistant Counsel
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19726
Springfield IL 62794-9276

217/782-5544
charles.matoesian@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: These amendments will allow all sources which would include small businesses, municipalities, or not-for-profit corporations subject to CAAPP air permitting requirements to pay their CAAPP fees electronically. The rule further updates fee amounts for CAAPP permits based upon amendments to the Environmental Protection Act. Therefore, no impact on municipalities or small businesses is anticipated.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: The Agency did not prepare a small business impact analysis as this rulemaking will not have an adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2019

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

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 270
CLEAN AIR ACT PERMIT PROGRAM PROCEDURES

SUBPART A: GENERAL PROVISIONS

Section	
270.101	Purpose
270.102	Definitions
270.103	Existing CAAPP Source
270.104	Initial CAAPP Application
270.105	New CAAPP Source
270.106	Standard Industrial Classification (SIC) Code
270.107	Applicability
270.108	Incorporation by Reference

SUBPART B: TRANSITION

Section	
270.201	Schedule for Submission of Initial CAAPP Applications for Existing CAAPP Sources
270.202	Transition from the State Operating Permit Program

SUBPART C: CAAPP APPLICATIONS

Section	
270.301	Application Submittal
270.302	Application Submittal for Modifications of CAAPP Permits
270.303	Agency Determination of Completeness
270.304	Effect of a Timely and Complete Application Submittal
270.305	Subsequent Agency Request for Information
270.306	Submittal of New or Revised Information
270.307	Agency Action on CAAPP Applications
270.308	Requests for Exclusion from the CAAPP

SUBPART D: CONTENTS OF CAAPP APPLICATIONS

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

Section	
270.401	General Application Information
270.402	General Source Information
270.403	Information for Individual Emission Units
270.404	Compliance Plan/Schedule of Compliance
270.405	Compliance Certification
270.406	Operational Flexibility
270.407	Startup
270.408	Malfunction or Breakdown
270.409	Confidential Information
270.410	Permit Shield
270.411	Accidental Releases
270.412	MACT Determination
270.413	Acid Rain

SUBPART E: REOPENINGS

Section	
270.501	Applicability
270.502	Purpose
270.503	Reopenings Initiated by the Agency
270.504	Reopenings Initiated by USEPA

SUBPART F: FEES

Section	
270.601	Purpose
270.602	Definitions
270.603	Amount of Fee
270.604	Billing Procedures
270.605	Payment Procedures
270.606	Refund and Underpayment of Fees
270.607	Requests for Reconsideration of Fee Amount
270.608	Agency Response to Requests for Reconsideration
270.609	Appeal of Agency Response

AUTHORITY: Implementing and authorized by Section 39.5 of the Environmental Protection Act (see P.A. 87-1213, effective September 26, 1992, and P.A. 88-464, effective August 20,

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

1993) [415 ILCS 5/39.5].

SOURCE: Adopted at 18 Ill. Reg. 9425, effective June 14, 1994; emergency amendment at 19 Ill. Reg. 7976, effective June 7, 1995, for a maximum of 150 days; emergency expired November 6, 1995; amended at 43 Ill. Reg. _____, effective _____.

SUBPART F: FEES

Section 270.603 Amount of Fee

- a) For each ~~12~~twelve-month period beginning after the date on which USEPA approves or conditionally approves the CAAPP, but in no event prior to January 1, 1994, an owner or operator of a source subject to the CAAPP or excluded pursuant to Section 39.5(1.1) or 39.5(3)(c) of the Act shall pay a fee in accordance with the following:
 - 1) The fee for a source allowed to emit less than 100 tons per year of any combination of regulated air pollutants shall be the dollar amount set forth within Section 39.5(18) of the Act~~shall be \$1,000 per year~~; and
 - 2) The fee for a source allowed to emit 100 tons or more per year of any combination of regulated air pollutants shall be the dollar per ton amount set forth within Section 39.5(18) of the Act for each ton of allowable emissions of regulated air pollutants at that source.
- b) The amount of the fee shall be based on the allowable emissions information submitted by the applicant in the fee calculation portion of its CAAPP application, not including emissions of insignificant levels or from insignificant activities, pursuant to 35 Ill. Adm. Code 201.
- c) No owner or operator of a source shall be required to pay an annual fee in excess of the maximum fee specified in Section 39.5(18) of the Act~~\$100,000~~.
- d) Following the first year of the CAAPP, a fee in excess of \$5,000 may be paid annually or semiannually.
- e) In the event that an owner or operator of a source has paid a fee pursuant to Section 9.6 of the Act during the ~~12~~twelve-month period that includes the date on which the source's initial complete CAAPP application was received by the

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

Agency, the portion of the fee for the months remaining in the ~~12~~^{twelve}-month period subsequent to the date the initial complete CAAPP application was received shall be credited to the owner or operator of the source.

- f) No owner or operator of a source shall be required to pay more than a single dollar-per-ton fee during any billing period for any ton of pollutant emitted (i.e., lead is a particulate (PM-10) and a separate criteria pollutant but will only be subject to a single dollar-per-ton fee).

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

Section 270.605 Payment Procedures

- a) Fee payment shall be made through the Illinois E-Pay System or by check or money order payable to either the "Treasurer, State of Illinois;" or the "Illinois Environmental Protection Agency". ~~The check or money order and~~ shall be accompanied by the billing statement that will include the source name and identification number assigned by the Bureau of Air.
- b) If paying by check or money order, payment~~Payment~~ shall be mailed to:
- Illinois Environmental Protection Agency
Fiscal Services Section, ~~Title V Fee Program~~
1021 North Grand Avenue East
~~2200 Churchill Road~~
P.O. Box 19276
Springfield, Illinois 62794-9276
- c) Payment shall not include any fees, penalties or other monies due to the Agency for any purposes other than payment of the fee required under this Subpart.
- d) Fees shall be paid no later than ~~forty-five (45)~~ days after the billing date indicated on the billing statement.
- e) An owner or operator of a source shall remain liable for payment of the fee specified in the billing statement for the source unless a written request for withdrawal of the permit for the source is submitted in writing to the Agency prior to the payment due date indicated on the billing statement.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Filing Policy and Endorsements Form
- 2) Code Citation: 50 Ill. Adm. Code 753
- 3) Section Number: 753.10 Proposed Action: Amendment
- 4) Statutory Authority: Implementing Article VIIA and authorized by Sections 401 and 143 of the Illinois Insurance Code [215 ILCS 5/Art. VIIA and 401 and 143].
- 5) A Complete Description of the Subjects and Issues Involved: The Department is currently amending Part 2302, which establishes procedures for form and rate filings for group certificate inland marine policies. Some confusion has arisen as to whether the types of policies in Part 2302 are also regulated under Part 753. Part 753 will be amended to clarify that there is not double regulation of some policies in these two rules.
- 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 require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Kathryn Williams
Assistant General Counsel
Department of Insurance
320 West Washington, 4th Floor

or

Susan Anders
Rules Coordinator
Department of Insurance
320 West Washington, 4th Floor

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENT

Springfield IL 62767-0001

Springfield IL 62767-0001

217/557-1416

217/558-0957

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: The Department determined that the rulemaking will not have an adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because it was not anticipated within that time period.

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENT

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER i: ADVISORY ORGANIZATIONS AND INSURANCE COMPANIES

PART 753
FILING POLICY AND ENDORSEMENTS FORM

Section

753.10	Companies Must File
753.20	Form and Content of Filings
753.30	Submission of Filing

753.EXHIBIT A Authorization to Accept Filings by Reference (Form RF-1) (Repealed)

AUTHORITY: Implementing Article VIIA and authorized by Sections 401 and 143 of the Illinois Insurance Code [215 ILCS 5/Art. VIIA and 401 and 143].

SOURCE: Filed May 20, 1977, effective June 1, 1977; codified at 6 Ill. Reg. 12459; amended at 39 Ill. Reg. 4061, effective March 9, 2015; amended at 43 Ill. Reg. _____, effective _____

Section 753.10 Companies Must File

- a) All companies writing any of the kinds of business enumerated in Class 2 ~~casualty~~, except clauses (a) (accident and health), (d) (workers' compensation) and (g) (fidelity and surety), of Section 4 of the Illinois Insurance Code (Code) [215 ILCS 5], and any of the kinds of businesses enumerated in Class 3 (inland marine) of Section 4 of the Code, except those covered under 50 Ill. Adm. Code 2302, must file, using the System for Electronic Rate and Form Filing (SERFF):
- 1) copies of all policy forms on these kinds of business and, for mutual companies, a separate proxy signature line for the insured to sign, if applicable;
 - 2) copies of generally used endorsement forms on these kinds of business;
 - 3) copies of all application forms used on these kinds of business, including a separate proxy signature line for the insured to sign if applicable;

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENT

- 4) a copy of the declaration page, in non-individualized, template form, absent personal policyholder information; and
 - 5) a copy of the policy jacket, if used by the company.
- b) This filing requirement can be met by:
- 1) a company making a direct filing on its own behalf or through a third party filer with the company's authorization; or
 - 2) a company authorizing the advisory organization, of which it is a member or subscriber, to make the filing on the company's behalf.
- c) A company authorizing its advisory organization to file on the company's behalf under subsection (b)(2) must have on file an authorization that includes:
- 1) the name of its authorized advisory organization;
 - 2) the kinds of business for which filings will be made;
 - 3) authorization clause or language; and
 - 4) effective date of authorization.
- d) All filings must be accompanied by a forms submission letter that includes:
- 1) the name of the advisory organization or company making the filing;
 - 2) title, form number, and edition identification of the forms;
 - 3) information as to what Class and Clause coverage is written under;
 - 4) identification of all applicable endorsements and applications as to the policy forms for which the endorsements and applications are used;
 - 5) notification as to whether the filing is new or supersedes a present filing. Identification of all changes in all superseding filings, as well as identification of all superseded forms, is required; and

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENT

6) effective date of use.

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Construction and Filing of Accident and Health Insurance Policy Forms
- 2) Code Citation: 50 Ill. Adm. Code 2001
- 3) Section Number: 2001.11 Proposed Action: Amendment
- 4) Statutory Authority: Implementing Sections 143, 355 and 356a and Articles IX and XX of the Illinois Insurance Code [215 ILCS 5/143, 355, 356a, Arts. IX and XX] and Section 4-13 of the Health Maintenance Organization Act [215 ILCS 125/4-13] and authorized by Section 401 of the Code [215 ILCS 5/401].
- 5) A Complete Description of the Subjects and Issues Involved: Section 2001.11(c)(2) provides a narrative background on the Illinois Health Care Reform Implementation Council's continuous review of the Essential Health Benefit ("EHB") benchmark plans that Illinois recommends to the United States Department of Health and Human Services ("HHS"). The benchmark plan selected by HHS sets the specific requirements for EHBs to be included in qualified health plans in this state. However, Section 2001.11(c)(2) does not directly or indirectly impose standards, requirements, procedures, or definitions for regulated persons to follow. Furthermore, pursuant to the Governor's Executive Order 2018-10, issued on September 21, 2018, the Illinois Health Care Reform Implementation Council has been abolished. Therefore, the contents of Section 2001.11(c)(2) have become entirely superfluous and will be deleted.

Additionally, Section 2001.11(c)(3) references a version of the Illinois EHB Benchmark Plan that is no longer in use. The Department is updating this reference for the latest approved version of the benchmark applicable to current plan years as well as the next version of the benchmark that will apply for plan year 2020 onwards. The contents of Section 2001.11(c)(3) are also being recodified at Section 2001.11(c)(2).
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENT

- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:
- | | | |
|---|----|---|
| Robert Planthold
Assistant General Counsel
Illinois Department of Insurance
122 S. Michigan Ave., Fl. 19
Chicago IL 60603

312/814-5445 | or | Susan Anders
Rules Coordinator
Illinois Department of Insurance
320 W. Washington St., Fl. 4
Springfield IL 62767

217/558-0957 |
|---|----|---|
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: The Department determined that the rulemaking will not have an adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2019

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENT

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER z: ACCIDENT AND HEALTH INSURANCEPART 2001
CONSTRUCTION AND FILING OF ACCIDENT AND
HEALTH INSURANCE POLICY FORMS

SUBPART A: PROVISIONS APPLICABLE TO INDIVIDUAL AND GROUP POLICIES

Section

2001.1	Applicability
2001.2	Definitions and Cross-References
2001.3	Discretionary Clauses Prohibited
2001.4	Guaranteed Availability and Renewability of Coverage
2001.5	Prohibition of Preexisting Condition Exclusions
2001.6	No Lifetime or Annual Limits
2001.7	Prohibition on Rescissions
2001.8	Coverage of Preventive Health Services
2001.9	Prohibiting Discrimination Against Participants and Beneficiaries Based on Health Status
2001.10	Summary of Benefits and Coverage and Uniform Glossary
2001.11	Essential Health Benefits
2001.12	Cost-Sharing

SUBPART B: PROVISIONS APPLICABLE TO INDIVIDUAL POLICIES

Section

2001.20	Construction of Accident and Health Insurance Policy Forms (Renumbered)
2001.30	Filing of Policy Forms (Renumbered)
2001.110	Applicability
2001.120	Construction of Accident and Health Insurance Policy Forms
2001.130	Filing of Policy Forms

SUBPART C: PROVISIONS APPLICABLE TO GROUP POLICIES

Section

2001.210	Applicability
2001.220	Ban on Excessive Waiting Periods

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENT

AUTHORITY: Implementing Sections 143, 355 and 356a and Articles IX and XX of the Illinois Insurance Code [215 ILCS 5/143, 355, 356a, Arts. IX and XX] and Section 4-13 of the Health Maintenance Organization Act [215 ILCS 125/4-13] and authorized by Section 401 of the Code [215 ILCS 5/401].

SOURCE: Filed and effective April 1, 1952; codified at 7 Ill. Reg. 3471; amended at 20 Ill. Reg. 14405, effective October 25, 1996; amended at 29 Ill. Reg. 10172, effective July 1, 2005; amended at 31 Ill. Reg. 8472, effective May 31, 2007; amended at 38 Ill. Reg. 2037, effective January 2, 2014; amended at 38 Ill. Reg. 23379, effective November 25, 2014; amended at 43 Ill. Reg. _____, effective _____.

SUBPART A: PROVISIONS APPLICABLE TO INDIVIDUAL AND GROUP POLICIES

Section 2001.11 Essential Health Benefits

- a) Coverage for Essential Health Benefits Package
 - 1) A health insurance issuer that offers health insurance coverage in the individual or small group market shall ensure that the coverage includes an essential health benefits (EHB) package in accordance with the requirements in subsections (b) and (c). (See 42 USC 300gg-6(a).)
 - 2) The provisions of this Section regarding the inclusion of essential pediatric oral care benefits shall be deemed to be satisfied for qualified health plans made available in the small group market or individual market in Illinois outside the Health Benefits Exchange, issued for policy or plan years beginning on or after January 1, 2015, that do not include the essential pediatric oral care benefits if the health insurance issuer has obtained reasonable assurance that the pediatric oral care benefits are provided to the purchaser or enrollee of the qualified health plan. The health insurance issuer shall be deemed to have obtained reasonable assurance that the pediatric oral care benefits are provided to the purchaser of the qualified health plan if:
 - A) At least one Exchange certified stand-alone dental plan that offers the minimum essential pediatric oral care benefits that are required under subsection (c)(1)(J) and it is available for purchase by the small group or individual purchaser;

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- B) The health insurance issuer prominently discloses to the purchaser, or enrollee in the case of a group plan, in a form approved by the Director, at the time that it offers the qualified health plan, that the plan does not provide the essential pediatric oral care benefits; and
 - C) The health insurance issuer has received and kept records of written, verbal or electronic confirmation from the purchaser, or enrollee in the case of a group plan, that he or she has obtained, or is obtaining, other coverage that includes essential pediatric oral care benefits.
- b) Essential Health Benefits Package
In this Section, the term "essential health benefits package" means, with respect to any health plan, coverage that:
- 1) provides for the essential health benefits defined under subsection (c);
 - 2) limits cost-sharing for such coverage in accordance with Section 2001.12(a); and
 - 3) subject to Section 2001.12(i), provides either the bronze, silver, gold or platinum level of coverage described in Section 2001.12(b). (See 42 USC 18022(a) and (b).)
- c) Essential Health Benefits
- 1) In General
Subject to subsection ~~(c)(2)(e)(3)~~, essential health benefits shall include at least the following general categories and the items and services covered within the categories:
 - A) Ambulatory patient services;
 - B) Emergency services;
 - C) Hospitalization;
 - D) Maternity and newborn care;

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- E) Mental health and substance use disorder services, including behavioral health treatment;
- F) Prescription drugs;
- G) Rehabilitative and habilitative services and devices;
- H) Laboratory services;
- I) Preventive and wellness services and chronic disease management; and
- J) Pediatric services, including oral and vision care. (See 42 USC 18022(a) and (b).)

2) ~~Background~~

- ~~A) In August 2012, the Governor's Office convened a workgroup of representatives from a number of State agencies to develop a recommendation to the Healthcare Reform Implementation Council on Essential Health Benefits for qualified health plans in Illinois. This workgroup met several times over the course of two months.~~
- ~~B) The Patient Protection and Affordable Care Act defined 10 EHB that must be included in all Qualified Health Plans sold inside and outside the Health Benefits Exchange starting in 2014.~~
- ~~C) The 10 EHB are:
 - ~~i) ambulatory patient services;~~
 - ~~ii) emergency services;~~
 - ~~iii) hospitalization;~~
 - ~~iv) maternity and newborn care;~~~~

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- v) ~~mental health and substance use disorder services, including behavioral health treatment;~~
 - vi) ~~prescription drugs;~~
 - vii) ~~rehabilitative and habilitative services and devices;~~
 - viii) ~~laboratory services;~~
 - ix) ~~preventive and wellness services and chronic disease management; and~~
 - x) ~~pediatric services, including oral and vision care.~~
- D) ~~The purpose of recommending a benchmark plan is to ensure that individuals who purchase health insurance will have a plan that covers the EHB and services outlined by the ACA.~~
- E) ~~HHS set specific guidelines to establish EHB. HHS requires that states look at the insurance plans already sold in their markets and identify a "benchmark" plan that is representative of a "typical employer plan". This will help ensure that state insurance mandates are included, since any benchmark plan must already be available in a state.~~
- F) ~~The authority to select a benchmark plan falls with the HHS Secretary, but the State was required to make a recommendation. HHS also facilitated a public comment period on the benchmark plan that the State recommends. It is the services that are provided by this particular plan that make up the EHB for Illinois. All insurers that sell products that are not excepted benefits in Illinois are required to include, at a minimum, the value of benefits and services dictated by the benchmark plan.~~
- G) ~~The Health Care Reform Implementation Council intends to continuously review the benchmark selection over the next two years, at which point the State might have the option to change or amend the benchmark plan. The Council envisions an open process~~

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~~for feedback that engages stakeholders and ensures the minimum coverage offered in Illinois meets the needs of our residents.~~

~~2)3)~~ Specific Requirements

Essential health benefits shall include:

- A) For plan years 2017-2019, those specific benefits and limits described in the Illinois EHB Benchmark Plan selected from the Blue Cross Blue Shield of Illinois plan in the Small Group Market designated "Blue PPO Gold 011"; as of September 1, 2013, published by the Centers for Medicare & Medicaid Services, 7500755 Security Boulevard, Baltimore, Maryland 21244 (<http://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/IL-BMP.zip>)(<http://www.cms.gov/CCHO/Resources/Data-Resources/ehb.html>).
- B) For plan years 2020 onward, those specific benefits and limits described in the Illinois EHB Benchmark Plan designated "The Access to Care and Treatment Plan", published by the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244 (<http://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/2020-BPM-IL.zip>).

This ~~subsection (c)(2)regulation~~ does not include any later amendments or editions, if any, to the Illinois EHB Benchmark Plans~~benchmark~~.

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

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- 1) Heading of the Part: Required Procedures for Group Inland Marine Insurance
- 2) Code Citation: 50 Ill. Adm. Code 2302
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
2302.10	Repealed
2302.20	Amendment
2302.30	Amendment
2302.40	Amendment
2302.50	Amendment
2302.60	Repealed
2302.EXHIBIT A	Repealed
- 4) Statutory Authority: Implementing Section 400.1 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/400.1 and 401].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being updated to reflect the Department's use of the National Association of Insurance Commissioners (NAIC) electronic system for companies to submit their filings through the System for Electronic Rate and Form Filing (SERFF). This is just a housekeeping change to reflect our current practice. Since 2012, we have required companies to file electronically.
- 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 will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

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

or

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

217/557-1416

217/558-0957

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: The Department determined that the rulemaking will not have an adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE
 CHAPTER I: DEPARTMENT OF INSURANCE
 SUBCHAPTER cc: FIRE AND MARINE INSURANCE

PART 2302
 REQUIRED PROCEDURES FOR GROUP INLAND MARINE INSURANCE

Section

2302.10	Authority (Repealed)
2302.20	Purpose and Scope
2302.30	Definitions
2302.40	Procedure
2302.50	Severability Provision
2302.60	Effective Date (Repealed)

2302.EXHIBIT A Illinois Departmental Regulations ([Repealed](#))

AUTHORITY: Implementing Section 400.1 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/400.1 and 401].

SOURCE: Filed June 18, 1976, effective July 1, 1976; amended at 5 Ill. Reg. 6441, effective June 8, 1981; codified at 6 Ill. Reg. 13332; amended at 43 Ill. Reg. _____, effective _____.

Section 2302.10 Authority ([Repealed](#))

~~This rule is promulgated by the Director of Insurance pursuant to authority contained in Section 401 of the Illinois Insurance Code (Ill. Rev. Stat. 1981, ch. 73, par. 1013) which empowers the Director "...to make reasonable rules and regulations as may be necessary for making effective..." insurance laws of the State of Illinois. This Rule implements Section 400.1 of the Illinois Insurance Code (Ill. Rev. Stat. 1981, ch. 73, par. 1012.1).~~

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

Section 2302.20 Purpose and Scope

- a) The purpose of this ~~Part~~[Rule](#) is to establish a uniform procedure under which all companies must: ~~1) file~~[File](#) with and secure approval of the Director of Insurance for ~~group or master policy-certificate inland marine insurance~~[Group Inland](#)

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~~Marine Insurance forms, rules, and rates~~ before their use in Illinois;

- 2) ~~File with the Director of Insurance Group Inland Marine Insurance rules and rates before their use in Illinois.~~
- b) ~~This Part is applicable to group or master-policy certificate inland marine insurance regulated by Section 400.1 of the Code. However, this Part is only applicable to such filing shall be required only for~~ insurance involving personal property owned by, being purchased by, or pledged as collateral by individuals, and not used in any business, trade or profession. ~~Other types of group or master-policy certificate inland marine insurance are exempt from filing under this Part.~~

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

Section 2302.30 Definitions

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

"Company", as used in this ~~Part~~Rule, means any entity ~~which is~~ defined as a "company" in Section 2 of the ~~Illinois Insurance Code (Ill. Rev. Stat. 1981, ch. 73, par. 614)~~ and ~~that which~~ issues or delivers in the State of Illinois any policy, contract or certificate of Group Inland Marine and Transportation insurance ~~that which~~ falls within ~~the~~ Class 3, Clause (d) of Section 4 of ~~the said Illinois Insurance Code (Ill. Rev. Stat. 1981, ch. 73, par. 616)~~ and any other incidental or supplemental classes and clauses ~~incidental or supplemental thereto~~.

"Department" means the Illinois Department of Insurance.

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

"SERFF" means System for Electronic Rate and Form Filing.

~~"Form" as used in Rule means any document to be issued or delivered in the State of Illinois constituting in substance a policy, contract, certificate of insurance, endorsement, rider, application or other matter incorporated therein by reference. "Form" may also include any manner of advertising and sales promotion material, regardless of the media involved.~~

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

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Section 2302.40 Procedure

a) Forms:

~~Nothing herein shall prohibit the Director from requiring, by Rule, the filing of any Group Inland Marine forms not included in Section 2302.20 of this Part.~~

~~1) Each company shall file with and secure approval from the Director of Insurance of each form, required to be filed and approved, pursuant to Section 400.1 of the Illinois Insurance Code, before it is issued or delivered in the State of Illinois. Advertising and sales promotion material shall be filed upon a request from the Director.~~

1) All companies must file, using the System for Electronic Rate and Form Filing (SERFF):

A) Copies of all policy forms for mutual companies, including a separate proxy signature line for the insured to sign, if applicable;

B) Copies of generally used endorsement forms on these kinds of businesses;

C) Copies of all application forms used on these kinds of businesses, including a separate proxy signature line for the insured to sign, if applicable;

D) A copy of the declaration page, in non-individualized, template form, absent personal policyholder information; and

E) A copy of the policy jacket, if used by the company.

2) All filings must be accompanied by a forms submission letter that includes:

A) The name of the advisory organization or company making the filing;

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- B) Descriptive title, form number, and edition identification of the forms;
 - C) Information as to what class and clause the coverage is written under;
 - D) Identification of all applicable endorsements and applications as to the policy forms for which the endorsements and applications are used;
 - E) Notification as to whether the filing is new or supersedes a present filing. Identification of all changes in all superseding filings, as well as identification of all superseded forms, is required; and
 - F) Effective date of use.
- 2) ~~Each form filing shall include:~~
- A) ~~a letter of submission in duplicate,~~
 - B) ~~the form in duplicate:~~
 - i) ~~in final printed form,~~
 - ii) ~~showing form number and edition date in the lower, left-hand corner of the front of the form,~~
 - iii) ~~printed in not less than eight point type,~~
 - iv) ~~with spacing between printed lines of not less than one-point leading,~~
 - v) ~~bearing a descriptive title,~~
 - vi) ~~showing at the beginning of the form; the name of the insurer, the location of the home office thereof, a stock, mutual, reciprocal, Lloyds, alien insurer, or an insurer operating under a charter by Special Act of the Legislature of any state.~~

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- 3) ~~Form filing requirements can be met by:~~
- A) ~~A company making a direct filing on its own behalf; or~~
 - B) ~~A company making a reference filing utilizing an Advisory Organizations material filed; or~~
 - C) ~~A company authorizing and Advisory Organization, of which it is a member or subscriber, to make the filing on the company's behalf.~~
- 4) ~~A company making a reference filing under Section 2302.40 (a)(3)(B) above must file a completed form RF4, in duplicate (see exhibit attach to this Rule).~~
- 5) ~~A company authorizing an Advisory Organization to file on the company's behalf, under Section 2302.40 (a)(3)(C) above, must have on file a forms authorization letter, in duplicate, which includes:~~
- A) ~~The name of their authorized Advisory Organization,~~
 - B) ~~The kinds of insurance for which the filing is being made,~~
 - C) ~~Authorization clause or language,~~
 - D) ~~Effective date of authorization.~~
- 6) ~~All filings must be accompanied by a forms submission letter, in duplicate, including:~~
- A) ~~The names involved—Company, Advisory Organization.~~
 - B) ~~Title, form number and edition identification of the forms.~~
 - C) ~~Identification of all applicable endorsements, applications and policy forms with which the material being filed will be used.~~
 - D) ~~Notification as to whether the filing is new or supersedes a present~~

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~~filing. Identification of all changes in any superseded filing(s) as well as identification of all superseded forms is required. Identification of superseded forms shall include:~~

- ~~i) Title,~~
 - ~~ii) Form number,~~
 - ~~iii) Edition date,~~
 - ~~iv) Date shown on Department filing stamp.~~
 - ~~E) Proposed effective date of use,~~
 - ~~F) Companies under the same ownership or general management are required to make separate individual Company filings for each company wishing to use the material. Companies may not file collectively as a group.~~
 - ~~G) Typed or printer's proof of copies may be submitted for review but will not be accepted for filing. Only printed forms will be accepted for filing. Statements, provisions or endorsements may not be superimposed, in any manner, on any form.~~
- 37) No form will be approved until the rates, rules and minimum premiums; for use with the form~~therewith~~, have been accepted for filing.
- 48) Disclosure:
- A)i) All ~~Group Inland Marine~~ insurance applications and certificates shall contain, in a type size and ink color to make it predominant, the following:;

WARNING

PURCHASING THIS COVERAGE MAY VOID OR
LIMIT OTHER INSURANCE SUCH AS A
HOMEOWNERS POLICY OR FIRE POLICY
COVERING YOUR CONTENTS. PLEASE READ ANY

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SUCH POLICIES YOU HAVE.

~~B)ii)~~ On applications, the above described warning shall appear immediately above the space provided for the applicant's signature.

~~CB)~~ Upon prior approval of the Director ~~of Insurance~~, the above warning may be modified ~~using if done so with~~ substantially similar wording to convey the intent and purpose of the warning.

~~59) Certificates:~~ Each certificate shall:

A) ~~Displays~~ show the name and address of the master policyholder and the certificate holder;

B) Provide that loss payments shall be made to all insureds as their interest may appear at the time of loss for property pledged as collateral for loans;

C) Provide for repair or replacement of the damaged property, or in the event of a cash settlement, provide that payment shall be made to the creditor to reduce or extinguish the unpaid indebtedness with any excess payable to the purchaser when insuring property purchased or sold under the terms of any open end charge account or closed end installment sales contract;

D) ~~Include~~ Have a specific description of ~~all the~~ insured items and the specific amount of coverage for each item, except that: ~~property;~~

i) An itemized listing on the certificate is not required if All insured items shall have a specific description and shall have a specific amount of coverage shown for each item unless records are maintained in sufficient detail and in a form readily are available to the Director or his or her designee to permit verification of determine every item insured and the amount of insurance applicable to each item; ~~thereto.~~

ii) When insurance is provided on a replacement cost basis, a specific amount of insurance is not required; ~~and. These~~

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~~records shall also be maintained in sufficient detail and in a form readily available to the Director of Insurance or his designee in order to verify every item insured and the amount of insurance applicable thereto.~~

~~iii#)~~ Items pledged as collateral for loans, not related to the purchase or sale of ~~thesesaid~~ items, may be collectively rather than specifically described, and one amount of coverage may be shown for the entire collateral;:-

E) Contain the following provisions of the master policy:

i) Perils insured against;:-

ii) Cancellation provisions; ~~and~~:-

iii) All provisions applicable to claims;:-

F) Contain wording advising that it is necessary to refer to the master policy for the entire ~~text of the~~ contract ~~wording~~ and state where, in the State of Illinois, ~~thesuch~~ master policy may be seen; ~~and~~:-

G) Contain the provisions set forth in ~~subsection Section 2302.40(c) of this Part.~~

~~610)~~ Each master policy ~~or a certified duplicate thereof~~ shall be maintained within the State of Illinois and shall be available for inspection ~~on the Department's website, during usual business hours, by any holder of a certificate issued under such master policy.~~

b) Rates:-

1) Each company shall file with the Director ~~of Insurance~~ each rate, rule and minimum premium before it is used in the State of Illinois.

2) All filings must be submitted using SERFF and must include:

A) The name of the advisory organization or company making the filing;

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- B) Identification of the rule with the manual or kind of insurance to which it applies;
 - C) Notification as to whether the filing is new or supersedes a present filing. Identification of all changes in all superseding filings, as well as identification of all superseded filings, is required. The preferred format is to underline the new wording and overstrike the deleted or changed language and give an explanation for the changes being made, but alternative methods of indicating changes will also be accepted; and
 - D) The effective date of use.
- 3) Insurers may authorize attorneys, consulting firms, or other authorized third parties to submit rate filings to the Department, as long as the filing includes a notice, signed by an authorized company officer, giving authority for the entity to act on the insurer's behalf on any issues related to the filing.
- 4) All company rate filings in SERFF must include the Company Rate Information, which shall include:
- A) Overall % Indicated Change;
 - B) Overall % Rate Impact – This is the statewide average percentage change to the accepted rates for the coverages included for each company;
 - C) Written premium change for this program – This is the statewide change in written premium based on the proposed overall percentage rate impact for each company;
 - D) Number of policyholders affected for this program – This is the number of policyholders affected by the overall percentage rate impact for each company;
 - E) Written premium for this program – This is the statewide written premium for each company;

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- F) Maximum % Change;
 - G) Minimum % Change.
 - 2) ~~All filings must be accompanied by:~~
 - A) ~~a letter of submission, in duplicate,~~
 - B) ~~the subject rates and rules, in duplicate, showing the company name and identifying the forms to which they will apply,~~
 - C) ~~a proposed effective date,~~
 - D) ~~notification as to whether the filing is new or supersedes a present filing with identification of all superseded filings.~~
- 53) The Director ~~of Insurance~~ may require the filing of statistical data and any other pertinent information necessary to determine the manner of promulgation and the acceptability or unacceptability of a filing for rules, minimum premiums, rates, forms or any combination ~~of these thereof~~. All rates and minimum premiums shall be based upon sound actuarial principles. Rates shall not be inadequate, excessive or unfairly discriminatory.
- 64) Companies under the same ownership or general management shall make separate individual filings for each company wishing to use ~~thesueh~~ material. Companies shall not file collectively as a group.
- 75) Minimum ~~premiums~~~~Premiums:A)~~ may be established for use with master policies, ~~but B)~~ shall not be used for premiums charged on certificates of insurance. Certificate holders may not be charged a premium that is greater than the premium developed by multiplying the rate times the amount of coverage provided for said certificate holder.
- c) Coverage Acceptance or Rejection ~~by~~~~By~~ Insured Certificate Holder:
- 1) ~~Insureds~~~~Such insureds~~ shall be allowed ~~fifteen (15)~~ days after receiving a certificate of insurance to determine if the coverage is to remain in effect

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or is to be cancelled without any premium being earned.

- 2) If ~~loss~~ ~~loss(es)~~ occurs after the insured has signed an application for the coverage and before or during the ~~15~~~~above mentioned~~~~fifteen~~ days and the insured has not given the insurer or the master policyholder evidence of his rejection of the coverage, ~~the loss~~~~such loss(es)~~ shall be paid and the premiums shall be charged for the time coverage is in force. Making any claim during this ~~said~~ period of time constitutes acceptance of the coverage by the insured.
 - 3) If, during the ~~15~~~~fifteen~~ days following the ~~insured's~~~~insureds~~ receipt of the certificate of insurance, the insured chooses to reject the subject coverage and no loss has been claimed by ~~the~~~~said~~ insured, the coverage shall be cancelled as of its effective date and without any premium being charged. Any premium ~~that~~~~which~~ may have been paid shall, in the event of ~~such~~ rejection ~~of the coverage~~, be returned to the insured. ~~After~~ ~~cancellation~~~~Thereafter~~, no claims may be made under the subject coverage.
 - 4) Computation of earned premium for cancellation ~~by an insured certificate holder~~, other than as described ~~in this subsection (c)~~~~above~~, ~~by insured certificate holder~~, may be on a short-rate basis. ~~The~~~~Such~~ short-rate change shall not be more than ~~ten percent~~ ~~(10%)~~ in excess of the earned premium computed on a pro-rata basis.
 - 5) When coverage is revised or cancelled and rewritten, earned premium shall be computed on a pro-rata basis. Coverage shall continue without interruption and the revised or rewritten coverage shall be charged rates not to exceed those charged prior to the revision or rewriting.
- d) Insurable Items and Determination of Amounts of Coverage:
- 1) The amounts of insurance provided applicable to items pledged as collateral for loans or purchased or sold under the terms of any closed end transaction shall be exclusive of:
 - A) insurance premiums;
 - B) interest, carrying or finance charges;

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- C) service charges;~~;~~
 - D) warranty charges; and;
 - E) other charges added to the net price of the items.
- 2) The ~~items~~item(s) to be insured shall only be tangible property.
- e) Revolving Charge Accounts:
The company shall maintain sufficient records to provide satisfactory evidence for the Director ~~of Insurance~~ or his or her designee to determine that for each group policy written the average amount of insurance for the debtor of each group is at least equal to or greater than the value of tangible property insured for ~~thesuch~~ debtors.

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

Section 2302.50 Severability Provision

If any Section or portion of a Section of this ~~Part~~Rule, or the applicability of that Section or portion of a Section thereof to any person or circumstances, is held invalid by a court, the remainder of ~~this Part~~the Rule or the applicability of ~~thesuch~~ provision to other persons or circumstances, shall not be affected by that determination of invalidity~~thereby~~.

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

Section 2302.60 Effective Date (Repealed)

~~This Rule shall become effective July 1, 1976.~~

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

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Section 2302.EXHIBIT A Illinois Departmental Regulations (Repealed)

Date

To the Director of Insurance
State of Illinois

~~AUTHORIZATION TO ACCEPT REFERENCE FILINGS OF INLAND MARINE INSURANCE FORMS~~

~~The undersigned Company hereby requests that it shall be deemed to have independently submitted as its own filing the forms filed by~~

~~(Advisory Organization)~~

~~and as changed in its own filing any future change in forms filed by said Advisory Organization and approved for use in the State of Illinois, such change to become effective for this Company upon the same date as it becomes effective for said Advisory Organization's members and subscribers, unless otherwise stipulated by this Company.~~

~~This request and direction shall become effective as of the date listed below and shall remain in force until rescinded.~~

Effective Date

Exceptions, if any:

Company

Official

Title

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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Issuance of Licenses
- 2) Code Citation: 92 Ill. Adm. Code 1030
- 3) Section Number: 1030.150 Proposed Action: Amendment
- 4) Statutory Authority: 15 ILCS 335/5(b) & 625 ILCS 5/6-106(e)
- 5) A Complete Description of the Subjects and Issues Involved: Currently, veterans who present a DD214 that contains a designated certification from the Illinois Department of Veterans Affairs to obtain a veteran designation on the veteran's driver's license or state identification card. PA 100-811 allows the Illinois the Illinois Department of Veterans Affairs to certify a veteran's identification card issued pursuant to the federal Veteran's Identification Card Act of 2015 to obtain a veteran designation to on a driver's license or identification card.
- 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? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
1030.1	Amendment	42 Ill. Reg. 20247; November 16, 2018
1030.5	Amendment	42 Ill. Reg. 20247; November 16, 2018
1030.8	New Section	42 Ill. Reg. 20247; November 16, 2018
1030.Appendix B	Amendment	42 Ill. Reg. 20247; November 16, 2018
1030.Appendix C	Amendment	42 Ill. Reg. 20247; November 16, 2018
1030.Appendix D	New Section	42 Ill. Reg. 20247; November 16, 2018
- 11) Statement of Statewide Policy Objective: The rulemaking will not create or enlarge a State mandate.

SECRETARY OF STATE

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- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Text of the prepared amendments is posted on the Secretary of State's website, www.sos.il.us/departments/index/home as part of the *Illinois Register*. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:
- Jennifer Egizii
Office of the Secretary of State
Driver Services Department
2701 South Dirksen Parkway
Springfield IL 62723
- 217/557-4462
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for-profit-corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: Illinois Department of Veterans Affairs will have to create a certification form and certify federal Veteran identification cards.
- C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: No impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the two recent agendas because the need for this rulemaking was not anticipated at the time the agendas were prepared.

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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

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

Section	
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1030.5	Procedure for Obtaining a Driver's License
1030.6	Procedure for Obtaining a Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a)
1030.7	Procedure for Obtaining a Non-Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a-5)
1030.10	What Persons Shall Not be Licensed or Granted Permits
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1030.63	Religious Exemption for Social Security Numbers (Repealed)
1030.65	Instruction Permits
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1030.75	Driver's License Testing/Vision Screening With Vision Aid Arrangements Other Than Standard Eye Glasses or Contact Lenses

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- 1030.80 Driver's License Testing/Written Test
- 1030.81 Endorsements
- 1030.82 Charter Bus Driver Endorsement Requirements
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- 1030.84 Vehicle Inspection
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- 1030.90 Requirement for Photograph and Signature of Licensee on Driver's License
- 1030.91 Person with a Disability Identification Card
- 1030.92 Restrictions
- 1030.93 Restricted Local Licenses
- 1030.94 Duplicate or Corrected Driver's License or Instruction Permit
- 1030.95 Consular Licenses (Repealed)
- 1030.96 Seasonal Restricted Commercial Driver's License
- 1030.97 Invalidation of a Driver's License, Permit and/or Driving Privilege
- 1030.98 School Bus Endorsement or Learner's Permit
- 1030.100 Anatomical Gift Donor (Repealed)
- 1030.110 Emergency Medical Information Card
- 1030.115 Change-of-Address
- 1030.120 Issuance of a Probationary License
- 1030.130 Grounds for Cancellation of a Probationary License
- 1030.140 Use of Captured Images
- 1030.150 Veteran Designation on Driver's License or Identification Card

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

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

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

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10, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18400, effective December 4, 2000; amended at 25 Ill. Reg. 959, effective January 5, 2001; amended at 25 Ill. Reg. 7742, effective June 5, 2001; amended at 25 Ill. Reg. 12646, effective September 24, 2001; emergency amendment at 25 Ill. Reg. 12658, effective September 24, 2001, for a maximum of 150 days; emergency expired February 20, 2002; amended at 26 Ill. Reg. 9961, effective June 24, 2002; amended at 27 Ill. Reg. 855, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 7340, effective April 14, 2003, for a maximum of 150 days; emergency expired September 10, 2003; emergency amendment at 27 Ill. Reg. 16968, effective October 17, 2003, for a maximum of 150 days; emergency expired March 14, 2004; emergency amendment at 28 Ill. Reg. 384, effective January 1, 2004, for a maximum of 150 days; emergency expired May 29, 2004; amended at 28 Ill. Reg. 8895, effective June 14, 2004; amended at 28 Ill. Reg. 10776, effective July 13, 2004; amended at 29 Ill. Reg. 920, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2469, effective January 31, 2005, for a maximum of 150 days; emergency expired June 29, 2005; amended at 29 Ill. Reg. 9488, effective June 17, 2005; amended at 29 Ill. Reg. 12519, effective July 28, 2005; amended at 29 Ill. Reg. 13237, effective August 11, 2005; amended at 29 Ill. Reg. 13580, effective August 16, 2005; amended at 30 Ill. Reg. 910, effective January 6, 2006; amended at 30 Ill. Reg. 5621, effective March 7, 2006; amended at 30 Ill. Reg. 11365, effective June 15, 2006; emergency amendment at 30 Ill. Reg. 11409, effective June 19, 2006, for a maximum of 150 days; emergency expired November 15, 2006; amended at 31 Ill. Reg. 4782, effective March 12, 2007; amended at 31 Ill. Reg. 5096, effective March 15, 2007; amended at 31 Ill. Reg. 5864, effective March 29, 2007; amended at 31 Ill. Reg. 6370, effective April 12, 2007; amended at 31 Ill. Reg. 7643, effective May 16, 2007; amended at 31 Ill. Reg. 11342, effective July 18, 2007; amended at 31 Ill. Reg. 14547, effective October 9, 2007; amended at 31 Ill. Reg. 14849, effective October 22, 2007; amended at 31 Ill. Reg. 16543, effective November 27, 2007; amended at 31 Ill. Reg. 16843, effective January 1, 2008; emergency amendment at 32 Ill. Reg. 208, effective January 2, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 6544, effective April 4, 2008; amended at 33 Ill. Reg. 2391, effective January 21, 2009; amended at 33 Ill. Reg. 8489, effective June 5, 2009; amended at 33 Ill. Reg. 9794, effective June 29, 2009; amended at 33 Ill. Reg. 11620, effective July 22, 2009; amended at 33 Ill. Reg. 14185, effective September 28, 2009; amended at 34 Ill. Reg. 563, effective December 22, 2009; amended at 34 Ill. Reg. 9457, effective June 23, 2010; amended at 34 Ill. Reg. 15418, effective September 22, 2010; amended at 34 Ill. Reg. 19071, effective November 22, 2010; amended at 35 Ill. Reg. 2197, effective January 21, 2011; amended at 35 Ill. Reg. 4692, effective March 3, 2011; amended at 35 Ill. Reg. 19664, effective November 23, 2011; amended at 36 Ill. Reg. 3924, effective February 27, 2012; amended at 36 Ill. Reg. 7255, effective April 26, 2012; amended at 36 Ill. Reg. 14755, effective September 18, 2012; amended at 37 Ill. Reg. 7776, effective May 22, 2013; amended at 37 Ill. Reg. 14176, effective September 1, 2013; amended at 37 Ill. Reg. 19342, effective November 28, 2013; amended at 38 Ill. Reg. 7946, effective March 28, 2014; emergency amendment at 38 Ill. Reg. 8429, effective April 4,

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2014, for a maximum of 150 days; amended at 38 Ill. Reg. 12515, effective July 1, 2014; amended at 38 Ill. Reg. 16366, effective July 21, 2014; amended at 38 Ill. Reg. 20039, effective October 1, 2014; amended at 39 Ill. Reg. 1182, effective January 5, 2015; amended at 39 Ill. Reg. 5083, effective March 23, 2015; amended at 39 Ill. Reg. 8028, effective May 21, 2015; amended at 39 Ill. Reg. 11531, effective July 28, 2015; amended at 39 Ill. Reg. 14930, effective October 29, 2015; amended at 40 Ill. Reg. 1882, effective January 12, 2016; amended at 40 Ill. Reg. 7330, effective May 2, 2016; amended at 40 Ill. Reg. 13637, effective September 19, 2016; amended at 40 Ill. Reg. 15397, effective October 26, 2016; amended at 41 Ill. Reg. 438, December 29, 2016; amended at 41 Ill. Reg. 3009, effective February 24, 2017; amended at 41 Ill. Reg. 13665, effective October 30, 2017; amended at 42 Ill. Reg. 1886, effective January 3, 2018; amended at 42 Ill. Reg. 2891, effective January 29, 2018; amended at 42 Ill. Reg. 4969, effective March 5, 2018; amended at 42 Ill. Reg. 11499, effective June 8, 2018; amended at 42 Ill. Reg. 20548, effective October 30, 2018; amended at 43 Ill. Reg. _____, effective _____.

Section 1030.150 Veteran Designation on Driver's License or Identification Card

- a) Definitions. For the purposes of this Section, the following terms shall have the meanings set forth in this subsection (a):

"Active duty" – means active duty under an executive order of the President of the United States, an Act of the Congress of the United States, or an order of the governor of any U.S. state or territory.

"Armed Forces" – means any of the Armed Forces of the United States, including a member of any reserve component or National Guard unit called to active duty.

"DVA" – means the Illinois Department of Veterans' Affairs.

"Veteran" – means a person who has served on active duty in the Armed Forces and was discharged or separated under honorable conditions. [15 ILCS 335/5(b)]

- b) Effective July 1, 2015, for each original or renewal driver's license or identification card (ID) application, the Secretary shall inquire as to whether the applicant is an honorably discharged veteran. If the applicant is an honorably discharged veteran, the applicant shall be informed that he or she is entitled to have the designation "Veteran" on the face of his or her driver's license or ID card.

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- c) In order to obtain a driver's license or ID with the "Veteran" designation, an applicant must first contact the Department by personally going to any of DVA's field offices across Illinois to request Confirmation of Status as an Honorably Discharged Veteran.
- d) If DVA can confirm status as an honorably discharged veteran, the Department shall affix a stamp to the veteran's DD214, Certification of Military Service (NA Form 13038), identification card issued under the Federal Veterans Identification Card Act of 2015, or other official Department of Defense discharge document if a DD214 was not issued or is unavailable. If the document proving honorable discharge status cannot be stamped, DVA shall provide a certificate to the veteran to provide to the Secretary of State.
- e) The Secretary shall issue an original, renewal, corrected or duplicate driver's license or ID with the "Veteran" designation to applicants who present a DD214 Form 13038 or other official Department of Defense discharge document bearing the Department's fully executed stamp. The applicant shall pay the statutory fee (see 15 ILCS 335/12), as required by IVC Section 6-118, to have a "Veteran" designation added to a duplicate or corrected driver's license, and by Section 12 of the Illinois Identification Card Act [625 ILCS 5/6-118] to have the designation and added to a duplicate or corrected ID. ~~[15 ILCS 335/12]~~.
- f) No less often than once per month, the Secretary shall provide DVA with a list of the applicants who were issued a driver's license or ID with the "Veteran" designation since the last list was provided. The list shall contain the full name, driver's license or ID number, date of birth, gender and full social security number of the applicant. DVA shall compare that list to its records of veterans to whom a confirmation form has been issued. DVA shall notify the Secretary if it determines the Secretary has issued a "Veteran" driver's license or ID to an applicant who's DD214, NA Form 13038 or other official Department of Defense discharge document was not certified by DVA.
- g) Upon being notified that an applicant has been issued a "Veteran" driver's license or ID without first being confirmed as an honorably discharged veteran by DVA, the Secretary shall notify the applicant in writing that DVA has no record of confirming the applicant's status as an honorably discharged veteran, and shall inform the applicant that he or she has 30 days to appear in person at a DVA office and provide proof of his or her veteran status to the DVA. If, within that 30 day period, DVA notifies the Secretary that upon further review it has determined

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that the DD214, DVA NA Form 13038 or other official Department of Defense discharge document submitted to the Secretary by the applicant was in fact issued by DVA, the Secretary will take no further action regarding the matter.

- h) If the Secretary does not receive notification from DVA within the 30 day period specified in subsection (g) confirming the applicant's status as an honorably discharged veteran, the Secretary shall cite the applicant to appear at a Secretary of State facility within 15 days after the date of the citation to surrender the driver's license or ID card with the "Veteran" designation and be issued a new card without the "Veteran" designation. If the applicant does not appear pursuant to the citation, the applicant's driver's license or ID shall be canceled.
- i) An applicant whose driver's license or ID has been cancelled pursuant to this Section may apply for a driver's license or ID without the "Veteran" designation.

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

TEACHER'S 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> :
1650.320	Amendment
1650.1010	Amendment
1650.1050	Amendment
1650.3300	New Section
1650.3310	New Section
1650.3320	New Section
1650.3330	New Section
- 4) Statutory Authority: Implementing and authorized by Article 16 of the Illinois Pension Code [40 ILCS 5/Art. 16].
- 5) A Complete Description of the Subjects and Issues Involved: Changes to 1650.320 reflect the types of leaves the System commonly encounters districts providing and adds e-learning days as days of service credit due to a change in the School Code. Similarly, 1650.350 is modified to reflect the types of leaves districts offer where unused leave days are counted as accumulated sick leave days.

Updates to 1650.1010 and 1650.1050 make two non-substantive changes to the board election rules: update to the current TRS web page address where trustee candidate petition forms may be obtained and modify ballot signature card verification information from full social security number to last 4 digits of the SSN or Member ID.

New Rules 1650.3300 – 3330 in Subpart S, describe the System's administration of the buyout programs as required by PA 100-587, effective June 4, 2018. These rules establish general provisions and define terms for the buyout programs and interpret and clarify the law establishing the Accelerated Annual Increase (AAI) Buyout Program, whereby retiring members may elect to receive a lump sum buyout payment equal to 70% of the difference of the present value of the 3% automatic annual increase to retirement annuity and survivor benefits in exchange for a reduced 1.5% automatic annual increase. These rules also interpret and clarify the law establishing the Accelerated Pension Benefit (APB) Buyout Program whereby inactive members may elect to receive a lump sum buyout payment equal to 60% of the present value of pension benefits in lieu of receiving pension benefits.

TEACHER'S RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace 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 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: TRS covered employers
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis:

TEACHER'S RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- A) Types of businesses subject to the proposed rules:
- 61 Educational Services
 - 92 Public Administration
- B) Categories that the Agency reasonably believes the rulemaking will impact, including:
- i. regulatory requirements;
 - ii. record keeping; and
 - iii. compensation and benefits
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2019

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

TEACHER'S 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

TEACHER'S 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	Verifying Service Credit
1650.320	Method of Calculating Service Credits
1650.325	Method of Calculating Service Credit for Recipients of a Disability Benefit or Occupational Disability Benefit
1650.330	Duplicate Service Credit
1650.335	Unreported Regular Service Credit and Earnings
1650.340	Service Credit for Leaves of Absence
1650.341	Service Credit for Involuntary Layoffs
1650.345	Service Credit for Periods Away From Teaching Due to Pregnancy
1650.346	Service Credit for Periods Away From Teaching Due to Adoption
1650.350	Service Credit for Unused Accumulated Sick Leave Upon Retirement
1650.351	Employer Contribution for Excess Sick Leave
1650.355	Purchase of Optional Service – Required Minimum Payment
1650.356	Payroll Deduction Program (Repealed)
1650.357	Employer Payment of Member's Optional Service and/or Upgrade Contribution Balance (Repealed)
1650.360	Settlement Agreements and Judgments
1650.370	Calculation of Average Salary (Renumbered)

TEACHER'S 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

TEACHER'S RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

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

TEACHER'S 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

TEACHER'S RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- 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

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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
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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
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SUBPART S: BUYOUT PROGRAMS

<u>1650.3300</u>	<u>General Provisions</u>
<u>1650.3310</u>	<u>Accelerated Annual Increase Buyout Program</u>
<u>1650.3320</u>	<u>Accelerated Pension Benefit Buyout Program</u>
<u>1650.3330</u>	<u>QUILDRO Administration with Buyout Programs</u>

AUTHORITY: Implementing and authorized by Articles 1 and 16 of the Illinois Pension Code [40 ILCS 5/Arts. 1 and 16]; Freedom of Information Act [5 ILCS 140]; Internal Revenue Code (26 USC 1 et seq.); Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Filed June 20, 1958; emergency rules adopted at 2 Ill. Reg. 49, p. 249, effective November 29, 1978, for a maximum of 150 days; adopted at 3 Ill. Reg. 9, p. 1, effective March

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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. _____, effective _____.

SUBPART D: MEMBERSHIP AND SERVICE CREDITS

Section 1650.320 Method of Calculating Service Credits

- a) No more than one year's service credit shall be granted for total service rendered between July 1 of one year through June 30 of the following year.
- b) If the service rendered on a full-time basis, substitute basis, or part-time basis after June 30, 1990 is less than 170 days between July 1 of one year through June 30 of the following year, then credit for service shall be at a ratio of the actual number of days of service to 170 days.
- c) Service credit for service rendered on a permanent and continuous part-time basis prior to July 1, 1990, between July 1 of one year through June 30 of the following year, shall be at the ratio of creditable earnings to the annual salary rate. Provided, however, that for service after June 30, 1959, if ~~that~~ such ratio equals or exceeds the ratio of 170 days to the days in the legal school term, one year of service credit shall be granted.
- d) If service prior to July 1, 1990 is rendered partially on a full-time basis and partially on a permanent and continuous part-time basis between July 1 of one year through June 30 of the following year, then credit for service shall be at the ratio of creditable earnings to the annual salary rate. Provided, however, that for service after June 30, 1959, if ~~that~~ such ratio equals or exceeds the ratio of 170 days to the days in the legal school term, one year of service credit shall be granted.
- e) Whenever the actual number of days of service is unavailable because of lack of employer records, the number of days the System uses to grant service credit shall be equal to the actual number of hours for which the member was paid, divided by four.
- f) Days of service shall include any weekday, Monday through Friday, for which periodic payment is made to the member for:
 - 1) Service rendered ~~that~~ which requires teacher certification under the School

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Code;

- 2) Attendance, during the work week, at teacher's institutes, workshops and parent/teacher conferences scheduled in the school calendar;
- 3) Legal school holidays;
- 4) Vacation, sick or personal leave days (except when such payment is for severance pay);
- 5) Sabbatical leaves meeting the requirements of Section 24-6.1 of the School Code [105 ILCS 5/24-6.1]; or
- ~~6) Suspension.~~
- ~~67) AbsenceAdministrative absence defined as an absence from duty administratively authorized for investigative purposes without the loss of pay and benefits and without use of accrued time for up to a maximum of one year or until the resignation date, whichever occurs firstcharge to leave.~~
- g) A day of service may be credited for Saturday service if ~~that~~such day would otherwise qualify as a day of service and the service was required due to a lawful day of attendance.
- ~~h) Days of service do not include days for which the member was paid while on a board-approved leave of absence. However, the member may be eligible to purchase optional service credit under the provisions of Section 1650.340.~~

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

SUBPART L: BOARD ELECTION PROCEDURES

Section 1650.1010 Petitions

- a) All petitions shall be in the form adopted by the System. Petition forms may be obtained from the System's Website (trsil.org~~trs.illinois.gov~~) or in hard copy, upon request.

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- b) A valid petition nominating a candidate for a vacant teacher position or a vacant annuitant position on the System's Board of Trustees shall meet the following requirements:
- 1) The petition must bear the requisite number of original signatures of individuals eligible to nominate the candidate pursuant to ~~subsection (a) or (b) of~~ Section 1650.1000(a) or (b). A valid petition may consist of multiple pages and may contain blank signature lines; however, all valid signatures ~~on the petition thereon~~ must be original signatures.
 - 2) The petition shall bear the notarized signature of the individual who circulated the petition for signatures, verifying that the signatures ~~contained thereon~~ were signed in that individual's presence ~~and~~ are genuine, and that, to the best of the circulating individual's knowledge, the persons who signed the petition were eligible to do so as provided in ~~subsection (a) or (b) of~~ Section 1650.1000(a) and (b).
 - 3) Petitions shall be filed with the Board's secretary during the following time periods:
 - A) For a regular election, not less than 90 nor more than 120 days prior to the election day.
 - B) For a special election as provided in Section 1650.1090, beginning with the Board's secretary's announcement that a special election will be held and no later than the petition-filing deadline announced by the Board's secretary.
 - 4) Petitions filed after the prescribed petition-filing period are invalid and will be returned to the party submitting the petition for filing.
 - 5) Petitions filed before the prescribed petition-filing period will be returned to the party submitting the petition for filing, but may be refiled within the prescribed petition-filing period.
- c) The Board's secretary shall determine the validity of petitions for regular elections not less than 75 days prior to the election day, and for special elections not less than 20 days prior to the election day.

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- d) Any individual may, upon reasonable notice to the System, examine the petitions that have been filed with the System with respect to the election to take place; provided, however, that, in order to protect the signing teachers' and annuitants' privacy and confidentiality, the examination shall only take place subject to the following limitations:
- 1) Petitions may only be examined at the System's offices after the validity of the petitions has been verified by the Board's secretary as provided in subsection (c) ~~of this Section~~;
 - 2) Petitions ~~shall~~ may not be removed from the System's offices, copied or duplicated by any means; and
 - 3) Petitions, including any information in the petition, shall not be subject to production or disclosure under the ~~provisions of the~~ Illinois Freedom of Information Act (FOIA) [5 ILCS 140].

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

Section 1650.1050 Return of Ballots

- a) Written Ballots
- 1) For written ballots, upon receipt of the election materials specified ~~above~~ in Section 1650.1030, the eligible voter shall:
 - A1) Mark his or her ballot in accordance with Section 1650.1040;
 - B2) Write his or her signature, address, and member ID or the last four digits of his or her social security number on the signature card;
 - C3) Detach the completed ballot and signature card along the perforated lines;
 - D4) Place the completed ballot into the envelope marked "For Ballot Only";
 - E5) Place the completed signature card and the ballot envelope into the return envelope; and

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- ~~F6)~~ Attach postage, seal and mail, via U.S. mail or express delivery service, the return envelope in time to, so as to ensure that it will reach the System at or prior to 10:00 a.m. on the election day.
- 2) Written ballots not returned in the "For Ballot Only" envelope are invalid and will not be counted.
- b) Ballots must be received at the System at or prior to 10:00 a.m. on the election day. Ballots received after 10:00 a.m. on the election day are invalid and will not be counted.
- c) All eligible voters must return their ballots to the System individually via electronic mail, U.S. mail or express delivery service. Ballots returned to the System in bulk, via hand delivery, or delivery other than as specified in this subsection, are invalid and will not be counted.
- ~~d) Ballots not returned in the "For Ballot Only" envelope are invalid and will not be counted.~~
- ~~de)~~ Ballots that do not conform to all instructions accompanying the ballot are invalid and will not be counted.

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

SUBPART S: BUYOUT PROGRAMSSection 1650.3300 General Provisions

The following terms, phrases, and requirements shall apply to the System's administration of the buyout programs established under Sections 16-190.5 and 16-190.6 of the Code.

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.

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"Accelerated Pension Benefit Buyout" or "APB" means the accelerated pension benefit payment in lieu of any pension benefit provided for in Section 16-190.5 of the Code.

"Buyout Payment" means an accelerated pension benefit payment issued under Section 16-190.5 or 16-190.6.

"Buyout Programs" means the provisions of Section 16-190.5 allowing for member election of an accelerated pension benefit payment in lieu of any pension benefit, and the provisions of Section 16-190.6 allowing for member election of an accelerated pension payment for a reduction in annual retirement annuity and survivor's annuity increases.

"Code" means the Pension Code [40 ILCS 5].

"Effective Date of the Election" means the date the System receives the member's election to receive a buyout payment in the form prescribed by the System.

"Election Window" means a period of time designated by start and end dates determined by the System during which an eligible member may elect the buyout.

"Factor" refers to actuarial assumptions as determined by the System's actuaries pursuant to Section 16-176 of the Code specifically developed to calculate buyout payments in accordance with Sections 16-190.5 and 16-190.6.

"Terminated", as used in Section 16-190.5, means an inactive member who has separated from service with a TRS-covered employer for at least four consecutive months, as provided in Section 16-151 of the Code.

"Valid Election" means the System has received the member's buyout application form prescribed by the System.

b) Assumptions, Information and Payments

- 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,

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but irrespective of individual demographic characteristics such as marital status, gender, dependents, etc.

- 2) The System will use its best efforts to provide accurate and sufficient information to allow an eligible member to make an informed decision whether to elect either of the buyout programs. The member is solely responsible for his or her decision and is encouraged to seek personal financial, legal or other professional advice as necessary and appropriate given individual circumstances. In no event will the System bear any liability for the member's buyout decision.
- 3) All buyout payments will be funded from the State Pension Obligation Acceleration Bond Fund (see Sections 16-190.5(f) and 16-190.6(d-5) of the Code. The System will administer buyout payments as long as bond proceeds are available (see Section 7.7 of the General Obligation Bond Act [30 ILCS 330]. To protect the System's tax-qualified status as contemplated in Sections 16-190.5(h) and 16-190.6(f), under no circumstances, including unavailability or depletion of bonds proceeds, will trust assets of the System be used for any buyout payment.

c) Rollover Distributions

- 1) All buyout payments will be issued in accordance with Section 1650.470.
- 2) Notwithstanding the language contained in 40 ILCS 5/16-190.5(e) and 16-190.6(d), in order for the System to maintain its tax-qualified status as contemplated in Sections 16-190.5(h) and 16-190.6(f), the member may elect to have a portion of the buyout payment paid to an eligible retirement plan in a direct rollover and to have the remainder paid as a direct distribution to the member.

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

Section 1650.3310 Accelerated Annual Increase Buyout Program

- a) In accordance with Section 16-190.6(b) of the Code, to be eligible for the AAI buyout, a member's retirement date for TRS benefit purposes and the effective date of the AAI buyout election must both occur within the effective dates of the buyout program, January 1, 2019 through June 30, 2021.

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- 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) The amount payable upon the death of the annuitant, under Section 16-138(2) of the Code 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 Sections 16-190.6(b-6). If the reversionary beneficiary pre-deceases 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.
- 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

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unavailability or depletion of bond proceeds, will trust assets of the System be used for any additional buyout payment.

(Source: Added at 43 Ill. Reg. _____, 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. It is the member's responsibility to comply with all TRS instructions and requirements to achieve a valid election. A member may not revoke the election after the close of the applicable election window.
- 1) During the first year of the program, i.e., calendar year 2019, eligible members receiving an offer will have 180 days from the date of the notification to elect the buyout. An otherwise eligible member who fails to elect the APB during that year's election window must contact the System to be included in any subsequent year's election window.
 - 2) During the second year of the program, i.e., calendar year 2020, eligible members receiving an offer will have 180 days from the date of the notification to elect the buyout. An otherwise eligible member who fails to elect the APB during that year's election window must contact the System to be included in the subsequent year's election window.
 - 3) During the third year of the program, i.e., January 1 through June 30, 2021, eligible members receiving an offer will have 90 days from the date of the notification to elect the buyout.
 - 4) If the actual amount of APB buyout payment is less than the amount of the offer by a factor or 10% or more, the member may withdraw the election before the applicable election window closes and revert to the provisions of Article 16 that would apply in the absence of the APB buyout election.
- b) The APB buyout payment will be calculated as follows:
- 1) Calculate the member's monthly retirement benefit under the applicable provisions of Article 16 at the member's earliest retirement age based on

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the member's service credit as of June 30 of the applicable calendar year. If the member is eligible for an actuarial benefit under Section 16-133(a)(A), the retirement benefit will be calculated as of June 30 of the same calendar year as the applicable election window.

- 2) Multiply the result by the applicable 60% of Monthly Benefit Factor.
- c) A member's APB election will be canceled prior to issuance of the buyout payment and any benefits or refunds due the member or the member's designated beneficiaries will be calculated according to the provisions of Article 16 that would apply in the absence of the buyout election, when any of the following events occur:
- 1) The member has not complied with all requirements to constitute a valid election by the expiration of the APB program on June 30, 2021.
 - 2) The member dies after electing the APB but prior to issuance of the buyout payment.
 - 3) A Required Minimum Distribution (RMD) is payable to the member in accordance with federal law.
 - 4) The System determines the member is ineligible to participate in the buyout program.
 - 5) The member withdrew the election as provided in this Section.
- d) The calculation of the APB buyout payment becomes final once payment is issued and will not be adjusted for any reason.

(Source: Added at 43 Ill. Reg. _____, 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.

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- b) A member's buyout election is a prohibited election requiring the alternate payee's written consent, in accordance with Section 1-119(j)(1), if the alternate payee would be entitled to receive a share of the buyout payment under the most recent valid QILDRO or Calculation Order on file with the System as provided in this Section. If the alternate payee does not provide the written consent within the time established by the System, or if the System does not receive an amended QILDRO when required by this Section by the expiration of the applicable buyout program, the buyout election will be cancelled and any benefits or refunds due the member or the member's designated beneficiaries will be calculated according to the provisions of Article 16 that would apply in the absence of the buyout election, and the QILDRO will be administered as if the member did not elect the buyout.
- c) AAI Buyouts
- 1) If an alternate payee is eligible to share in the member's AAI buyout payment under this Section, the alternate payee's share will be determined from the "partial member's refund" (see Section 1-119 of the Code, Subpart M of this Part, and Section VI (Partial Refund of the QILDRO form adopted by the System).
 - 2) If QILDRO Section III Monthly Retirement Benefit is blank, the member's AAI buyout election may proceed without alternate payee consent, and the alternate 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

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election, the alternate payee is entitled to share in the AAI buyout payment in the amount indicated in Section VI Partial Refund. If Section VI is blank, an amended QILDRO must be submitted to the System that includes a completed Section VI.

d) APB Buyouts

- 1) If an alternate payee is eligible to share in the member's APB buyout payment as provided in this Section, the alternate payee's share will be determined from the "refund upon termination" or "termination refund" (see Section 1-119, Subpart M of this Part, and Section V Termination Refund of QILDRO form).
- 2) If QILDRO Section III Monthly Retirement Benefit is blank, the member's APB buyout election may proceed without alternate payee consent, and the alternate payee will not share in the buyout payment.
- 3) If QILDRO Section III Monthly Retirement Benefit is completed, alternate payee consent to the member's APB buyout election is required.
- 4) If QILDRO Section III Monthly Retirement Benefit is completed and the alternate payee has consented to the member's APB buyout election, the alternate payee is entitled to share in the APB buyout payment in the amount indicated in Section V Termination Refund. If Section V is blank, an amended QILDRO must be submitted to the System that includes a completed Section V.

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

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Claims, Adjudication, Appeals and Hearings
- 2) Code Citation: 56 Ill. Adm. Code 2720
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
2720.35	New Section
2720.100	Amendment
2720.130	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 239, 409, 500, 604, 700, 701, 702, 703, 705, 706, 800, 801, 803, 804, 805, 1000, 1001, 1002, 1004, 1200, 1700, 1701, 2300, 2301, 2302 and 2304 of the Unemployment Insurance Act [820 ILCS 405/239, 409, 500, 604, 700, 701, 702, 703, 705, 706, 800, 801, 803, 804, 805, 1000, 1001, 1002, 1004, 1200, 1700, 1701, 2300, 2301, 2302 and 2304].
- 5) Effective Date of Rules: January 15, 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 is on file in the Department of Employment Security's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 16965; September 28, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No changes were made at 2nd Notice.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? Yes

Section Numbers: Proposed Actions: Illinois Register Citations:

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

2720.1	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.5	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.7	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.10	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.11	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.20	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.25	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.30	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.101	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.105	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.106	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.107	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.108	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.112	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.115	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.120	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.132	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.135	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.140	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.145	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.150	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.155	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.160	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.200	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.205	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.227	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.245	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.250	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.255	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.270	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.277	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.300	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.315	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.335	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.215	Amendment	43 Ill. Reg. 15; January 4, 2019
2720.220	Amendment	43 Ill. Reg. 15; January 4, 2019
2720.240	Amendment	43 Ill. Reg. 15; January 4, 2019

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- 15) Summary and Purpose of Rulemaking: Specifies what constitutes the last known address regarding notices sent to claimants or employers. Clarifies the process for filing unemployment benefit claims. Clarifies the procedure for curing an insufficient protest.
- 16) Information and questions regarding these adopted rules shall be directed to:

Thomas D. Chan, Acting General Counsel
Illinois Department of Employment Security
33 South State Street – Room 933
Chicago IL 60603

312/793-2338
fax: 312/338-0361
Thomas.D.Chan@illinois.gov

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

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER a: GENERAL PROVISIONSPART 2720
CLAIMS, ADJUDICATION, APPEALS AND HEARINGS

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2720.1	Definitions
2720.3	"Week" In Relation To "Benefit Year"
2720.5	Service Of Notices, Decisions, Orders
2720.7	Application For Electronic Data Transmission
2720.10	Computation Of Time
2720.11	Methods Of Payment
2720.15	Disqualification Of Adjudicator, Referee, Or Board Of Review
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2720.25	Form of Papers Filed
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<u>2720.35</u>	<u>A Claimant's "Last Known Address"</u>

SUBPART B: APPLYING FOR UNEMPLOYMENT INSURANCE BENEFITS

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2720.100	Filing a Claim
2720.101	Filing, Registering And Reporting By Mail Under Special Circumstances
2720.105	Time For Filing An Initial Claim For Benefits
2720.106	Dating Of Claims For Weeks Of Partial Unemployment
2720.107	Employing Unit Reports for Partial Unemployment
2720.108	Alternative "Base Period"
2720.110	Required Second Visit To Local Office (Repealed)
2720.112	Telephone Certification
2720.115	Continuing Eligibility Requirements
2720.120	Time For Filing Claim Certification For Continued Benefits
2720.125	Work Search Requirements For Regular Unemployment Insurance Benefits (Repealed)
2720.126	Availability For Part Time Work Only (Repealed)
2720.127	Director's Approval Of Training (Repealed)

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2720.128	Active Search For Work: Attendance At Training Courses (Repealed)
2720.129	Regular Attendance In Approved Training (Repealed)
2720.130	Employing Unit Protest Of Benefit Payment
2720.132	Required Notice By An Employer Of Separation For Alleged Felony Or Theft Connected With The Work
2720.135	Adjudicator Investigation
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2720.150	Applying For Unemployment Insurance Benefits Under Extension Programs
2720.155	Non-Resident Application For Benefits
2720.160	Reconsidered Findings Or Determination

SUBPART C: APPEALS TO REFEREE

Section

2720.200	Filing of Appeal
2720.201	Application For Electronic Data Transmission Of Notice Of Hearing
2720.205	Notice Of Hearing
2720.207	Untimely Appeals
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2720.275	Labor Dispute Appeals
2720.277	Prehearing Conference In Labor Dispute Appeal

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Section

2720.300	Filing of Appeal
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2720.305	Notice Of Appeal
2720.310	Request for Oral Argument
2720.315	Submission of Written Argument or Request to Submit Additional Evidence
2720.320	Access To Record
2720.325	Withdrawal Of Appeal
2720.330	Consolidation Or Severance Of Appeals
2720.335	Decision Of The Board Of Review
2720.340	Extensions Of Time In Which To Issue A Board Of Review Decision
2720.345	Issuance Of Notice Of Right To Sue

AUTHORITY: Implementing and authorized by Sections 239, 409, 500, 604, 700, 701, 702, 703, 705, 706, 800, 801, 803, 804, 805, 1000, 1001, 1002, 1004, 1200, 1700, 1701, 2300, 2301, 2302 and 2304 of the Unemployment Insurance Act [820 ILCS 405/239, 409, 500, 604, 700, 701, 702, 703, 705, 706, 800, 801, 803, 804, 805, 1000, 1001, 1002, 1004, 1200, 1700, 1701, 2300, 2301, 2302 and 2304].

SOURCE: Adopted at 8 Ill. Reg. 24957, effective January 1, 1985; amended at 10 Ill. Reg. 12620, effective July 7, 1986; amended at 11 Ill. Reg. 14338, effective August 20, 1987; amended at 11 Ill. Reg. 18671, effective October 29, 1987; amended at 12 Ill. Reg. 14660, effective September 6, 1988; emergency amendments at 13 Ill. Reg. 11890, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 18263, effective November 9, 1989; amended at 14 Ill. Reg. 15334, effective September 10, 1990; amended at 14 Ill. Reg. 18489, effective November 5, 1990; amended at 16 Ill. Reg. 2556, effective January 30, 1992; emergency amendment at 16 Ill. Reg. 7506, effective April 22, 1992, for a maximum of 150 days; emergency expired September 19, 1992; amended at 17 Ill. Reg. 17937, effective October 4, 1993; amended at 18 Ill. Reg. 16340, effective October 24, 1994; amended at 21 Ill. Reg. 9441, effective July 7, 1997; amended at 21 Ill. Reg. 12129, effective August 20, 1997; emergency amendment at 27 Ill. Reg. 4217, effective February 15, 2003, for a maximum of 150 days; emergency expired July 15, 2003; amended at 29 Ill. Reg. 1909, effective January 24, 2005; amended at 32 Ill. Reg. 13177, effective July 24, 2008; amended at 33 Ill. Reg. 9623, effective August 1, 2009; amended at 35 Ill. Reg. 6114, effective March 25, 2011; emergency amendment at 43 Ill. Reg. 808, effective January 1, 2019, for a maximum of 150 days; amended at 42 Ill. Reg. 1523, effective January 15, 2019.

SUBPART A: GENERAL PROVISIONS

[Section 2720.35 A Claimant's "Last Known Address"](#)

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Notwithstanding any provision to the contrary, a claimant's "last known address", as that term is used in the Act, is the last address provided to the Department by the claimant as provided in this Section. The address provided by a claimant on his or her most recent unemployment insurance claim application is the claimant's last known address until the claimant informs the Department of a change of address by telephone or in person at any local office, or through the internet at the Department's website, www.ides.illinois.gov. The telephone number for submitting a change of address can be found on the Department's website. Noting a change of address on an appeal or other correspondence is not sufficient to change one's "last known address".

(Source: Added at 43 Ill. Reg. 1523, effective January 15, 2019)

SUBPART B: APPLYING FOR UNEMPLOYMENT INSURANCE BENEFITS

Section 2720.100 Filing a Claim

- a) Each employer shall deliver the ~~form~~ What Every Worker Should Know About Unemployment Insurance form to each worker separated from employment for an expected duration of 7 or more days. The form shall be delivered to the worker at the time of separation or, if delivery is impracticable, it shall be mailed, within 5 days after the date of the separation, to the worker's last known address. The forms shall be available for downloading from the Department's website~~supplied by the Agency to each employer without cost~~. Every employer subject to the provisions of the Unemployment Insurance Act (including every employing unit that has elected, with the approval of the Director, to become an employer subject to the Act) shall post and maintain ~~thesuch~~ notices as may be furnished by the Director. These printed notices shall be posted in conspicuous places in all of the establishments of the employer and shall be easily accessible for examination by the worker. These notices can also be downloaded from the Department's website~~The Director will, upon request, supply a sufficient number of duplicate notices to ensure that the notices are accessible to all workers.~~
- b) Unless a claimant is otherwise instructed by the DepartmentAgency and except as otherwise provided in subsection (e), an initial claim for unemployment insurance benefits may be filed in person at any local office or over the telephone or on the internet at the Department'sAgency's website, www.ides.state.il.us. Subject to Section 2720.25, when filing a claim ~~in person~~, the claimant, when requested, shall provide the following to the local office:
 - 1) A valid Social Security card or other evidence of his or her Social Security

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number, such as a W-2 form;

- 2) Any other form of positive identification such as a driver's license, state photo ID card or payroll check stub showing his or her name, address and date of birth;
 - 3) For each employing unit for whom the claimant worked during the past 2 years:
 - A) The employing unit's name and address;
 - B) Dates of service;
 - C) Reasons for the claimant's separation:
 - i) If the employing unit is the federal government, Standard Form 8 and Personnel Action Form 50, or any other documents, such as a Form W-2 or check stub, that show he or she has worked for the federal government; ~~or~~
 - ii) If the employing unit is the military, Separation Form DD-214;
 - 4) The Social Security number, name and birthdate of each of the claimant's~~the claimant's youngest~~ dependent children~~child~~;
 - 5) Social Security ~~number~~Number, if any, of the claimant's spouse and information about the spouse's employment during the last 2 years if the claimant is claiming the spouse as a dependent;
 - 6) Information about other income, such as ~~Social Security benefits~~, pensions, workers' compensation, payment for services, irrespective of whether the claimant regards the services as employment~~severance~~, ~~vacation or bonus pay~~ or other unemployment insurance benefits that the claimant has received or will receive after the termination of his or her employment.
- c) The Department~~Agency~~ will accept and process any claim filed. When the claimant files his or her claim, the claimant will be informed of the requirements

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for receiving unemployment insurance benefits, including the requirement that the claimant be able to work, available for work and actively seeking work.

- d) Within a reasonable time ~~after the claimant files his or her claim~~~~thereafter~~ (customarily within 7 days), the claimant will be provided with a finding showing whether he or she has monetary eligibility and, if so, the amount of benefits.
- e) The ~~Department~~~~Agency~~ shall require a claimant to file in person at a local office if there is a significant discrepancy between information that the claimant provides while attempting to file a claim via the internet and information contained in ~~Department~~~~Agency~~ records or ~~such~~ other government records ~~as the~~ ~~Department~~~~Agency~~ may utilize.

EXAMPLE: An individual named Smith attempts to file an unemployment insurance claim via the internet and, as part of the internet claims process, enters his Social Security number. However, Department records indicate a previous claim was filed by someone other than Smith, using the same Social Security number that Smith has provided. Smith will have to file his claim in person in a local office to clear up the discrepancy.

- f) Once a claimant establishes a "valid" claim ~~(, that is, one on which the claimant is monetarily eligible for benefits)~~, that claim cannot be withdrawn. The local office is under no obligation to advise an individual when to file his or her claim so as to qualify for the optimum benefit amount.

EXAMPLE: An individual files a valid claim effective June 6, 2010. He later learns that, if he had waited until after July 1, 2010 to file his claim, he would have been entitled to a higher weekly benefit amount. The individual cannot withdraw the claim that he established effective June 6 to obtain a higher weekly benefit amount.

(Source: Amended at 43 Ill. Reg. 1523, effective January 15, 2019)

Section 2720.130 Employing Unit Protest Of Benefit Payment

- a) A protest, ("Notice Of Possible Ineligibility" or a letter in lieu ~~of that~~ ~~notice~~~~thereof~~) raises questions of eligibility, entitles an employing unit to receive an Adjudicator's Determination regarding questions of eligibility raised, and, if timely and sufficient as set out ~~in this Section~~~~below~~, provides party status and

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appeal rights of ~~thesuch~~ Determination relating to the protest.

- 1) The employing unit shall file, either by mail or by hand delivery, the protest within ~~10ten~~ calendar days after the date of notice shown on the ~~Form~~ "Notice of Claim to Last Employing Unit and Last Employer or Other Interested Party" ~~form~~ (see Section 2720.10 for the computation of time). The protest shall be addressed, if mailed, or hand delivered to the Director at the local office designated on the form received by the employing unit. If the employing unit mails or hand delivers the protest to an address other than the address designated on the form received by the employing unit, timeliness of the notice shall be measured from the date of receipt at the proper address instead of the postmark date or the hand delivery date, as the case may be.
 - 2) The protest should include the names, addresses and telephone numbers of persons having knowledge of the facts and circumstances supporting the allegation whom the employing unit designates for the ~~DepartmentAgency~~ to contact for further information. The protest must meet the sufficiency requirements of subsection (d) ~~of this Section~~.
- b) Because, during a claim series, acts or circumstances may occur ~~thatwhich~~ could result in ineligibility, an employing unit's protest with respect to those acts or circumstances will be deemed timely (irrespective of the ~~10ten~~ day time limit set forth in subsection (a)) and will, if also sufficient, provide party status; except, if the employing unit protests that, under Section 500C of the Act, the individual was not able to work, available for work or actively seeking work, then ~~(that part of)~~ the employing unit's protest will not be deemed timely and will not provide status for any week prior to the week in which it was received by the ~~DepartmentAgency~~. Whether or not protest is deemed timely or an employing unit is provided party status, ineligibility is determined from the week in which the acts or circumstances occurred.
- 1) ~~EXAMPLE~~~~Example~~: The employing unit from which the individual was separated does not respond within 10 days ~~after theof~~ date of mailing of the Notice of Claim to Last Employer, Last Employing Unit or other Interested Party. Later, during the claim series, the employing unit offers the individual suitable work that he refuses without good cause. The employing unit then protests, alleging that the individual should be ineligible under Section 603 of the Act, ~~(refusal of suitable work)~~. This

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protest shall be deemed timely beginning with the week in which the refusal of work occurred.

- 2) ~~EXAMPLE~~Example: During the third week of the claim series, the school district ~~that~~which employed the individual as a teacher during the last academic term offers him a contract to teach again in the next academic term. During the seventh week of the claims series, the school district protests that the individual should be ineligible under Section 612 of the Act. This protest shall be deemed timely as of the date that it is determined that the contract was offered to the individual.
 - 3) ~~EXAMPLE~~Example: The individual has been receiving benefits for ~~14~~fourteen weeks. In the ~~15th~~fifteenth week, his former employer hears that the individual may have been incapacitated by an injury beginning in week ~~6~~six of the claim series. The employer protests that the individual should be ineligible for benefits under Section 500C of the Act beginning with week ~~6~~six of the claim series. While the ~~Department~~Agency will investigate this individual's eligibility for benefits beginning with week ~~6~~six, the employer will only be a party to the determination of eligibility beginning with the week in which the employer notifies the ~~Department~~Agency of its allegation of possible ineligibility.
- c) ~~When~~Where an employer alleges that an individual who was initially an unemployed individual but was later not unemployed under Section 239 of the Act, because the individual returned to work for the employer and continued to claim benefits, a protest shall be considered timely if filed within 45 days ~~after~~of the date the ~~Department~~Agency mails the employer a Statement of Benefit ~~Charges~~Wages (BEN-118) ~~that~~which includes a period in which the employer alleges that the individual claimed benefits while he was employed by the employer.
 - d) As long as the employing unit gives a reason or reasons for the allegation and the ~~reason~~reason(s) is directly related to the issue raised and is not a general conclusion of law, the allegation shall be considered sufficient. A protest under this Section is sufficient only if limited to one claimant, except as otherwise provided ~~below~~in subsection (d)(3), and only if it:
 - 1) Alleges on the protest that the claimant is not eligible for benefits or waiting week credit by providing material reasons or facts in support of

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the allegation, other than a conclusion of law, which would support the claimant being held ineligible for benefits; or;

A) ~~EXAMPLE~~Example: Sufficient – Employing Unit's Protest
Alleges:

- i) The claimant is not able to and available for work because she is in school.
- ii) The claimant is not able to and available for work because he has no child care during working hours.
- iii) The claimant is not able to and available for work because he has removed himself to an area of substantially less favorable work opportunities.
- iv) The claimant is not able to and available for work because she is seeking part-time work.
- v) The claimant is not able to and available for work because he is in an occupation for which there is no demand in the labor market area.

B) ~~EXAMPLE~~Example: Not Sufficient – Employing Unit's Protest
Alleges:

- i) The claimant is not actively seeking work: (~~general~~General conclusion of law).
 - ii) The claimant is not available for work: (~~no~~No reason given for allegation).
 - iii) The claimant is not able to and available for work because he was discharged from his last job: (~~reason~~Reason given is not related to the issue raised);
- 2) Alleges that the claimant is not eligible for benefits, because, in connection with any separation or layoff, the claimant has been or will be paid vacation pay, vacation pay allowance, or pay in lieu of vacation, in

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which event, the employing unit must designate, on the protest, within 10 calendar days after notification of the filing of ~~the~~his claim, or within 10 calendar days ~~after~~of the date ~~the~~such vacation pay is paid or payable, the period to which ~~that~~such pay is allocated. It is not necessary that a protest be filed for each individual vacation payment. No ~~such~~ designation is necessary for disqualification purposes; for vacation payments made during an announced period of shutdown for the ~~purpose~~purposes of inventory, vacation, or both; or

- 3) Alleges that the claimant is not eligible for benefits because he is unemployed due to his involvement in a labor dispute,; and the employing unit, within 5 days ~~after~~of the start of the period of the work stoppage due to a labor dispute, provides the ~~Department~~Agency with the name and Social Security number of each worker involved in the dispute. ~~This~~The list ~~of workers~~ shall be filed with the ~~Department's~~Agency's Labor Dispute section. Upon receipt of the list, the ~~Department~~Agency will mail a Labor Dispute Questionnaire to the employing unit and the union or representative of the employees involved in the labor dispute. The employing unit, union, and/or employee representative must respond to the questionnaire within 10 days. If the questionnaire is not received within 10 days, the ~~Department~~Agency will issue a decision based on the information contained in the record at that time. The filing of the ~~above~~ list will constitute an allegation of possible ineligibility under the labor dispute provision (Section 604 of the Act) only and shall not be construed as an allegation of possible ineligibility under any other provisions of the Act.

- e) In instances ~~in which~~when the ~~Department~~Agency decides that the protest has not met the sufficiency requirements of subsection (d)(1)~~-of this Section~~, the ~~Department~~Agency shall immediately ~~provide the employing unit with a notice, including~~return the protest with a description of the needed information. If the protest with all required information is refiled within 10 days ~~after~~of the date the ~~Department~~Agency mailed ~~the notice~~it back to the employing unit, the protest shall be considered filed on the date the ~~Department~~Agency originally received it. In no event shall the ~~employing unit have the right to correct an insufficient protest regarding the same claim~~Agency return an inadequate protest more than once. In the event that a protest does not meet the sufficiency requirements of subsection (d)(1)~~-of this Section~~ after being ~~refiled pursuant to this subsection~~returned to the employing unit once, the Adjudicator shall determine

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the protest to be insufficient. A Decision that a protest is insufficient may be appealed pursuant to Section 2720.200.

(Source: Amended at 43 Ill. Reg. 1523, effective January 15, 2019)

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- 1) Heading of the Part: Administrative Hearings and Appeals
- 2) Code Citation: 56 Ill. Adm. Code 2725
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
2725.30	New Section
2725.35	New Section
2725.40	New Section
2725.45	New Section
2725.50	New Section
2725.55	New Section
2725.105	Amendment
2725.110	Amendment
2725.115	Amendment
2725.125	New Section
2725.200	Amendment
2725.250	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 701, 702, 703, 706, 1501, 1501.1, 1502, 1502.1, 1508, 1508.1, 1509, 1510, 1700, 1701, 2200, 2201, 2203, 2300, 2301, 2302, 2304 and 2305 of the Unemployment Insurance Act [820 ILCS 405/701, 702, 703, 706, 1501, 1501.1, 1502, 1502.1, 1508, 1508.1, 1509, 1510, 1700, 1701, 2200, 2201, 2203, 2300, 2301, 2302, 2304, and 2305].
- 5) Effective Date of Rules: January 15, 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 is on file in the Department of Employment Security's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 16978; September 28, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No

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- 11) Differences between Proposal and Final Version: No substantive changes were made. The following technical correction was made by agreement with JCAR during 2nd Notice: in 2725.105(b)(5), "such" was changed to "those".
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? Yes
- | <u>Section Numbers:</u> | <u>Proposed Actions:</u> | <u>Illinois Register Citations:</u> |
|-------------------------|--------------------------|---------------------------------------|
| 2725.10 | Amendment | 42 Ill. Reg. 23370; December 21, 2018 |
| 2725.20 | Amendment | 42 Ill. Reg. 23370; December 21, 2018 |
| 2725.25 | Amendment | 42 Ill. Reg. 23370; December 21, 2018 |
| 2725.220 | Amendment | 42 Ill. Reg. 23370; December 21, 2018 |
| 2725.270 | Amendment | 42 Ill. Reg. 23370; December 21, 2018 |
| 2725.275 | Amendment | 42 Ill. Reg. 23370; December 21, 2018 |
- 15) Summary and Purpose of Rulemaking: The Department no longer pays unemployment benefits by check. All payments are made by direct deposit or debit card. This rulemaking explains how debit cards are mailed, how misdirected payment claims are investigated, and how benefits due to a deceased or comatose claimant are paid. Specifies the requirements for an electronic signature. Eliminates obsolete language that suggested IDES was a party to administrative hearings regarding tax/liability issues. Provides how an employer can elect to exclusively receive tax-related notices electronically.
- 16) Information and questions regarding these adopted rules shall be directed to:

Thomas D. Chan, Acting General Counsel
 Illinois Department of Employment Security
 33 South State Street – Room 933
 Chicago IL 60603

312/793-2338
 fax: 312/338-0361
 Thomas.D.Chan@illinois.gov

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

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER a: GENERAL PROVISIONSPART 2725
ADMINISTRATIVE HEARINGS AND APPEALS

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2725.1	Definitions
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2725.10	Computation Of Time
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2725.20	Request For Clarification
2725.25	Form Of Papers Filed
<u>2725.30</u>	<u>An Employer's "Last Known Address"</u>
<u>2725.35</u>	<u>Electronic Submissions</u>
<u>2725.40</u>	<u>Electronic Posting of Notices</u>
<u>2725.45</u>	<u>Signature Requirement</u>
<u>2725.50</u>	<u>Electronic Signature</u>
<u>2725.55</u>	<u>Forms</u>

SUBPART B: FILING OF APPLICATIONS AND CLAIMS FOR RELIEF

Section	
2725.100	Application For Revision Of Statement Of Benefit Charges
2725.105	Application for For Review of Of Rate Determination
2725.110	Protest of Of Determination and And Assessment
2725.115	Claim For Adjustments (Credits) And Refunds
2725.120	Application For Cancellation Of Benefit Charges Due To Lack Of Notice
<u>2725.125</u>	<u>Elections to Make Payments in Lieu of Contributions and Written Notices of Termination of Election by a Nonprofit Organization or Governmental Entity</u>

SUBPART C: APPEAL TO DIRECTOR'S REPRESENTATIVE

Section

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2725.200	Filing Of Appeal
2725.205	Pre-Hearing Conference
2725.210	Notice Of Hearing
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2725.230	Subpoenas
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2725.237	Adding Necessary Parties
2725.240	Withdrawal Of Petition For Hearing
2725.245	Continuances
2725.250	Conduct of Hearing
2725.255	Rules of Evidence
2725.260	Oral Argument-Memoranda-Post Hearing Documents
2725.265	The Record
2725.270	Recommended Decision
2725.275	Objections To Recommended Decision
2725.280	Decision Of Director

AUTHORITY: Implementing and authorized by Sections 701, 702, 703, 706, 1501, 1501.1, 1502, 1502.1, 1508, 1508.1, 1509, 1510, 1700, 1701, 2200, 2201, 2203, 2300, 2301, 2302, 2304 and 2305 of the Unemployment Insurance Act [820 ILCS 405/701, 702, 703, 706, 1501, 1501.1, 1502, 1502.1, 1508, 1508.1, 1509, 1510, 1700, 1701, 2200, 2201, 2203, 2300, 2301, 2302, 2304, and 2305].

SOURCE: Adopted at 11 Ill. Reg. 11065, effective July 1, 1987; amended at 12 Ill. Reg. 14653, effective September 6, 1988; amended at 12 Ill. Reg. 16060, effective September 23, 1988; emergency amendments at 13 Ill. Reg. 11872, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 17383, effective October 30, 1989; amended at 14 Ill. Reg. 5126, effective March 22, 1990; amended at 16 Ill. Reg. 113, effective December 23, 1991; amended at 16 Ill. Reg. 2122, effective January 27, 1992; emergency amendment at 16 Ill. Reg. 7502, effective April 22, 1992, for a maximum of 150 days; emergency expired on September 19, 1992; amended at 20 Ill. Reg. 6378, effective April 29, 1996; amended at 33 Ill. Reg. 9641, effective July 1, 2009; amended at 35 Ill. Reg. 6129, effective March 25, 2011; amended at 43 Ill. Reg. 1537, effective January 15, 2019.

SUBPART A: GENERAL PROVISIONS

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Section 2725.30 An Employer's "Last Known Address"

- a) Notwithstanding any provision to the contrary, and except as provided in subsection (b) and Section 2725.40, an employing unit's "last known address" or "last known place of business or residence", as those terms are used in the Act, is the last address provided to the Department by the employing unit.

EXAMPLE: On September 1, 2016, the Director mails an annual contribution rate notice to Employer A at the last address provided to the Department by Employer A. For purposes of Section 1509 of the Act, the annual contribution rate notice mailed on September 1, 2016 is mailed to Employer A's last known address.

- b) The Department receives manual and electronic address correction notices from the United States Postal Service (USPS) to update employing unit addresses maintained in Department records when mail is sent to the last address provided by the employing unit but is undeliverable as addressed. Except as provided in this Section, when the Department receives notification from USPS that the employing unit's address is different from the last address provided to the Department by the employing unit, the new address provided by USPS shall be the employing unit's last known address or last known place of business or residence. The last address obtained from USPS is the employing unit's last known address or last known place of business or residence until the employing unit informs the Department of a change of address as provided in subsection (c).

EXAMPLE: When Employer A began business in 2010, it filed a "Report To Determine Liability Under the Illinois Unemployment Insurance Act" (see 56 Ill. Adm. Code 2760.105), listing its address as 1234 S. Main St., Springfield IL. On September 1, 2016, Employer A files a change of address with USPS, listing its new address as 5678 N. State St., Chicago IL. Employer A does not inform the Department of its change of address. On November 1, 2016, the Director mails an annual contribution rate notice to Employer A at 1234 S. Main St., Springfield IL, which is the last address provided to the Department by Employer A. For purposes of Section 1509 of the Act, the annual contribution rate notice mailed on November 1, 2016 is mailed to Employer A's last known address. Since Employer A filed a change of address with USPS, the annual contribution rate notice is forwarded to Employer A's new address by USPS. A few days later the Department receives notice of Employer A's change of address from USPS. The Department will update its records with the new address received by USPS.

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Subsequent mail sent to Employer A at 5678 N. State St., Chicago IL is mailed to Employer A's last known address.

- c) It is the employing unit's responsibility to inform the Department of any address change through MyTax Illinois (mytax.illinois.gov), by mailing a UI-50A Notice of Change to the Department, or by calling, faxing or writing the Department and providing the same information as would be provided on the UI-50A. A change of address request must be signed unless the request is made by telephone. The mailing address and telephone and fax numbers for submitting a change of address can be found on the UI-50A, which is available on the Department's website (ides.illinois.gov). Except as otherwise provided for in Section 2725.40 for Electronic Posting of Notices, a change of address is effective the day on which it is received by the Department. If an employing unit does not file a UI-50A Notice of Change with the Department and instead relies on the Department to update its address based on information received by USPS, the employing unit bears the risk that the Department will not receive correct change of address information from USPS in a timely manner. A new last known address or last known place of business or residence received from USPS is not effective until the Department updates its records with the new address.

EXAMPLE 1: In January 2010, Employer A filed a UI-50A notifying the Department that its mailing address was 1234 S. Main St., Springfield IL. On March 1, 2015, Employer A files a change of address with USPS, listing its new address as 5678 N. State St., Chicago IL. On November 23, 2015, the Director mails Employer A's annual contribution rate notice to Employer A at 1234 S. Main St., Springfield IL, the last address provided to the Department by Employer A. For purposes of Section 1509 of the Act, the annual contribution rate notice mailed on November 23, 2015 is mailed to Employer A's last known address. The USPS forwards the annual contribution rate notice to Employer A at its new address but does not notify the Department of Employer A's change of address information. A little over a year later, on November 25, 2016, after USPS has stopped forwarding Employer A's mail, the Department sends another annual contribution rate notice to Employer A at its 1234 S. Main St., Springfield IL address. For purposes of the Act, the annual contribution rate notice mailed on November 25, 2016 to 1234 S. Main St., Springfield IL is mailed to Employer A's last known address.

EXAMPLE 2: Same facts as Example 1 except, in addition to filing a change of address with USPS, on March 1, 2015, Employer A also files a UI-50A with the

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Department, listing its new address as 5678 N. State St., Chicago IL. If the Department does not timely update its records before sending the annual contribution rate notice on November 23, 2015, since Employer A properly notified the Department of its change of address, the annual contribution rate notice mailed to Employer A's old address will not be treated as having been mailed to Employer A's last known address for purposes of the Act.

(Source: Added at 43 Ill. Reg. 1537, effective January 15, 2019)

Section 2725.35 Electronic Submissions

- a) For purposes of this Section, "electronic submission" means any document that is transmitted to the Department through MyTax Illinois (mytax.illinois.gov), including, but not limited to, a contribution and wage report required by 56 Ill. Adm. Code 2760.120, 2760.125 or 2760.145, an application for review of rate determination (see Section 2725.105), a protest of a determination and assessment as provided by Section 2725.110, a claim for adjustments or refund (see Section 2725.115), an election to make payments in lieu of contributions, or a written notice of termination of election, an application for review of a Director's order allowing or denying an election to make payments in lieu of contributions, or a written notice of termination of election (see Section 2725.125), an application for waiver (see Section 2765.75), or an appeal of an order or determination and assessment of the Director (see Section 2725.200).
- b) The date that the Department confirms receipt of the electronic submission, as shown in the "Date Submitted" field of the electronic submission, will constitute the date of filing. An electronic submission will be confirmed as received only if all required information is provided in accordance with the instructions. An electronic submission will not be considered filed unless it has been confirmed as received by the Department, as evidenced by the electronic confirmation number and confirmation page provided.

(Source: Added at 43 Ill. Reg. 1537, effective January 15, 2019)

Section 2725.40 Electronic Posting of Notices

- a) On and after November 11, 2017, when a person or employing unit uses the Department's online tax system, MyTax Illinois (mytax.illinois.gov), the Department will post an electronic version of all notices, except as provided in

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subsection (c), that are required to be mailed to the person or employing unit, including, but not limited to, notices under Sections 1400, 1509, 2200 and 2201 of the Act, in the correspondence tab of the account of the person or employing unit on the MyTax Illinois website.

- b) An email address is needed to register an account in MyTax Illinois. When a notice is posted to the MyTax Illinois account of a person or employing unit as provided in subsection (a), the Department will send an email to each email address that has been provided on the account. A person or employing unit that uses MyTax Illinois will continue to receive, in addition to receiving email notifications and notices within MyTax Illinois, all notices as a paper document sent through USPS to its last known address as provided in Section 2725.30, unless the person or employing unit elects to stop receiving notice under subsection (d). Unless the person or employing unit elects to stop receiving notice as a paper document sent through USPS, the last known address for purposes of the notices described in subsection (a) shall be as provided by Section 2725.30.
- c) Electronic versions of the following notices are not posted on the MyTax Illinois website and, regardless of an election under subsection (d), will always be sent as a paper document through USPS:
- 1) All notices that a person or employing unit is entitled to receive after the filing of an appeal of an order or Determination and Assessment of the Director as provided in Subpart C, including, but not limited to, hearing notices (see Section 2725.210), recommended decisions (see Section 2725.270), and decisions of the Director (see Section 2725.280); and
 - 2) Certificates of withdrawal or release of a notice of lien (see Section 2401 of the Act).
- d) A person or employing unit that uses the Department's online tax system may elect to stop receiving notice as a paper document sent through USPS for any notice, except those notices described in subsection (c), that is required to be mailed by the Department as provided in subsection (a). An election under this subsection must be made on the MyTax Illinois website.
- e) If, pursuant to subsection (d), a person or employing unit elects to stop receiving notice as a paper document sent through USPS, the email address or addresses provided by the person or employing unit shall be the last known address for

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purposes of Section 2725.30 for each notice described in subsection (a), and the notices described in subsection (a) will not be mailed to the person or employing unit through USPS. If, pursuant to subsection (d), a person or employing unit elects to stop receiving notice as a paper document sent through USPS, then notice shall be deemed to have been served on the person or employing unit if the Department posts an electronic version of the notice in the correspondence tab of the account of the person or employing unit on the MyTax Illinois website and transmits an email to at least one of the email addresses provided on the account of the person or employing unit, even if the email is not accepted by the server of the person or employing unit.

EXAMPLE 1: An employing unit establishes a MyTax Illinois account and, pursuant to subsection (d), elects to stop receiving notice as a paper document sent through the USPS. The employing unit provides a total of four different email addresses for the account. The Department posts a Determination and Assessment in the correspondence tab of the employer's MyTax Illinois profile and attempts to send an email notification to each of the four email addresses provided by the employing unit. Due to a computer glitch, only one email is sent. Because the Department transmitted an email to at least one of the email addresses provided on the account of the employing unit, notice of the Determination and Assessment will be treated as having been served on the employing unit.

EXAMPLE 2: An employing unit establishes a MyTax Illinois account and, pursuant to subsection (d), elects to stop receiving notice as a paper document sent through USPS. The employing unit provides an email address for the account. The Department posts a Determination and Assessment in the correspondence tab of the employer's MyTax Illinois profile and sends an email notification to the email address provided by the employing unit. The email is rejected as undeliverable by the recipient's e-mail server. Because the email was sent to the email address provided by the employing unit, notice of the Determination and Assessment will be treated as having been served on the employing unit.

- f) If, pursuant to subsection (d), a person or employing unit elects to stop receiving notice as a paper document sent through USPS, the date of mailing of the notice for purposes of the Act shall be whichever of the following dates is later:

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- 1) The mail date listed on the notice that is posted on the MyTax Illinois website; or
- 2) The date that the email notifying the person or employing unit that a notice has been posted to the MyTax Illinois website is transmitted to the person or employing unit.

EXAMPLE 1: An employer has elected to stop receiving notice through USPS under subsection (d). On October 1, 2017, the Department posts a Determination and Assessment in the correspondence tab of the employer's MyTax Illinois profile. The mail date on the Determination and Assessment is October 3, 2017 to allow time for system processing. Due to a system error, the Department does not email the employer until October 4, 2017 to inform it that the Determination and Assessment has been posted to the MyTax Illinois website. Even if the employer logs into its MyTax Illinois account and views the document on October 1, 2017, notice of the Determination and Assessment will be treated as having been mailed on October 4, 2017.

EXAMPLE 2: An employer has elected to stop receiving notice through USPS under subsection (d). On October 1, 2017, the Department posts a Determination and Assessment in the correspondence tab of the employer's MyTax Illinois profile. The mail date on the Determination and Assessment is October 3, 2017 to allow time for system processing. The Department sends the employer an email on October 2, 2017 to inform it that a notice has been posted to the MyTax Illinois website. Notice of the Determination and Assessment will be treated as having been mailed on October 3, 2017.

- g) The email notifying the person or employing unit that a notice has been posted to the MyTax Illinois website may not be responded to by email. If the notice posted to the MyTax Illinois website provides for appeal rights or otherwise allows or requires a response by the person or employing unit, the person or employing unit must appeal or respond according to the instructions provided on the notice, whether posted to the MyTax Illinois website or sent through USPS.

EXAMPLE: On November 1, 2017, the Department sends an employing unit an email notifying the employing unit that a notice has been posted to the MyTax Illinois website. The notice posted to the MyTax Illinois website is an Annual

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Notice of Contribution Rate Determination. The notice informs the employing unit that, pursuant to Section 2725.105, it may file an application for review of the notice of contribution rate determination online using MyTax Illinois or by mail at the address on the Notice of Contribution Rate Determination. On November 2, 2017, the president of the employing unit signs into MyTax Illinois and sees the rate notice. Instead of submitting an application for review on MyTax Illinois or by mail, the president of the employing unit sends an application for review of the rate notice in an email response to the email that the Department sent to the employing unit. Since the application for review was not submitted to the Department in accordance with Section 2725.105, as explained on the Notice of Contribution Rate Determination, the application for review will not be treated as filed for purposes of Section 1509 of the Act, and the rate determination will be final against the employing unit. Under Section 2725.105 and subsection (g), it is the employing unit's responsibility to respond to the notice according to the instructions provided on the notice.

- h) If, pursuant to subsection (d), a person or employing unit elects to stop receiving notice as a paper document sent through USPS, the email address or addresses provided by the person or employing unit will continue to be the last known address of the person or employing unit for purposes of the notices described in subsection (a) until the person or employing unit changes its email address or cancels its election to stop receiving notice as a paper document sent through USPS. An election to change an email address or cancel an election to stop receiving notice as a paper document sent through USPS may be completed within MyTax Illinois. A change pursuant to this subsection is not effective until it has been processed by the Department.

EXAMPLE 1: Six months after electing to stop receiving notice as a paper document sent through USPS as provided in subsection (d), an employer loses access to the email address it provided to the Department and begins using a new email address. However, the employing unit does not notify the Department of the new email address. On November 1, 2017, the Department posts an Annual Notice of Contribution Rate Determination in the correspondence tab of the employer's MyTax Illinois profile. On the same day, the Department sends the employing unit an email to the email address the employing unit provided to the Department, notifying the employing unit that a notice has been posted to the MyTax Illinois website. The Notice of Contribution Rate Determination informs the employing unit that, pursuant to Section 1509 of the Act, the employing unit has 15 days from November 1, 2017 to file an application for review of the rate

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determination. Since the employing unit no longer has access to the email address it provided to the Department, it does not receive the email or retrieve the notice in MyTax Illinois. On November 20, 2017, the employing unit signs into MyTax Illinois, sees the rate notice, and immediately files an application for its review. Since the application for review was filed more than 15 days after the mail date listed on the notice, which was also the date that the Department sent an email to the employing unit's last known address, the application for review is not timely, and the rate determination will be treated as final against the employing unit. Under subsection (h), it is the employing unit's responsibility to notify the Department of its new mailing address through MyTax Illinois.

EXAMPLE 2: An employing unit establishes a MyTax Illinois account and, pursuant to subsection (d), elects to stop receiving notice as a paper document sent through USPS. The employing unit provides an email address for the account "oldemail@example.com." The Department posts a Determination and Assessment in the correspondence tab of the employer's MyTax Illinois profile and sends an email notification to the email address provided by the employing unit. The employing unit's email sends an automatic reply to the Department that states: "My email address has changed. Please email me at my new email address: newemail@example.com". Since the email sent by the Department is an automated notification and is unable to receive replies, the Department does not update the email address of the employing unit. Notice will be treated as properly served on the employing unit when sent to the original email address provided by the employing unit (oldemail@example.com). It is the employing unit's responsibility to notify the Department of its new mailing address through MyTax Illinois.

(Source: Added at 43 Ill. Reg. 1537, effective January 15, 2019)

Section 2725.45 Signature Requirement

Unless otherwise provided, a letter, form or request that is required to be signed by this Part and 56 Ill. Adm. Code 2760 and 2765 and that is submitted on behalf of an employing unit must be signed by the owner, partner or authorized officer or official of the employing unit, or its authorized agent. Unless otherwise provided, a letter, form or request that is required to be signed by this Part and 56 Ill. Adm. Code 2760 and 2765 and that is submitted by or on behalf of an individual that is not himself or herself an employing unit must be signed by the individual or his or her agent. A letter, form or request that is required to be signed as provided in this Section may be electronically signed (see Section 2725.50). A signature, including an electronic

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signature, constitutes an attestation that the information submitted is true and correct to the best of the signatory's knowledge and belief.

(Source: Added at 43 Ill. Reg. 1537, effective January 15, 2019)

Section 2725.50 Electronic Signature

An electronic submission, as defined by Section 2725.35, that must be signed shall be signed using an electronic signature in lieu of a written signature by clicking the "I Agree" check box beneath the certification statement prior to submission on the MyTax Illinois website (mytax.illinois.gov). An electronic submission has the same legal effect as a signature on a paper document.

(Source: Added at 43 Ill. Reg. 1537, effective January 15, 2019)

Section 2725.55 Forms

Blank copies of all reports and forms mentioned in this Part and 56 Ill. Adm. Code 2760 and 2765 are available on the Department's website (ides.illinois.gov) and, except the reports described in 56 Ill. Adm. Code 2760.105, may also be obtained by contacting the Department's Revenue Division at 33 S. State St., 10th Floor, Chicago IL 60603. Copies of the reports described in that Section may be obtained from the Illinois Department of Revenue at Central Registration Division, Illinois Department of Revenue, PO Box 19030, Mail Code 3-222, Springfield IL 62794-9030.

(Source: Added at 43 Ill. Reg. 1537, effective January 15, 2019)

SUBPART B: FILING OF APPLICATIONS AND CLAIMS FOR RELIEF

Section 2725.105 Application ~~for~~ Review ~~of~~ Rate Determination

- a) An Application for Review of Rate Determination ~~should~~must be filed online using MyTax Illinois (mytax.illinois.gov) or at the address on the Notice of Contribution Rate Determination. An application must be signed and filed within 15 days ~~after~~of the mailing of the Notice of Contribution Rate Determination to the employer. If an application has been timely filed, an employer may file additional information to be considered as part of its application within 30 days after the period for filing an application has ended.

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- b) A sufficient ~~application~~Application shall set forth the following:
- 1) If the rate determination is based in whole or in part on erroneous benefit charges, the ~~application~~Application must allege:
 - A) The employer was not served with a Statement of Benefit Charges containing the benefit charges used in the calculation of the employer's contribution rate; or
 - B) The employer has received an order or decision allowing an adjustment of the benefit charges used in calculating the employer's contribution rate. A copy of ~~thesueh~~ order or decision must be attached to the application.
 - 2) If a determination or decision allowing the payment of benefits has finally been reversed or modified and the benefit charges resulting from ~~thesueh~~ benefit payment were not revised in accordance with the provisions of Section 706 of the Act, the employer shall provide a copy of ~~thesueh~~ final reconsidered finding, reconsidered determination or decision.
 - 3) If the ~~Department~~Agency has made a mathematical error, the employer shall provide a detailed, clear statement showing the correct calculations.
 - 4) If the employer alleges that the provisions of Section 1507 of the Act have been erroneously applied, the employer must show that it complied with 56 Ill. Adm. Code 2760.105(b), if applicable, and shall provide a statement of whether the employer has succeeded to substantially all or to a distinct severable portion of the employing enterprises of a predecessor, or whether a successor has succeeded to substantially all or a distinct severable portion of the employer's employing enterprises, and the factual basis for ~~thosesueh~~ statements.
 - 5) If an employer alleges that the provisions of Section 1507.1 of the Act have been erroneously applied, the employer must show that it complied with 56 Ill. Adm. Code 2760.105(b), if applicable, and shall provide a statement of whether the employer is a transferee of trade or business and whether there is common ownership, management or control, and the factual basis for those statements.

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- ~~65~~) If the employer alleges an incorrect [North American Industry Classification System \(NAICS\)](#)~~Standard Industrial Classification~~ code, a statement of the employer's primary activity and the factual basis for ~~that~~~~sueh~~ statement must be provided.
- ~~76~~) If the employer alleges that it has not been credited with the full amount of wages for insured work subject to the payment of contributions that it reported, it shall state the exact amount of ~~the~~~~sueh~~ wages and the quarters for which ~~the~~~~sueh~~ wages were reported and shall provide a copy of its "Employer's Contribution and Wage Report" (see 56 Ill. Adm. Code 2760.25) and any forms, Social Security Number Correction and Name Change Notice, used to report additional wages for the same quarters (see 56 Ill. Adm. Code 2760.145).
- c) An application that~~Application which~~ does not specify the factual basis for relief sought, or does not contain the information required by the applicable Section of this Part, shall be ruled insufficient. The ruling shall be final and conclusive unless the employer files, within 10 days ~~after~~~~of~~ the date of mailing of ~~the~~~~sueh~~ ruling, a written objection or revised application~~Application~~, specifically responding to the reasons the original application~~Application~~ was ruled insufficient. If a written objection or revised application has been timely filed, an employer may file additional information to be considered as part of its objection or revised application within 30 days after the period for filing a written objection or revised application has ended. The written objection or revised application~~Application~~ shall be reviewed and an order allowing or denying relief issued.
- d) If the application~~Application~~ is sufficient, the Department~~Agency~~ shall investigate the allegations in the application~~Application~~ based on agency records and any documents supplied by the employer. The Department~~Agency~~ shall issue a written order with reasons for denying the application~~Application~~ or allowing the application~~Application~~ in whole or in part.
- e) An employer disagreeing with the order may appeal to a Director's representative~~Representative~~ under Subpart C ~~of this Part~~.
- f) If the basis for review of the rate determination is a pending benefit charge matter, ~~the~~~~sueh~~ matter is not a basis for relief under this Section, but rather the employer's remedy is pursuant to Section 1508 of the Act and Section 2725.100 ~~of this Part~~.

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If the benefit charges are modified or cancelled, as appropriate, through the operation of Section 2725.100 ~~of this Part~~, appropriate relief will be granted through the operation of Sections 1508 and 1509 of the Act.

EXAMPLE: While review of a benefit charge matter is pending, the employer receives a Notice of Contribution Rate Determination based on the contested benefit charges. This employer's pending Application for Revision of Statement of Benefit Charges shall be deemed to be an Application for Review of that portion of its rate based on the contested Statement. If ~~the such~~ employer prevails on the ~~application~~ Application for Review of Statement of Benefit Charges, its benefit ratio shall be modified accordingly and, if this results in a change to its rate, a revised Notice of Contribution Rate Determination will be issued.

(Source: Amended at 43 Ill. Reg. 1537, effective January 15, 2019)

Section 2725.110 Protest ~~of~~ Determination ~~and~~ Assessment

- a) A ~~protest~~ Protest of a Determination and Assessment must be filed in the form of a petition and should be filed online using MyTax Illinois (mytax.illinois.gov) or ~~in the form of a Petition~~ at the address shown on the Determination and Assessment. A protest must be signed and filed within 20 days ~~after~~ of service. If a protest has been timely filed, an employer may file additional information to be considered as part of its protest within 30 days after the period for filing a protest has ended.
- b) A sufficient Petition shall set forth the specific part of the Determination and Assessment with which the employing unit disagrees and the specific legal and factual basis for the disagreement and, in the specific situations described in this subsection (b), will state the following:
 - 1) If the employing unit alleges that it has paid all or part of the amount assessed, ~~the exact amount of the contributions, penalties and interest paid, if any, the~~ date ~~date[s]~~ paid and the ~~quarter~~ quarter ~~quarter[s]~~ to which the ~~payment relates~~ payment[s] relate[s]; ~~or~~
 - 2) If the employing unit alleges that the Determination and Assessment is erroneous because of clerical error, ~~the specific nature of the clerical error;~~ ~~or~~
 - 3) If the employing unit claims one or more persons whose wages are the

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basis of the Determination and Assessment were not in employment, the names, addresses and Social Security account numbers of ~~those~~ such persons, the nature of the services performed, if any, and the reasons the person or persons are not considered in employment; or

- 4) If the employing unit alleges that it is not an employer subject to the Act, the reasons for that allegation and supporting facts.
- c) An employing unit ~~that~~ which files a ~~petition~~ Petition that does not contain the information required by subsection (b) shall be notified of the insufficiency and given 20 days ~~after from~~ the date of mailing of ~~that~~ such notice to revise the ~~petition~~ Petition or file objections to the notice. A revised petition or objections to the notice must be signed and should be filed online using MyTax Illinois or at the address shown on the notice of insufficiency. If a revised petition or objections to the notice of insufficiency have been timely filed, an employer may file additional information to be considered as part of its application within 30 days after the period for filing a petition has ended. If, within the 20-day period, a revised petition or objections responding to the notice are filed within 20 days after the date of mailing of the notice and the petition or revised petition is still determined to be insufficient, the revised petition or original petition and objections, as the case may be, shall be adjudicated under Subpart C of this Part. If, within the 20-day period, no further documents are filed or corrections made, electronically or by mail, within 20 days after the date of mailing of the notice of insufficiency, the petition shall be ruled insufficient and the such ruling, notice of which shall be provided to the employing unit, shall be final and subject to review under the State's Administrative Review Law [735 ILCS 5/Art. III].
- d) An employing unit ~~that~~ which files a ~~petition~~ Petition, but not within the time prescribed, shall be notified of its untimeliness and given 20 days ~~after from~~ the date of mailing of ~~the~~ such notice to submit further information or objections to the notice of untimeliness. Objections to the Notice of Untimeliness must be signed and should be filed online using MyTax Illinois or at the address shown on the notice of untimeliness. If further information or objections to the notice of untimeliness has been timely filed, an employer may file additional information to be considered as part of its submission within 30 days after the period for submitting further information or objections has ended. If, within the 20 days after the date of mailing of the Notice of Untimeliness day period, such information or objections are filed but do not sufficiently respond to the notice of

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untimeliness, the ~~petition~~Petition shall be adjudicated under Subpart C. If, within ~~the 20 days after the date of mailing of the notice of untimeliness~~day period, no ~~such~~ information or objections are filed, the ~~petition~~Petition shall be ruled untimely and ~~the~~such ruling, notice of which shall be provided to the employing unit, shall be final and subject to review under the ~~State's~~ Administrative Review Law ~~[735 ILCS 5/Art. III]~~.

- e) Except as provided in subsection (f), if the ~~petition~~Petition is sufficient and timely, the ~~Department will~~Agency shall investigate the allegations in the ~~petition~~Petition based upon ~~Department~~Agency records and any documents supplied by the employing unit. If the ~~Department~~Agency determines that the ~~petition~~Petition should be allowed, the ~~Department~~Agency shall cancel the Determination and Assessment by written order. If the ~~Department~~Agency determines that the ~~petition~~Petition should be allowed in part and denied in part, the ~~Department~~Agency shall modify the Determination and Assessment by written order, with reasons for the partial denial. An employing unit disagreeing with the Order to Modify the Determination and Assessment may file a ~~petition~~Petition to the Modified Determination and Assessment as provided in subsections (a) and (b). If the ~~Department~~Agency determines that the Determination and Assessment should be affirmed, the ~~petition~~Petition shall be adjudicated under Subpart C ~~of this Part~~.
- f) If an employing unit files a timely and sufficient ~~petition~~Petition in response to a Modified Determination and Assessment issued under subsection (e) or a Determination and Assessment ~~that~~which is issued as a result of an audit, ~~the~~such ~~petition~~Petition shall be adjudicated under Subpart C ~~of this Part~~.

(Source: Amended at 43 Ill. Reg. 1537, effective January 15, 2019)

Section 2725.115 Claim For Adjustments (Credits) And Refunds

- a) Claims for Adjustments (~~credits~~Credits) or Refunds must be signed and should be made online using MyTax Illinois (mytax.illinois.gov) or on the ~~Department~~agency form, "Employer's Claim for Adjustment/Refund," and filed at the address listed on the form. Except as provided in this subsection, Such a claim must be filed within three ~~(3)~~ years after the date ~~on which~~ the employing unit paid the contributions, interest or penalties ~~that~~which are the basis of the employing unit's claim. In the case of an erroneous payment that occurred January 1, 2015 through September 8, 2017, the employing unit may file the

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claim for adjustment or refund not later than June 30, 2018 or three years after the date of the erroneous payment, whichever is later. If a claim for adjustment or refund has been timely filed, an employer may file additional information to be considered part of its claim within 30 days after filing the claim.

- b) A sufficient Claim for Adjustment (~~credit~~Credit) or Refund must meet the requirements set forth in 56 Ill. Adm. Code 2760.150 and shall set forth the reason for the refund as follows:
- 1) The employer overpaid due to a mathematical error. For example, the employer misplaced a decimal point in computing his or her contributions due;
 - 2) The employer paid at an incorrect rate. For example, the assigned rate was 2.0% and the employer paid at 3.7%. This frequently occurs the first year an employer ~~receives~~received a rate based on its experience;
 - 3) The employer reported wages paid to workers to Illinois that should have been reported to a different state. In ~~this~~such a case, the employer must supply the ~~Department~~Agency with a list of workers' names and Social Security ~~account~~ numbers on the form titled "Employer's Correction Report of Wages Previously Reported" if he or she has not already done so on form UC-40C "Employer's Correction Report For The Quarter" (see 56 Ill. Adm. Code 2760.145(a)). If any benefits have been paid to these workers by Illinois, the refund amount shall be adjusted downward to reflect any benefits paid due to the employer's error;
 - 4) The employer reported payments that are excluded from the definition of "wages" by the Act. For example, a sole proprietor reported compensation paid to his or her parents. In ~~these~~such cases, the employer must supply the ~~Department~~agency with a list of the workers' names and Social Security ~~account~~ numbers on an "Employer's Correction Report For Wages Previously Reported" if he or she has not already done so on an "Employer's Correction Report For The Quarter" (see 56 Ill. Adm. Code 2760.145(a)). If any benefits have been paid to these workers, the refund amount shall be adjusted downward to reflect any benefits paid due to the employer's error;
 - 5) The employer incorrectly reported total payments as wages subject to the

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payment of contributions;

EXAMPLE: The employer made an error in computing the excess wages. In ~~this~~ case, the employer must file an "Employer's Correction Report Of Wages Previously Reported" to correct his ~~or her~~ error if he ~~or she~~ has already not done so on an "Employer's Correction Report For ~~The~~ Quarter" (see 56 Ill. Adm. Code 2760.145(a)).

- 6) The employer overpaid due to a rate revision;

EXAMPLE: The employer's rate is revised downward after he ~~or she~~ has already paid the contributions for the quarter, thus creating a credit balance for which he ~~or she~~ can request a refund or adjustment.

- 7) The employing unit is not an employer subject to the Act, but has paid contributions;
- 8) Any other circumstances ~~that~~ would show that the employer overpaid his ~~or her~~ contributions;
- 9) The employing unit has paid interest and/or penalties ~~that~~ were determined not due.

- c) If the Claim for Adjustment (~~credit~~Credit) or Refund is sufficient, the Department ~~will~~Agency shall investigate the allegation in the claim by examining Department~~Agency~~ records and documents supplied by the employer and then issue a written order.
- d) A claim ~~that~~ does not specify the factual basis for the relief sought or does not contain the information required by subsection (b) shall be ruled insufficient. The ruling shall be final and conclusive unless the employer files, within 20 days ~~after~~of the date of mailing of ~~the~~such ruling in accordance with Section 2203 of the Act, a written objection or revised claim~~Claim~~, specifically responding to the reasons the original claim~~Claim~~ was ruled insufficient. The written objection or revised claim must be signed and should be filed online using MyTax Illinois or at the address listed on the ruling. If a written objection or revised claim has been timely filed, an employer may file additional information to be considered as part of its submission within 30 days after the period for filing a written objection or revised claim has ended. The written objection or revised claim~~Claim~~ shall be

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reviewed and an order, allowing in whole or in part or denying in whole or in part, shall be issued. An employer disagreeing with ~~the such~~ order may appeal to a Director's ~~representative~~ Representative under Subpart C.

(Source: Amended at 43 Ill. Reg. 1537, effective January 15, 2019)

Section 2725.125 Elections to Make Payments in Lieu of Contributions and Written Notices of Termination of Election by a Nonprofit Organization or Governmental Entity

- a) Elections by a nonprofit organization or governmental entity to make payments in lieu of contributions must be signed and should be made online using MyTax Illinois (mytax.illinois.gov) or on the Department form "Reimburse Benefits in Lieu of Paying Contributions", mailed to the address listed on the form.
- b) A nonprofit organization or governmental entity that would like to terminate its election to be reimbursable may do so either online using MyTax Illinois or in writing, mailed to: Illinois Department of Employment Security, Revenue Division, 33 S. State St., 10th Floor, Chicago IL 60603. There is no special form needed to terminate an election to be reimbursable if submitted by mail. A notice to terminate an election to be reimbursable must be signed, whether submitted online using MyTax Illinois or by mail.
- c) An application for review of a Director's order allowing or denying an election to make payments in lieu of contributions and written notices of termination of election must be signed and filed within 15 days after the date of mailing of the order and should be filed online using MyTax Illinois or in writing, mailed to the address listed on the order.

(Source: Added at 43 Ill. Reg. 1537, effective January 15, 2019)

SUBPART C: APPEAL TO DIRECTOR'S REPRESENTATIVE

Section 2725.200 Filing Of Appeal

- a) An employing unit may appeal an order or Determination and Assessment of the Director by filing a written ~~petition~~ Petition. The ~~petition must be signed and~~ Petition should be filed online using MyTax Illinois (mytax.illinois.gov) or at the address shown on the order or Determination and Assessment being appealed. The Petition must be filed within 20 days after the Director's order or

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Determination and Assessment was served on the employing unit, except for orders on ~~application~~Application for review of rate determinations, which must be filed within 10 days ~~after~~of the date of service.

- b) No special form is necessary to file a ~~petition~~Petition. However, in addition to the requirements of Section 2725.25, the following must be included:
- 1) The ~~petition~~Petition must be in writing, dated and signed ~~by the employing unit appealing or its agent; and~~
 - 2) The ~~petition~~Petition must set forth the specific parts of the order or Determination and Assessment ~~and when with which~~ the employing unit disagrees and the specific legal and factual basis for that disagreement.
- c) The employing unit may request a ~~prehearing~~pre-hearing conference.

(Source: Amended at 43 Ill. Reg. 1537, effective January 15, 2019)

Section 2725.250 Conduct of Hearing

- a) The Director's ~~representative~~Representative will control the hearing, which will be confined to the relevant factual and/or legal issues.
- b) At the hearing, the petitioning employer must produce testimony, argument or other evidence to establish that the Director's order or Determination and Assessment~~determination and assessment~~ is incorrect.
- c) Following the testimony of each witness, the witness may be questioned and cross-examined by the opposing party, if any, and then may be questioned and cross-examined by the Director's ~~representative~~Representative or ~~any such~~ other employee of the Department~~Director~~ as the Director may designate. ~~The Director's Representative or such other employee of the Director as the Director may designate shall represent the Director and may present any evidence to support the Director's order or determination and assessment.~~
- d) It is the duty of the Director's ~~representative~~Representative to ensure that the party or parties, as appropriate, have full opportunity to present all evidence relevant to the issues before the Director's ~~representative~~Representative.

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- e) If any person becomes disruptive or abusive, the Director's ~~representative~~ Representative shall exclude that person from the hearing and the hearing will continue without the participation of the excluded individual. The Director's ~~representative~~ Representative shall render a decision based on all evidence in the record.
- f) The Director shall prohibit any person from representing a party in any proceeding under this Part if the Director finds that the person is or has been guilty of violating the Code of Professional Responsibility, or Article 8 of the Rules of the Illinois Supreme Court, or has intentionally disregarded the provisions of the Act, rules promulgated under the Act, ~~thereunder~~ or written instructions of the Director. The prohibition shall be in writing and shall be applicable for a period not to exceed 120 days after ~~from~~ the date the decision is mailed to the party.

(Source: Amended at 43 Ill. Reg. 1537, effective January 15, 2019)

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- 1) Heading of the Part: Employment
- 2) Code Citation: 56 Ill. Adm. Code 2732
- 3) Section Number: 2732.306 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 205, 206, 206.1, 211.5, 212, 212.1, 215, 217, 218, 225, 1700 and 1701 of the Unemployment Insurance Act [820 ILCS 405/205, 206, 206.1, 211.5, 212, 212.1, 215, 217, 218, 225, 1700 and 1701].
- 5) Effective Date of Rules: January 15, 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 rulemaking is on file in the Department of Employment Security's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 17002; September 28, 2018
- 10) Has JCAR issued a Statement of Objection to this rule? No
- 11) Differences between Proposal and Final Version: No changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
2732.125	Amendment	42 Ill. Reg. 23386; December 21, 2018
2732.205	Amendment	42 Ill. Reg. 23386; December 21, 2018
2732.210	Amendment	42 Ill. Reg. 23386; December 21, 2018
2732.225	Amendment	42 Ill. Reg. 23386; December 21, 2018
2732.227	Amendment	42 Ill. Reg. 23386; December 21, 2018

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2732.230 Amendment 42 Ill. Reg. 23386; December 21, 2018

- 15) Summary and Purpose of Rulemaking: Clarify the right of an employer to request a transfer of contributions under 56 Ill. Adm. Code 2765.64. Permits the electronic submission of various tax-related documents.
- 16) Information and questions regarding these adopted rules shall be directed to:

Thomas D. Chan, Acting General Counsel
Illinois Department of Employment Security
33 South State Street – Room 933
Chicago IL 60603

312/793-2338
fax: 312/338-0361
Thomas.D.Chan@illinois.gov

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

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NOTICE OF ADOPTED AMENDMENT

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER c: RIGHTS AND DUTIES OF EMPLOYERSPART 2732
EMPLOYMENT

SUBPART A: COVERAGE

Section

2732.125 Requirement That "Four Or More" Employees Of A Nonprofit Organization Perform Services Within This State

SUBPART B: SERVICES IN EMPLOYMENT

Section

2732.200 Section 212 of the Act – Services in Employment
2732.203 The Effect Of Regulation By A Governmental Entity On "Direction Or Control" Under Section 212 Of The Act
2732.205 Owner-Operators Of Motorized Vehicles
2732.210 Mandatory Jury Service
2732.215 Exemption From The Definition Of Employment For Participants In The Americorps Program
2732.220 Exemption From The Definition Of Employment For Direct Sellers Of Consumer Goods
2732.225 Exemption From The Definition Of Employment For Freelance Editorial Or Photographic Work
2732.227 Exemption For The Delivery Or Distribution Of Newspapers Or Shopping News To The Ultimate Consumer
2732.230 Domestic Service
2732.235 Effect Of Section 218 Of The Act On The Employment Status Of Certain Relatives

SUBPART C: DETERMINING THE EMPLOYER

Section

2732.305 Employee Leasing Companies (Repealed)
2732.306 Employee Leasing Company – Obligation to Report the Identities of its Clients

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AUTHORITY: Implementing and authorized by Sections 205, 206, 206.1, 211.5, 212, 212.1, 215, 217, 218, 225, 1700 and 1701 of the Unemployment Insurance Act [820 ILCS 405/205, 206, 206.1, 211.5, 212, 212.1, 215, 217, 218, 225, 1700 and 1701].

SOURCE: Adopted at 13 Ill. Reg. 8864, effective May 30, 1989; amended at 14 Ill. Reg. 673, effective January 2, 1990; amended at 15 Ill. Reg. 11423, effective July 30, 1991; amended at 16 Ill. Reg. 8173, effective May 18, 1992; amended at 16 Ill. Reg. 12159, effective July 20, 1992; amended at 17 Ill. Reg. 8809, effective June 2, 1993; amended at 17 Ill. Reg. 17947, effective October 4, 1993; amended at 18 Ill. Reg. 16355, effective October 24, 1994; amended at 21 Ill. Reg. 9456, effective July 2, 1997; emergency amendment at 24 Ill. Reg. 14788, effective September 22, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 2003, effective January 18, 2001; amended at 33 Ill. Reg. 9646, effective July 1, 2009; emergency amendment at 36 Ill. Reg. 18936, effective December 17, 2012 through June 30, 2013; amended at 37 Ill. Reg. 7440, effective May 14, 2013; amended at 43 Ill. Reg. 1560, effective January 15, 2019.

SUBPART C: DETERMINING THE EMPLOYER

Section 2732.306 Employee Leasing Company – Obligation to Report the Identities of its Clients

- a) A report submitted to the Department in the manner provided for in subsection (e), with the contents required by subsection (b), will satisfy the reporting requirement in Section 206.1(B)(4) of the Act for each month or calendar quarter, as ~~applicable-the case may be~~, ending on or after the date of the report's submission. The report will also satisfy the reporting requirements for the month or calendar quarter ending immediately prior to its submission when the employee leasing company's contract with the client took effect in that month or quarter and either:
- 1) the report is submitted within 30 days after the effective date of the contract; or
 - 2) the last day of the month or quarter is a day on which the Department is closed and the report is submitted on the first succeeding day on which the Department is open.

EXAMPLE: Employee Leasing Company A contracts with Client B to lease employees to Client B, effective July 1, 2001. Client B has a contribution rate of 1.0% for 2001. Employee Leasing Company A has a

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contribution rate of 4.0% for 2001, and its relationship with Client B meets the conditions set forth in Section 206.1(B)(1), (2) and (3) of the Act. Beginning with the report due for the third quarter of 2001, Employee Leasing Company A reports the leased employees on its wage reports and pays contributions on those wages at its contribution rate. Client B terminates its liability as of July 1, 2001 and stops filing any wage reports. However, the Employee Leasing Company does not report the leasing relationship to the Director until February 1, 2002. As a result, Employee Leasing Company A cannot report the workers in question for the third and fourth quarters of 2001 as its employees. The workers must be reported by Client B. Since timely wage reports were not filed, nor were contributions paid by Client B, penalties will be assessed and interest charged. Waiver of [thesuch](#) penalty and interest can be granted only for the reasons set forth in 56 Ill. Adm. Code 2765. Employee Leasing Company A may amend its wage reports to remove the workers and then file for a refund or adjustment as provided in Section 2201 of the Act [or request a transfer of contributions from the account of the employee leasing company to the account of the client pursuant to Section 2765.64.](#)

- b) Contents of Report
- 1) In order to satisfy the reporting requirement in Section 206.1(B)(4) of the Act, a report must contain:
 - A) the name of the client;
 - B) a general description of the client's business and business locations;
 - C) the client's unemployment insurance account number (if any); and
 - D) the effective date of the employee leasing company's contract with the client.
 - 2) The report shall be accompanied by either a power of attorney to represent the client or a certification by an officer or employee of the employee leasing company that the information contained in the report is true and correct to the best of his or her knowledge.

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- c) Whenever the employee leasing relationship between an employee leasing company and its client is terminated, the employee leasing company must report the name of the client, the client's unemployment insurance account number (if any) and the effective date of the termination within 30 days after that date.
- d) The terms used in this Section shall have the meanings set forth for them in Section 206.1 of the Act.
- e) The notices required by this Section ~~should~~ shall be submitted online using MyTax Illinois (mytax.illinois.gov) or by mail~~mailed~~ or ~~sent by~~ facsimile transmission to the Illinois Department of Employment Security, Revenue Division, 33 S. State St., 10th Floor, Chicago IL 60603, Attn: Employer Services (FAX No.: [217-557-1948](tel:217-557-1948)~~312-793-6296~~). A facsimile transmission is subject to 56 Ill. Adm. Code 2712.1 with respect to the risk of nontransmission and the effect of the dates imprinted by the Department's and sender's respective telefax machines.

(Source: Amended at 43 Ill. Reg. 1560, effective January 15, 2019)

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- 1) Heading of the Part: Notices, Records, Reports
- 2) Code Citation: 56 Ill. Adm. Code 2760
- 3)

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
2760.105	Amendment
2760.120	Amendment
2760.125	Amendment
2760.135	Amendment
2760.140	Amendment
2760.145	Amendment
2760.150	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 204, 234, 245, 300, 302, 700, 1400, 1400.2, 1401, 1402, 1404, 1405, 1507, 1700, 1701, 1706, 1800, 1801, 2201 and 2208 of the Unemployment Insurance Act [820 ILCS 405/204, 234, 245, 300, 302, 700, 1400, 1400.2, 1401, 1402, 1404, 1405, 1507, 1700, 1701, 1706, 1800, 1801, 2201 and 2208].
- 5) Effective Date of Rules: January 15, 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 rulemaking is on file in the Department of Employment Security's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 17008; September 28, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes were made. The following technical corrections were made by agreement with JCAR during 2nd Notice:

In 2760.105(b), the semicolon was changed to a colon.

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In 2760.105(b)(2), "then the transferee" was deleted.

In 2760.105(b)(2), ""Report to Determine Succession"" was changes to "(Report to Determine Succession)".

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? Yes

<u>Sections:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
2760.1	Amendment	42 Ill. Reg. 23408; December 21, 2018
2760.5	Amendment	42 Ill. Reg. 23408; December 21, 2018
2760.115	Amendment	42 Ill. Reg. 23408; December 21, 2018

- 15) Summary and Purpose of Rulemaking: Permits the electronic submission of various tax-related documents. Provides for the discontinuation of the practice of mailing quarterly wage reports and remittance forms to employers through the U.S. Mail and provide for downloading of the material.
- 16) Information and questions regarding these adopted rules shall be directed to:

Thomas D. Chan, Acting General Counsel
Illinois Department of Employment Security
33 South State Street – Room 933
Chicago IL 60603

312/793-2338
fax: 312/338-0361
Thomas.D.Chan@illinois.gov

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER c: RIGHTS AND DUTIES OF EMPLOYERSPART 2760
NOTICES, RECORDS, REPORTS

SUBPART A: GENERAL OBLIGATIONS

Section

- 2760.1 Posting And Maintaining Notices
2760.5 Identification Of Workers Covered By The Act
2760.10 Filing By Mail

SUBPART B: REPORTS AND RECORDS

Section

- 2760.100 Reports and the Report for Household Employers
2760.105 Reports ~~of~~ Of Employing Units ~~as to~~As To Their Status
2760.110 Employing Unit Terminating Business
2760.115 Records With Respect To Employment
2760.120 Employer's Contribution and Wage Report and Report for Household Employers
2760.125 Employer's Wage Report
2760.128 Wage Report Filing for Employers that Employ Household Workers and Elect to Report Their Wages on an Annual Basis
2760.130 Reporting "Excess" Wages
2760.135 Remittance of Contributions Due and Use of ~~Payment Voucher~~Transmittal Form
2760.140 Use of Electronic Data Processing Media for Quarterly Reporting ~~Prior to 2013~~
2760.141 Use of Electronic Data Processing Media for Monthly or Quarterly Reporting
2760.145 Correcting the Employer's Contribution and Wage Report or Report for Household Employers
2760.150 Consequences of an Error in the Preparation of the Employer's Contribution and Wage Report or Report for Household Employers and Procedures for the Waiver or Elimination of Certain Penalties

AUTHORITY: Implementing and authorized by Sections 204, 234, 245, 300, 302, 700, 1400, 1400.2, 1401, 1402, 1404, 1405, 1507, 1700, 1701, 1706, 1800, 1801, 2201 and 2208 of the Unemployment Insurance Act [820 ILCS 405/204, 234, 245, 300, 302, 700, 1400, 1400.2, 1401, 1402, 1404, 1405, 1507, 1700, 1701, 1706, 1800, 1801, 2201 and 2208].

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SOURCE: Department of Labor, Bureau of Employment Security Regulations 4, 7 and 8, filed as amended May 3, 1977, effective May 13, 1977; Regulation 11 filed as amended May 4, 1977, effective May 14, 1977; Regulations 5 and 32 filed as amended June 23, 1977, effective July 3, 1977; Regulations 6 and 12 filed as amended September 12, 1977, effective September 12, 1977; rules repealed by operation of law on October 1, 1984; new rules adopted at 10 Ill. Reg. 6939, effective April 15, 1986; emergency amendment at 12 Ill. Reg. 222, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 13604, effective August 4, 1988; amended at 12 Ill. Reg. 16070, effective September 23, 1988; amended at 16 Ill. Reg. 3993, effective February 27, 1992; emergency amendment at 17 Ill. Reg. 13798, effective August 4, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 261, effective December 27, 1993; emergency amendment at 18 Ill. Reg. 2631, effective February 3, 1994, for a maximum of 150 days; emergency amendment modified at 18 Ill. Reg. 7492; emergency expired July 3, 1994; amended at 18 Ill. Reg. 14942, effective September 27, 1994; amended at 29 Ill. Reg. 1917, effective January 24, 2005; emergency amendment at 29 Ill. Reg. 6783, effective April 25, 2005, for a maximum of 150 days; emergency expired September 25, 2005; amended at 33 Ill. Reg. 9652, effective July 1, 2009; amended at 35 Ill. Reg. 6136, effective March 25, 2011; emergency amendment at 36 Ill. Reg. 18947, effective December 17, 2012 through June 30, 2013; amended at 37 Ill. Reg. 7451, effective May 14, 2013; emergency amendment at 38 Ill. Reg. 22249, effective November 17, 2014, for a maximum of 150 days; emergency expired April 15, 2015; amended at 39 Ill. Reg. 10755, effective July 27, 2015; amended at 43 Ill. Reg. 1566, effective January 15, 2019.

SUBPART B: REPORTS AND RECORDS

Section 2760.105 Reports ~~of~~ Employing Units ~~as to~~ ~~As To~~ Their Status

- a) Any employing unit that commences business in any manner whatsoever, whether by purchase of a business already being operated, by starting a new business, or otherwise, shall, within 30 days after ~~the~~ commencement, file a signed form REG-UI-1 ("Report To Determine Liability Under the Illinois Unemployment Insurance Act)", or a document that includes the same information.
- b) In addition to complying with the requirements of subsection (a), ~~when~~ where applicable:
 - 1) any employing unit that succeeds to substantially all of the assets of an organization, trade or business, or of a severable portion of those assets, shall file a signed form UI-1 S&P ("Report To Determine Succession)" or

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a document that includes the same information. A report of such a sale or transfer by the successor to a severable portion of the predecessor's organization, trade or business shall not constitute a joint application for the predecessor's experience rating record, unless the report also includes the additional requirements set forth in Section 1507(B)(2) through (3) of the Unemployment Insurance Act [820 ILCS 405] (Act).

2) any employing unit to which trade or business, or a portion of trade or business, is transferred to it by an individual or entity and at the time of the transfer there is any substantial common ownership, management or control of the transferor and transferee shall file form UI-1 S&P (Report to Determine Succession) or a document that includes the same information. A transfer of trade or business includes but is not limited to the transfer of some or all of the transferor's workforce.

- c) The reports required under subsections (a) and (b) ~~should~~ shall be filed online using MyTax Illinois (mytax.illinois.gov) or by mail to: Central Registration Division, Illinois Department of Revenue, PO Box 19030, Mail Code 3-222, Springfield IL 62794-9030 with the Director of Employment Security, 33 South State Street, 10th Floor, Chicago, Illinois 60603, Attn: Revenue Division. Copies of forms REG-UI-1 and UI-1 S&P are available at that address and at www.ides.illinois.govstate.il.us.

(Source: Amended at 43 Ill. Reg. 1566, effective January 15, 2019)

Section 2760.120 Employer's Contribution and Wage Report and Report for Household Employers

- a) ~~Except for employers that file the Report for Household Employers, as provided in Sections 2760.125 and 2760.128 and employers subject to Section 2760.140, each quarter. The~~ Department shall make available on its website (ides.illinois.gov), and provide each employer subject to the Unemployment Insurance Act, including employers electing to make payments in lieu of paying contributions under Section 302, 1404 or 1405 of the Act [820 ILCS 405/302, 1404 or 1405], with a preprinted packet that includes a form Employer's Contribution and Wage Report form, in part, for filing its quarterly unemployment insurance contribution reports and a Report for Household Employers form for employers that file annually pursuant to Section 1400.2. Except for employers subject to Section 2760.141, and except for other employers

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that file unemployment insurance contribution and wage reports using the Department's online tax system, MyTax Illinois (mytax.illinois.gov), each employer subject to the Act, including employers electing to make payments in lieu of paying contributions under Section 302, 1404 or 1405 of the Act, must file unemployment insurance contribution and wage reports using the contribution and wage report provided on the Department's website or otherwise provide all of the information required by the form as provided in Section 2760.125(a)(5), and shall provide all of the information required on the Employer's Contribution and Wage Report form or Report for Household Employers form. If the employer fails to sign and complete the form provided on the Department's website or otherwise provide all of the information required by the form, the report may. ~~The use of a blank (not preprinted for the employer) form will be considered an incomplete submission and be returned to the employer for resubmission. Replacement preprinted forms are available upon request (see Section 2760.125(a)(6) for extensions of the time for filing).~~

- 1) In the event that an employer files a petition ~~for~~ bankruptcy under the Bankruptcy Code (USC Title 11), the employer shall file two Employer's Contribution and Wage Reports or two Reports for Household Employers, as ~~applicable~~ ~~the case may be~~, for the quarter in which the petition is filed. An employer subject to the mandatory electronic reporting requirement of Section ~~2760.141~~ ~~2760.140~~ shall file two contribution reports for the quarter in which the petition is filed and two reports pursuant to Section 2760.125(a)(1) for the third month of the quarter in which the petition is filed. One report shall address the period beginning on the first day of the quarter to, and including, the day prior to the date of the filing of the petition. The other report shall address the period beginning on the date of the filing of the petition ~~through~~ ~~to, and including~~, the last day of the calendar quarter.

EXAMPLE 1: Corporation A, which is not subject to the mandatory electronic reporting requirement of Section ~~2760.141~~ ~~2760.140~~, files a petition ~~for~~ bankruptcy on August 15, 2013. Corporation A is required to file two Employer's Contribution and Wage Reports for the third quarter of 2013, both due October 31, 2013. One will cover the period ~~through~~ ~~and including~~ August 14, 2013, and Corporation A will calculate contributions due for that period. The other report will cover the period ~~of beginning~~ August 15, 2013 ~~through~~ ~~to and including~~, September 30, 2013 and will reflect the contributions due for that period.

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EXAMPLE 2: Employer A, which is a household annual filer, files a petition ~~for~~ bankruptcy on August 15, 2013. Employer A is required to file two reports for Household Employers, both due April 15, 2014. One will cover the period ~~through~~ and including August 14, 2013, and Employer A will calculate contributions due for that period. The other report will cover the period ~~of beginning~~ August 15, 2013 ~~through~~ and including December 31, 2013 and will reflect the contributions due for that period.

- 2) ~~If in the event that~~ an employer transfers substantially all of its employing enterprises to another employing unit but continues to be a liable employer, the employer shall file two Employer's Contribution and Wage Reports for the calendar quarter in which the transfer occurs. An employer subject to the mandatory electronic reporting requirement of Section ~~2760.141~~ ~~2760.140~~ shall file two contribution reports for the quarter in which the transfer occurs and two reports pursuant to Section 2760.125(a)(1) for the third month of the quarter in which the transfer occurs. One report shall address the period beginning on the first day of the quarter to, and including, the date of transfer. The other report shall address the period beginning on the first day after the date of transfer ~~through~~, and including, the last day of the calendar quarter.

EXAMPLE: On August 15, 1994, Corporation A, which owns a retail establishment named the XYZ Store, and is not subject to the mandatory electronic reporting requirement of Section ~~2760.141~~ ~~2760.140~~, sells the entire business except the name "XYZ Store" to Corporation B. The officers of Corporation A continue to perform services and are paid wages after the transfer. Corporation A is required to file two Employer's Contribution and Wage Reports for the third quarter of 1994, both due October 31, 1994. One will cover the period ~~through~~, and including, August 15, 1994, and Corporation A will calculate contributions due for that period. The other report will cover the period ~~of beginning~~ August 16, 1994 ~~through~~, and including, September 30, 1994, and will reflect the contributions due for that period.

- 3) ~~The employer may obtain a second imprinted Employer's Contribution and Wage Report form or Report for Household Employers upon request (see Section 2760.125(a)(6) for extensions of time for filing).~~

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- 34) ~~If in the event~~ the employer files only one report for a quarter for which two reports are required under subsection (a)(1) or (a)(2) and provides the total and taxable wages for the entire quarter in the report, or ~~files~~^{filed} only one report for a year for which two reports are required, and provides the total and taxable wages for the entire year in the report, the report will be deemed to be insufficient as provided in Section 1402 of the Act. The employer must file, within 30 days after the mailing of a notice to it of insufficiency, the two reports ~~as~~ required in either subsection (a)(1) or (a)(2), as applicable, or the penalties provided in Section 1402 of the Act shall apply.
- 45) Except as otherwise provided in this subsection (a)(~~45~~), with respect to an employer not subject to the mandatory electronic reporting requirement of Section ~~2760.141~~^{2760.140}, the penalties provided for in Section 1402 of the Act regarding each report required under subsection (a)(1) or (a)(2) of this Section shall be calculated on the basis of the total wages paid and contributions due for the period to which that report applies. Regardless of whether the employer fails to timely file one or both of the reports, the total penalty for that failure shall not exceed \$5,000, and the minimum penalty for the failure shall be \$50. The minimum penalty for willful failure to pay any contribution, or part of any contribution, with intent to defraud the Director, shall be \$400, regardless of whether the employer fails to make the payment for both or only one of the periods.

EXAMPLE: An employer not subject to the mandatory electronic reporting requirement of Section ~~2760.141~~^{2760.140} timely files a report representing the part of the quarter prior to the date of filing of the petition ~~for~~^{for} bankruptcy. He or she is late in filing the report for the part of the quarter including the date the petition is filed. The penalty will be calculated only on the amount of wages paid as reflected in the report for the period including the date the petition ~~for~~^{for} bankruptcy is filed.

- b) In addition to the employer providing its name, address, account number and Federal Employer Identification Number on the Employer's Contribution and Wage Report or Report for Household Employers, the employer must provide the total wages paid during the quarter, the taxable wages paid during the quarter and the number of employees during the pay period that includes the 12th day of each month of that quarter. For purposes of this subsection (b), when an employer is

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required to file two reports pursuant to subsection (a)(1) or (a)(2), "quarter" shall mean the period required to be addressed by the report.

(Source: Amended at 43 Ill. Reg. 1566, effective January 15, 2019)

Section 2760.125 Employer's Wage Report

a) Filing Wage Reports

- 1) Except as provided in subsection (a)(4), an employer subject to the mandatory electronic reporting requirement of Section ~~2760.141~~~~2760.140~~ shall, for each of the first two months of each calendar quarter, report, in addition to the employer's name, account number and Federal Employer Identification Number (FEIN), the name and Social Security ~~number~~~~Number~~ of each covered worker, the total wages paid to each covered worker (except as provided in Section 2760.130), and the total wages paid to all covered workers combined. Except as provided in subsection (a)(4), an employer subject to the mandatory electronic reporting requirement of Section ~~2760.141~~~~2760.140~~ shall, for the third month of each calendar quarter, submit a report (or reports if so required under Section 2760.120(a)(1) or (2)) containing the same information for the entire calendar quarter as is required pursuant to subsection (a)(2). The report required under this subsection (a)(1) for each month shall be filed on or before the last day of the calendar month next following the close of the month.

EXAMPLE: ~~In 2011 and 2012,~~ Employer A is subject to the mandatory electronic reporting requirement of Section 2760.141 for the period July 1, 2016 through June 30, 2017~~had more than 250 employees for the calendar year, as determined in accordance with Section 2760.140(b).~~ Therefore, for each of January and February of ~~2017~~~~2013~~, Employer A is required to report its name, account number and FEIN; ~~and also report~~ the name, Social Security ~~number~~~~Number~~ and total wages for the month of each covered worker (except as provided in Section 2760.130);~~;~~ and the total wages for the month of all covered workers combined.

- A) For the purpose of calculating the monthly wages to determine any penalty for the third month of each quarter, the wages reported for the first and second months of the quarter shall be deducted from

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the quarterly wages reported by the employer for the third month of the quarter.

- i) EXAMPLE: Employer A reports \$5,000 in wages for January and \$4,000 in wages for February. On the report for March, Employer A then reports \$17,000 in wages for the entire first quarter. The Department will calculate March wages as follows: $\$17,000 - (\$5,000 + \$4,000) = \$8,000$.
- ii) EXAMPLE: Employer A timely reports wages of \$7,000 for July 2013 and \$8,000 for August 2013. On November 3, 2013, Employer A files its wage report for September of 2013, reporting a total of \$15,000 in wages paid for the quarter. Employer A will be assessed a minimum penalty of \$50 for September 2013 because it filed its report for the month late, even though it apparently paid no wages for the month of September.

- B) If the employer fails to file its monthly wage reports for the first two months of a quarter, for the purpose of determining the penalty to be assessed, the Department shall use the Employer's quarterly reported wages and divide by three.

EXAMPLE: Employer X fails to report monthly wages for April and May of 2013, but Employer X reports quarterly wages of \$6,000 for the second quarter of 2013. The Department shall estimate monthly wages of \$2,000 for April and \$2,000 for May.

- 2) Except as provided in subsection (a)(3) or (a)(4), every employer subject to the Unemployment Insurance Act, and not subject to the electronic reporting requirement of Section 2760.141~~2760.140~~, including employers electing to make payments in lieu of paying contributions under Section 302, 1404 or 1405 of the Act ~~[820 ILCS 405/302, 1404 or 1405]~~, shall file a report, or reports if so required under Section 2760.120(a)(1) or (2), each calendar quarter, listing the name and Social Security number~~Number~~ of each covered worker and, except as provided in Section 2760.130, the total wages paid to each worker. Except as provided in Section 2760.141~~2760.140~~, the reports shall be made on the form designated

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Employer's Contribution and Wage Report, which is available on the Department's website (ides.illinois.gov). ~~The report due under this subsection (a)(2) part of a preprinted packet provided each quarter by the Department of Employment Security (Agency) and~~ shall be filed on or before the last day of the calendar month next following the close of the calendar quarter.

- 3) Except as provided in subsection (a)(4), ~~for the quarter in which~~ an employing unit that becomes an employer, including employers electing to make payments in lieu of paying contributions under Sections 302, 1404 and 1405 of the Act, ~~it~~ shall file the form designated by the Director as Employer's Contribution and Wage Report (listing the information required by subsection (a)(2)) for the quarter in which it becomes an employer and each subsequent quarter ending prior to the mailing of the notice described in subsection (a)(3)(A). The reports due under this subsection (a)(3) shall be filed on or before whichever of the following dates is later:

- A) The 30th day following the date upon which the Director mails the employing unit a notice that includes information on how the employing unit can file a wage report required by this Section, Section 2760.120 or Section 2760.145 using MyTax Illinois (mytax.illinois.gov), or how to access blank copies of the forms for employing units that are not subject to Section 2760.141 and would like to file on paperform designated by the Director as the Employer's Contribution and Wage Report is mailed to the employing unit for completion; or

EXAMPLE 1: An employing unit files a REG-UI-1 on April 13, 2018, showing that it became an employer in the first quarter of 2018. The Director mails the notice described in this subsection (a)(3)(A) on April 20, 2018. The employer has until May 20, 2018 to file its contribution and wage report for the first quarter of 2018. The deadline for filing the wage report for the second quarter of 2018, and all subsequent reports, is governed by subsection (a)(2).

EXAMPLE 2: An employing unit files a REG-UI-1 on August 14, 2018, showing that it became an employer in the first quarter of 2018. The Director mails the notice described in this subsection

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(a)(3)(A) on August 21, 2018. The employer has until September 20, 2018 to file its contribution and wage report for the first and second quarters of 2018. The deadline for filing the wage report for the third quarter of 2018, and all subsequent reports, is governed by subsection (a)(2).

- B) The last day of the calendar month next following the calendar quarter in which the employing unit becomes an employer. When a notice described in subsection (a)(3)(A) has been mailed to the employer and a due date for the report for a quarter is initially established pursuant to this subsection (a)(3)(B), the due date shall not change as the result of mailing another notice subsequent to the initially established due date.

EXAMPLE 1: An employing unit files a REG-UI-1 on February 15, 2018, showing that it became an employer in the first quarter of 2018. The Director mails the notice described in subsection (a)(3)(A) on February 20, 2018. The employer has until April 30, 2018 to file its contribution and wage report for the first quarter of 2018. The deadline for filing all subsequent reports is governed by subsection (a)(2).

EXAMPLE 2: An employing unit files a REG-UI-1 on April 13, 2018, showing that it became an employer in the second quarter of 2018. The Director mails the notice described in subsection (a)(3)(A) on April 19, 2018. The employer has until July 31, 2018 to file its contribution and wage report for the second quarter of 2018 (the last day of the calendar month next following the calendar quarter in which the employing unit became an employer). The employer files its contribution and wage report for the second quarter of 2018 on August 1, 2018, making it late and, therefore, subject to a penalty. Included in the employer's filing for the second quarter is a contribution and wage report for the first quarter of 2018. Based on this report, the liability date of the employer is moved to January 1, 2018. Since the liability date of the employer was moved to an earlier quarter, the Director mails an additional notice described in subsection (a)(3)(A) to the employer on August 8, 2018. Pursuant to subsection (a)(3)(A), the employer has until September 7, 2018 to file its contribution and

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wage report for the first quarter of 2018. Since the employer already filed its report for the first quarter, the first quarter report will not be considered late. However, the July 31, 2018 due date initially established for the second quarter report will not change as result of the mailing of the second notice.

- 4) For employers who have elected to file annually pursuant to Section 1400.2 of the Act, with respect to the first quarter for which the employing unit has made the election and each quarter thereafter for which the election remains in effect, it shall file the form designated as the Report for Household Employers listing the information required by subsection (a)(2). The report due under this subsection (a)(4) shall be filed on or before whichever of the following dates is later:
 - A) The 30th day following the date upon which the Director mails the employer a notice that includes information on how to access the form designated as the Report for Household Employers~~is mailed to the employing unit for completion~~; or
 - B) April 15 of the calendar year immediately following the close of the quarter to which the report applies.
- 5) The information with respect to each worker required by subsection (a)(2) may be submitted on a form other than that designated by the Director as the Employer's Contribution and Wage Report, or the Report for Household Employers, provided that the Director has approved the use of the substitute form.
- 6) Upon written request filed with the Director prior to the due date of the report, the Director shall, for any reasonable cause shown, grant in writing an extension of a maximum of 15 days for the filing of any report required on a monthly basis under subsection (a)(1) and 30 days for the filing of any report required under subsection (a)(2), (a)(3) or (a)(4). A reasonable cause is when an employer cannot meet a due date through no fault of its own or because of circumstances beyond its control.
 - A) The request shall make a full explanation of the reasons for the request and shall state the date to which the extension is desired.

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- B) If an employer that has been granted an extension of time pursuant to this subsection (a)(6) fails to file the report on or before the extended due date, the penalty referred to in subsection (b) shall accrue from the original due date as if no extension had been granted.
- b) Any employer, including an employer electing to make payments in lieu of paying contributions under Section 302, 1404 or 1405 of the Act, which, during any calendar quarter (or any calendar month, in the case of an employer subject to the mandatory electronic reporting requirement of Section ~~2760.141~~2760.140), has paid wages to any of its workers and ~~that which~~ fails to file reports of those wages on or before the dates they are due under the provisions of this Section, shall pay penalties as set forth in Section 1402 of the Act and 56 Ill. Adm. Code 2765.
- c) An extension in the period of time for filing a wage report does not extend the deadline for making payment of any required contributions.

(Source: Amended at 43 Ill. Reg. 1566, effective January 15, 2019)

Section 2760.135 Remittance of Contributions Due and Use of Payment Voucher Transmittal Form

- a) ~~Except in the case of an employer subject to Section 2760.140, each quarter, or once a year for employers who file the Report for Household Employers, The~~ Department shall make available, through its online tax system, MyTax Illinois (mytax.illinois.gov) and on its website (ides.illinois.gov), ~~Agency will provide each employer subject to the Unemployment Insurance Act with a preprinted packet that includes a~~ Payment Voucher Transmittal Form that is to be returned with any payment, except a payment that is made through electronic funds transfer ~~a check for any unemployment insurance contributions due for the quarter covered by that packet. Except for payments made through electronic funds transfer, every employer must enclose a Payment Voucher with any payment or otherwise provide all of the information the Payment Voucher would provide, regardless of the amount due. For any payment that is not made through electronic funds transfer, failure of the employer to enclose a Payment Voucher with its payment, or otherwise provide all of the information the Payment Voucher would provide, may result in a return of that payment to the employer for resubmission.~~

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- 1) The ~~Payment Voucher Transmittal Form~~ and check must be sent to the address indicated ~~on the form in the packet~~.
 - 2) A separate check, made payable to the ~~Department~~ Director of Employment Security, must accompany each ~~Payment Voucher, Transmittal Form~~ and the Employer's Illinois Account Number should be written on the face of the check.
- b) Failure of the employer to submit a check to the address indicated on the ~~form~~ ~~may~~ ~~packet will~~ result in a return of that check to the employer for resubmission. If the resubmitted check is received at the proper address after the due date provided in Section 1400 of the Act, interest shall accrue as provided in Section 1401 of the Act. The Director shall not grant waiver for any interest so accrued.
 - c) Notwithstanding any other provisions to the contrary, an employer may remit payments other than by check in accordance with instructions provided on the ~~Department's Agency's~~ website, ~~www.ides.state.il.us~~.

(Source: Amended at 43 Ill. Reg. 1566, effective January 15, 2019)

Section 2760.140 Use of Electronic Data Processing Media for Quarterly Reporting Prior to 2013

- a) Except as provided in subsections (g) and (h), the reports required by Sections 2760.120 and 2760.125 for a quarter beginning prior to calendar year 2013 must be filed by the use of an electronic data processing medium that meets the approval of the Director. The Director shall approve the use of electronic data processing media for reporting if he/she finds that:
 - 1) All of the data required by the Director for quarterly reporting are also provided by the employer on the electronic data processing medium; and
 - 2) The employer's electronically data processed reports are compatible and readable by the electronic data processing equipment used by the Director without the need for any programming adjustment by the Director.
- b) Subsection (a) shall only apply to an employer for a calendar year if the employer had 250 or more individuals in its employ (though not necessarily at the same time) during the prior calendar year.

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EXAMPLE: During 2011, the employer has no more than 225 individuals in its employ at any one time. However, during the year, 30 of these individuals leave the employ of the employer and are replaced by 30 other individuals. Though the employer's labor force never exceeds 225 individuals at any one time, the employer had 255 individuals in its employ during 2011 and, therefore, is subject to subsection (a) for 2012.

- c) The failure of an employer that is subject to subsection (a) to report in the manner required by that subsection shall subject the employer to the penalties set forth in Section 1402 of the Act.

EXAMPLE: On October 20, 2012, an employer subject to the reporting requirements of subsection (a) mails a paper version of the report due for the third quarter of 2012 instead of filing it as required by subsection (a). On November 1, 2012, if that employer has not yet complied with subsection (a), it is delinquent in the filing of its report for the third quarter of 2012, the penalty set forth in Section 1402 of the Act shall be imposed, and any payment it ultimately submits for the third quarter of 2012 shall be reallocated in accordance with 56 Ill. Adm. Code 2765.45 to reflect the payment of the penalty and a delinquency in contributions due. If the requirements of subsection (a) have still not been complied with before December 1, 2012 and the maximum penalty has not yet been imposed, the penalty will be increased on that date and the employer's payment again reallocated to reflect payment of the increased penalty and an additional delinquency.

- d) When not required by subsection (a), the reports required by Sections 2760.120 and 2760.125 may be made by the use of an electronic data processing medium that meets the prior approval of the Director. The Director shall approve the use of an electronic data processing medium for reporting if it meets the requirements of subsection (a) and if the employer agrees to file both reports by the use of that electronic data processing medium.
- e) Any employer that was authorized by the Director, before December 27, 1993, to submit both of its quarterly reports on an electronic data processing medium may continue to do so without further approval by the Director, on the condition that the medium continues to meet the requirements of subsection (a). The employer is, however, subject to the requirements of subsection (f).

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- f) The first report submitted electronically pursuant to this Section for any calendar year must be accompanied by a certification, on a form provided for this purpose by the Director, signed by the owner, partner or authorized officer or official, that the information submitted is true and correct to the best of his or her knowledge and belief and that no part of the contribution reported was or is to be deducted from the worker's wages. This subsection (f) does not apply if the method of electronic submission being used includes the certification described in this subsection (f) as part of the report.
- g) When the employer demonstrates that the Commissioner of the Internal Revenue Service has waived the electronic reporting requirements of Treasury Regulation 301.6011-2 (26 CFR 301.6011-2), as in effect on January 1, 2012, for the employer with respect to documents covering a calendar year, the Director shall waive the reporting requirements of this Section for the employer with respect to reports covering the subsequent calendar year.

EXAMPLE: In February 2012, the Commissioner of the Internal Revenue Service notifies an employer that the requirements of Treasury Regulation 301.6011-2 (26 CFR 301.6011-2) have been waived with respect to Form W-2 data covering calendar year 2011, meaning that the employer will not be required to submit the data electronically in 2012. If the employer demonstrates the waiver to the Director, the Director will waive the requirements of subsection (a) with respect to reports covering 2012.

- h) When an employer was not subject to the mandatory electronic reporting requirements of this Section for any quarter of the prior calendar year, but is subject to those requirements for the current calendar year, the employer may, for any period through the second quarter of the current calendar year, file its quarterly reports by mailing paper versions of the reports in compliance with Sections 2760.120 and 2760.125.

EXAMPLE: The employer had, in total, 240 individuals in its employ during calendar year 2010. In calendar year 2011, the employer had, in total, 260 individuals in its employ. The employer will not be required to report electronically for any period through the second quarter of calendar year 2012 but will be required to report electronically for at least the third and fourth quarters of that year.

(Source: Amended at 43 Ill. Reg. 1566, effective January 15, 2019)

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Section 2760.145 Correcting the Employer's Contribution and Wage Report or Report for Household Employers

- a) Should an employer make an error in the reporting of total or taxable wages paid during a quarter or in the calculation of its contributions due, it shall correct that error by preparation of the form "Employer's Correction Report For The Quarter Ending ____." This same form shall be used to correct errors in reporting wages of individual workers. This form requires the same information as the original Report in addition to the corrected information and an explanation of the change.
- b) When an employer incorrectly reports the name or Social Security Number of a worker on the wage report portion of the Employer's Contribution and Wage Report or Report for Household Employers, or, in the case of an employer subject to the mandatory electronic reporting requirement of Section ~~2760.141~~2760.140, on the report for the third month of the quarter, a correction shall be made by the use of form "Social Security Number And Name Change Notice". This form requires the original information reported and the corrected information.
- c) An employer may make the corrections described in subsections (a) and (b) by mailing a signed "Employer's Correction Report For The Quarter Ending ____" or "Social Security Number Correction And Name Change Notice", as applicable, to the address provided on the forms, which are available on the Department's website (ides.illinois.gov). An employer may also amend an Employer's Contribution and Wage Report or Report for Household Employers as described in subsections (a) and (b) online using MyTax Illinois by submitting a signed form "Amend Quarterly Wage Report". In the case of an employer subject to the mandatory electronic reporting requirement of Section 2760.141, an employer may make corrections to the reports required for the first two months of a calendar quarter through the MyTax Illinois website by submitting a signed form "Employer's Correction Report for the Month Ending ____" on or before the last day of the second calendar month following the close of the month for which the report is due. Corrections to a monthly wage report may not be made by mail.

(Source: Amended at 43 Ill. Reg. 1566, effective January 15, 2019)

Section 2760.150 Consequences of an Error in the Preparation of the Employer's Contribution and Wage Report or Report for Household Employers and Procedures for the Waiver or Elimination of Certain Penalties

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- a) If an error in the preparation of the Employer's Contribution and Wage Report or Report for Household Employers results in an underreporting of contributions due, the employer shall be liable for any penalty and the delinquent contributions plus interest, calculated in accordance with Section 1401 of the Act ~~[820 ILCS 405/1401]~~, from the date that the original report was due.
- b) Except as provided in subsection (c), if an error in the preparation of the Employer's Contribution and Wage Report or Report for Household Employers resulted in an overpayment of contributions, the employer may file a claim for an adjustment or refund. The claim must be signed and filed within the period provided in Section 2201 of the Act. The request shall be filed on thea form entitled "Employer's Claim for Adjustment/Refund" as provided in 56 Ill. Adm. Code 2725.115. ~~The forms may be obtained by writing to the Department of Employment Security, Revenue Division, 33 S. State St., 10th Floor, Chicago IL 60603 or on line from the Agency's website, www.ides.state.il.us. On the form, the employer must provide certain identifying information (name, account number, address and telephone number), its computation of the amount of its claim and the basis for its claim. This form must be signed by the owner, a partner, an officer of a corporation or its authorized agent who states that the information contained in the form is true and correct to the best knowledge and belief of the signer.~~
- c) Except as otherwise provided in subsection (d), in the event that the employer is mailed a Statement of Account that indicates the employer's account has a credit balance and the employer wishes to obtain a cash refund, the employer may file for the refund within the period provided in Section 2201 of the Act, on the form, Employer Request for Refund – Statement of Account. The form may be obtained and shall be completed in the same manner as provided in subsection (b).
- d) Except as otherwise provided in this subsection, in the event that the employer has overpaid a penalty as the result of Section 2760.141 or 56 Ill. Adm. Code 2765.62, the Department shall apply the credit as an adjustment against other liabilities of the employer under the Act. The Department shall grant a refund of any credit resulting from Section 2760.141 or 56 Ill. Adm. Code 2765.62 if the credit has not been used as an adjustment by January 31, 2016.

(Source: Amended at 43 Ill. Reg. 1566, effective January 15, 2019)

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- 1) Heading of the Part: Payment of Unemployment Contributions, Interest and Penalties
- 2) Code Citation: 56 Ill. Adm. Code 2765
- 3)

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
2765.30	Amendment
2765.45	Amendment
2765.64	Amendment
2765.71	Amendment
2765.73	Amendment
2765.74	Amendment
2765.75	Amendment
2765.85	Amendment
2765.200	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 212, 302, 500, 601, 602, 603, 612, 701, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701, 2041 and 2600 of the Unemployment Insurance Act [820 ILCS 405/212, 302, 500, 601, 602, 603, 612, 701, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701, 2401 and 2600].
- 5) Effective Date of Rules: January 15, 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 is on file in the Department of Employment Security's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 17028; September 28, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes were made. The following technical corrections were made by agreement with JCAR during 2nd Notice:

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In 2765.200, subsection (b)(1) was broken into further subsections (b)(1)(A), (b)(1)(B)(i) and (b)(1)(B)(ii).

In 2765.200, subsection (b)(2) was broken into further subsections (b)(2)(A), (b)(2)(A)(i) and (b)(2)(A)(ii).

In 2765.200, "one-ten thousandth of one percent" was changes to ".0001%" in two places.

In 2765.200, "7th" was changed to "7" and "7." Was changed to "7,".

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? Yes

<u>Sections Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
2765.18	Amendment	42 Ill. Reg. 23419; December 21, 2018
2765.63	Amendment	42 Ill. Reg. 23419; December 21, 2018
2765.68	Amendment	42 Ill. Reg. 23419; December 21, 2018
2765.210	Amendment	42 Ill. Reg. 23419; December 21, 2018
2765.220	Amendment	42 Ill. Reg. 23419; December 21, 2018
2765.225	Amendment	42 Ill. Reg. 23419; December 21, 2018
2765.228	Amendment	42 Ill. Reg. 23419; December 21, 2018
2765.230	Amendment	42 Ill. Reg. 23419; December 21, 2018
2765.329	Amendment	42 Ill. Reg. 23419; December 21, 2018
2765.333	Amendment	42 Ill. Reg. 23419; December 21, 2018

- 15) Summary and Purpose of Rulemaking: Updates the amount that will be disregarded from \$1 to \$2 to reflect the statutory change made by PA 90-554. Clarifies how employer payments will be applied within a quarter. Establishes circumstances under which an employee leasing company's former client can request that payments the leasing company erroneously made to its own account, rather than the client's account, be transferred to the client's account. Clarifies the period for which IDES will waive interest where the agency does not issue a final decision regarding a determination and assessment within 180 days after the determination and assessment is protested. Establishes a penalty/interest waiver for a federally chartered nonprofit organization under certain circumstances. Clarifies time frames within which employers can submit additional

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materials regarding various tax/liability-related issues. Establishes how experience will be allocated in the event of a transfer of trade or business between two or more employers under substantial common ownership, management or control.

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

Thomas D. Chan, Acting General Counsel
Illinois Department of Employment Security
33 South State Street – Room 933
Chicago IL 60603

312/793-2338
fax: 312/338-0361
Thomas.D.Chan@illinois.gov

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

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TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER c: RIGHTS AND DUTIES OF EMPLOYERS

PART 2765

PAYMENT OF UNEMPLOYMENT CONTRIBUTIONS, INTEREST AND PENALTIES

SUBPART A: GENERAL PROVISIONS

Section	
2765.1	Unemployment Contributions Not Deductible From Wages
2765.5	Definitions
2765.10	Payment Of Contributions
2765.11	Employers Who Employ Household Workers and Pay Contributions on an Annual Basis
2765.15	Liability For The Entire Year
2765.18	Liability Of A Third Party Purchaser Or Transferee For The Due And Unpaid Contributions, Interest And Penalties Of The Seller Or Transferor's Seller or Transferor
2765.20	Contributions Of Employer Employers By Election
2765.25	Payments In Lieu Of Contributions
2765.30	When Payments in In Lieu of Of Contributions Are Payable
2765.35	Payments When Reimbursable Employer Becomes Contributory
2765.40	Payments When Contributory Employer Becomes Reimbursable
2765.44	Fee For Not Sufficient Funds (NSF) Checks
2765.45	Application of Of Payment
2765.50	Accrual Of Interest
2765.55	Imposition Of Penalty
2765.56	Imposition of Late Reporting Penalty for Employers Who Employ Household Workers and Elect to File Reports on an Annual Basis
2765.60	Payment Or Filing By Mail
2765.61	Waiver of Interest and Penalty for Employers Who Employ Household Workers and Who File Reports and Pay Contributions on an Annual Basis (Repealed)
2765.62	Temporary Waivers of Penalty
2765.63	When Payment Due And Consequences Of Upward Revision In Employer's Contribution Rate
2765.64	Consequences When an Where An Employee Leasing Company Has Erroneously Reported Wages and And Paid Contributions When the Which Wages Should Have Been Reported and And Contributions Paid by By Its Client

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- 2765.65 Waiver Of Interest Or Penalty
- 2765.66 Waiver Of Interest Accruing Because Of Certain Types Of Employees For
Periods Prior To January 1, 1988
- 2765.67 Partial Waiver Of Interest Where An Employer Has Erroneously Reported Wages
To The Wrong State
- 2765.68 Waiver of Penalty for Certain Employers for 1987 and Thereafter Wage Reports
- 2765.69 Partial Waiver Of Interest Where An Employer Has Erroneously Paid Its Federal
Unemployment Tax Act (FUTA) Tax In Full But Has Failed To Pay Its Illinois
Unemployment Insurance Contributions
- 2765.70 Waiver Of Interest For Certain Nonprofit Organizations or Local Governmental
Entities
- 2765.71 Waiver of Interest Accruing Due ~~to a To A~~ Delay ~~in the In The~~ Issuance ~~of a Of A~~
Decision ~~on a On A~~ Protested Determination ~~and And~~ Assessment
- 2765.73 Waiver ~~of Of~~ Penalties and Interest ~~for For~~ Certain Nonprofit
Organizations Hospitals
- 2765.74 Time ~~for For~~ Paying ~~or Or~~ Filing Delayed Payment ~~or Or~~ Report
- 2765.75 Application for Waiver
- 2765.80 Approval Of Application For Waiver
- 2765.85 Insufficient ~~or Or~~ Incomplete Application
- 2765.90 Disapproval Of Application Conclusive
- 2765.95 Appeal And Hearing

SUBPART B: EXPERIENCE RATING

- Section
- 2765.200 ~~Transfer of Trade or Business Subject to Section 1507.1 of the Act Effect Of A
Successor Employing Unit's Failure To Notify The Director Of Its Succession~~
- 2765.210 Prohibition On Withdrawal Of Joint Application For Partial Transfer Of
Experience Rating Record
- 2765.220 Determination Of Benefit Wage And Benefit Ratio
- 2765.225 Requirement For Privity In Order To Have A Predecessor Successor Relationship
- 2765.228 No Requirement For Continuous Operation In Order For A Predecessor Successor
Relationship To Exist
- 2765.230 Effect Of A Transfer Of Physical Assets On A Finding That A Predecessor
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SUBPART C: BENEFIT CHARGES

Section

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- 2765.325 Application Of "30 Day" Requirement For Determining The Chargeable Employer Pursuant To Section 1502.1 Of The Act
- 2765.326 Requirement For A Separation Or A Reduction In The Work Offered In Determining The Chargeable Employer Pursuant To Section 1502.1 Of The Act
- 2765.328 What Constitutes A Day For Purposes Of The "30 Day" Requirement In Section 1502.1 Of The Act
- 2765.329 Application Of "30 Day" Requirement For Determining The Chargeable Employer Pursuant To Section 1502.1 Of The Act For Benefit Years Beginning On Or After January 1, 1993
- 2765.330 Chargeability Where The Individual Is Discharged As A Result Of His Incarceration
- 2765.332 Effect Of Ineligibility Under Section 602(B) On Chargeability Under Section 1502.1 Of The Act
- 2765.333 Effect Of Ineligibility Under Section 612 On Chargeability Under Section 1502.1 Of The Act
- 2765.334 Effect Of Ineligibility Under Section 614 On Chargeability Under Section 1502.1 Of The Act
- 2765.335 Procedural Requirements And Right Of Appeal

AUTHORITY: Implementing and authorized by Sections 212, 302, 500, 601, 602, 603, 612, 701, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701, 2401 and 2600 of the Unemployment Insurance Act [820 ILCS 405/212, 302, 500, 601, 602, 603, 612, 701, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701, 2401 and 2600].

SOURCE: Adopted at 6 Ill. Reg. 3863, effective March 31, 1982; amended at 7 Ill. Reg. 13266, effective September 28, 1983; recodified at 8 Ill. Reg. 15027; amended at 11 Ill. Reg. 3972, effective February 23, 1987; amended at 11 Ill. Reg. 11743, effective June 26, 1987; amended at 11 Ill. Reg. 12882, effective July 22, 1987; emergency amendment at 12 Ill. Reg. 225, effective January 1, 1988, for a maximum of 150 days; emergency expired May 30, 1988; amended at 12 Ill. Reg. 11740, effective July 5, 1988; amended at 12 Ill. Reg. 17342, effective October 12, 1988; amended at 12 Ill. Reg. 20484, effective November 28, 1988; emergency amendment at 13 Ill. Reg. 11911, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 17410, effective October 30, 1989; amended at 14 Ill. Reg. 6218, effective April 16, 1990; amended at 14 Ill. Reg. 19886, effective November 29, 1990; amended at 15 Ill. Reg. 185, effective December 28, 1990; amended at 15 Ill. Reg. 11122, effective July 19, 1991; amended at 16 Ill. Reg. 2131, effective January 27, 1992; amended at 16 Ill. Reg. 12165, effective July 20, 1992; amended at 17 Ill. Reg. 308, effective December 28, 1992; amended at 17 Ill. Reg. 614, effective January 4, 1993; amended at 17 Ill. Reg. 10275, effective June 29, 1993; emergency

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amendment at 17 Ill. Reg. 13801, effective August 20, 1993, for a maximum of 150 days; emergency expired January 1, 1994; amended at 18 Ill. Reg. 14952, effective September 27, 1994; emergency amendment at 19 Ill. Reg. 16113, effective November 13, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 4307, effective February 29, 1996; amended at 25 Ill. Reg. 2011, effective January 18, 2001; emergency amendment at 29 Ill. Reg. 6788, effective April 25, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 13988, effective September 1, 2005; amended at 33 Ill. Reg. 9658, effective July 1, 2009; emergency amendment at 36 Ill. Reg. 18968, effective December 17, 2012 through June 30, 2013; emergency amendment at 37 Ill. Reg. 2506, effective February 11, 2013 through June 30, 2013; amended at 37 Ill. Reg. 7471, effective May 14, 2013; emergency amendment at 38 Ill. Reg. 22262, effective November 17, 2014, for a maximum of 150 days; emergency expired April 15, 2015; amended at 39 Ill. Reg. 10768, effective July 27, 2015; amended at 43 Ill. Reg. 1585, effective January 15, 2019.

SUBPART A: GENERAL PROVISIONS

Section 2765.30 When Payments ~~in~~ Lieu ~~of~~ Contributions ~~Are~~ Payable

- a) The payments in lieu of contributions are due within 30 days ~~after~~~~from~~ the mailing date of the Statement of Amount Due for Benefits Paid (Form Ben-118R) unless the payment period is shortened pursuant to 56 Ill. Adm. Code 2790.5. The Ben-118R shows the amount of benefits paid and is mailed as soon as practicable to the reimbursable employer after the end of the calendar quarter to which it refers.
- b) Whenever the total amount due on the ~~Statement of Amount Due for Benefits Paid (Ben-118R)~~ is less than ~~\$2.00~~~~\$1.00~~, ~~that~~~~such~~ amount may be disregarded. Any amount disregarded pursuant to this subsection shall be deemed paid for all other purposes under the Act. However, nothing in this subsection is intended to relieve any employer from filing reports required by the Act or rules promulgated thereunder.

(Source: Amended at 43 Ill. Reg. 1585, effective January 15, 2019)

Section 2765.45 Application ~~of~~ Payment

- a) Whenever the employer makes a payment, and it is accompanied by a letter, Employer's Contribution Report or a Statement of Account, the money received shall be applied to the quarter or quarters indicated by ~~the~~~~such~~ employer.

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- b) If no designation is made for the application of the remittance, or if the payment received is more than sufficient to cover the quarter to which it applies, the remittance or the excess shall be applied beginning with the oldest or earliest unpaid quarters of the employer, if any.
- c) The application of remittance within a quarter is not subject to designation. ~~Within a quarter~~~~Except for the second quarter of 1991, when payment must first be applied to the Temporary Administrative Funding required by Section 1506.3B of the Act,~~ all remittance shall be applied first to recording fees paid with respect to liens, as required by 56 Ill. Adm. Code 2790.25, if any, in the order of earliest to latest, then to the NSF fees required by Section 2765.44 ~~of this Part, in the order of earliest to latest,~~ then to ~~the~~ penalties, interest and unemployment contributions, in that order.

EXAMPLE~~Example~~: An employer owes \$200 in contributions and \$50 in interest for the first quarter of ~~2016~~~~1993~~. The employer remits \$100 and asks that it be credited to the unpaid contributions due for the first quarter of ~~2016~~~~1993~~. \$50 will be credited to the accrued interest for the first quarter of ~~2016~~~~1993~~, and \$50 will be credited to the unpaid contributions due for the first quarter of ~~2016~~~~1993~~.

(Source: Amended at 43 Ill. Reg. 1585, effective January 15, 2019)

Section 2765.64 Consequences ~~When an~~~~Where An~~ Employee Leasing Company Has Erroneously Reported Wages ~~and~~~~And~~ Paid Contributions ~~When the~~~~Which~~ Wages Should Have Been Reported ~~and~~~~And~~ Contributions Paid ~~by~~~~By~~ Its Client

- a) ~~When~~~~Where~~ wages should have been reported and contributions paid by a client, but the wages were erroneously reported and the contributions paid by an employee leasing company, the Director shall, upon the joint request of the client and the employee leasing company, on a form available from the Director, transfer ~~the~~~~such~~ contributions from the account of the employee leasing company to the account of the client, effective as of the dates that the report was submitted and the contributions paid by the employee leasing company, respectively. As a result, interest shall be due only to the extent that the amount due from the client exceeds the amount paid by the employee leasing company.

EXAMPLE~~Example~~: Employee Leasing Company X erroneously reports the

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wages of certain workers on its Wage Report and pays the contributions due on these wages. It is determined that ~~thesueh~~ wages should have been reported instead by its client, Company Y. The Director shall, upon the joint request of Employee Leasing Company X and Company Y, transfer the payment made by Employee Leasing Company X to the credit of Company Y. The wages reported by the leasing company for Company Y's workers will also be credited to Company Y. As a result, Company Y will only owe ~~any~~ additional contributions due, if any, to the extent that the amount due from it exceeds the amount paid by the employee leasing firm. To the extent that the payment by the employee leasing company was untimely or not sufficient to cover the amount due, interest shall accrue. If the amount paid by the employee leasing company exceeds the amount due from Company Y, Company Y may file a request for an adjustment or a refund of the overpayment to the extent and within the time allowed by Section 2201 of the Act.

- b) Upon proper application of the client, on a form available from the Director, when wages should have been reported and contributions paid by a client, but the wages were erroneously reported and the contributions paid by an employee leasing company and the client presents evidence that the employee leasing company is no longer in business in Illinois and that the client was unable to obtain the assistance of the employee leasing company in complying with the requirements of subsection (a), the Director shall transfer available contributions from the account of the employee leasing company to the account of the client, effective as of the dates that the report was submitted and the contributions paid by the employee leasing company, respectively. As a result, interest shall be due only to the extent that the amount due from the client exceeds the amount paid by the employee leasing company and transferred to the client. For purposes of determining the amount of wages that should have been reported and contributions that should have been paid by the client, the Department shall use the amounts stated in any determination and assessment that has become final for the relevant quarters or, if none, the amount stated in an audit completed by the Department for the relevant quarters or, if none, the amounts stated in an amended wage report filed by the client. The Department shall use the total wages and wages subject to the payment of contributions stated in the determination and assessment, audit or amended wage report to adjust the employee leasing company's total wages and wages subject to the payment of contributions for each erroneously reported individual. For purposes of this subsection, available contributions, with respect to a quarter, means the product of the contribution rate used to calculate the amount of contributions that the employee leasing company

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paid for the quarter, multiplied by the wages on which the client should have paid contributions for the quarter, except as otherwise provided in this subsection. The amount of available contributions with respect to a quarter shall not exceed the amount of any credit standing to the employee leasing company's account for the quarter, as of the time of the application, based on the adjustment pursuant to this subsection with respect to the wages on which the client should have reported contributions. Before making a transfer pursuant to this subsection, the Department shall notify the employee leasing company, by certified mail at its last known address, of its intention to make a transfer of contributions pursuant to this subsection. The Department shall transfer the contributions unless the employee leasing company responds with information that contradicts the information provided by the client within 20 days after the date of mailing of the notice. If the employee leasing company timely responds with information that contradicts the information provided by the client, contributions shall not be transferred unless the parties submit a joint request under subsection (a). The notice shall not be necessary if the matter has been adjudicated as described in 56 Ill. Adm. Code 2725, and the employee leasing company was added as a necessary party under Section 2725.237 of that Part and given proper notice. The total amount of contributions transferred from an employee leasing company's account to a client's account pursuant to this subsection shall not exceed \$1,000,000.

EXAMPLE 1: Employee Leasing Company X erroneously reports the wages of certain workers on its wage report and pays the contributions due on these wages. It is determined that the wages should have been reported instead by its client, Company Y. Y presents evidence that X is no longer in business and that there is no one who could agree to the joint transfer of contributions. The Director shall transfer any available contributions. If the amount of contributions available in the account of X is insufficient to cover the amount of contributions owed by Y, Y must pay the unpaid contribution balance, with interest, itself.

EXAMPLE 2: Employee Leasing Company X erroneously reports the wages of certain workers on its wage report and pays the contributions due on these wages. At the time, X's contribution rate was 1%, which resulted in \$100 in contributions owed. It is determined that the wages should have been reported instead by its client, Company Y. Y presents evidence that X is no longer in business and that there is no one who could agree to the joint transfer of contributions. Y's contribution rate for the year was 6%, which will result in \$600 in contributions owed by Y. Upon proper application of Y, the Director shall transfer the \$100 in

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available contributions from the account of X to the account of Y. Y must pay the \$500 in unpaid contributions, with interest, itself.

EXAMPLE 3: Employee Leasing Company A had agreements with Employers B, C and D for A to assume responsibility for personnel management of workers leased to each of B, C and D during the year 2016. Company A reported the identity of its clients B and C to the Department, as required by 56 Ill. Adm. Code 2732.306, but failed to report the identity of its client D. B, C and D each had one leased worker performing services for them; each leased worker was paid \$10,000 in the first quarter of 2016. A's contribution rate for 2016 was 5%. Company A timely reported to the Department the wages of the leased workers providing services to B, C and D. According to the report submitted by A, A owed a total of \$1,500 in contributions for the first quarter of 2016. However, A made payments to the Department totaling only \$1,200. For 2016, B, C and D each had a contribution rate of 3.75%. In 2017, it is discovered that A failed to report D's identity to the Department and, therefore, D remained liable for the payment of contributions regarding its leased worker. D presents evidence that A is no longer in business in Illinois and that there is no one who could agree to the joint transfer of contributions. Under subsection (b), the amount of contributions available for transfer to D's account cannot exceed the amount of the credit standing to A's account for the quarter, as of the time of the application, based on the adjustment with respect to the wages on which D should have reported contributions due. The amount necessary to pay the contributions owed by A for the first quarter of 2016 is \$1,000 (5% x \$20,000). So even though D owes a total of \$375 in contributions for 2016 (3.75% x \$10,000), there is only \$200 in available contributions to transfer to D's account (\$1,200 - \$1,000). D must pay the additional \$175, plus interest, itself.

- c) When multiple applications have been submitted under subsection (b), the applications shall be processed in the order in which the applications were received.
- d) When multiple applications have been submitted under subsection (b), available contributions shall be transferred, as they become available, to the account that submitted the application that created the available contributions.

EXAMPLE: Employee Leasing Company A had agreements with Employers B, C and D for A to assume responsibility for personnel management of workers leased to each of B, C and D during the year 2016. Company A did not report the

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identity of B, C or D to the Department, as required by 56 Ill. Adm. Code 2732.306. B, C and D each had one leased worker performing services for them; each leased worker was paid \$10,000 in the first quarter of 2016. A's contribution rate for 2016 was 5%. Company A timely reported to the Department the wages of the leased workers providing services to B, C and D. According to the report submitted by A, A owed a total of \$1,500 in contributions. However, A made payments to the Department totaling only \$500. For 2016, B, C and D also had contribution rates of 5%. In 2017, it is discovered that A failed to report D's identity to the Department and, therefore, D remained liable for the payment of contributions regarding its leased worker. D presents evidence that A is no longer in business in Illinois and that there is no one who could agree to the joint transfer of contributions. Under subsection (b), the amount of contributions available for transfer to D's account cannot exceed the amount of the credit standing to A's account for the quarter, as of the time of the application, based on the adjustment with respect to the wages on which D should have reported contributions due. At the time of D's application, the Department was not aware of A's relationship to B and C, or A's failure to report its relationship with B and C, and there was no credit standing to A's account. At the time of D's application, it appeared that the employee leasing company should have paid contributions of \$1,000 for the first quarter of 2016. Since A paid only \$500, there are no funds available to transfer to D. Subsequently, the Department discovers A's relationship with C, and the fact that the relationship was not properly reported to the Department, as required by 56 Ill. Adm. Code 2732.306. C's wages are removed from A's account, but still, there are no contributions available to transfer to C's account. At the time of C's application, it appears that A owes \$500 in contributions for the first quarter of 2016. Since that is all A paid for the quarter, there is no credit standing to its account. Subsequently, the Department discovers A's relationship with B, and the fact that the relationship was not properly reported to the Department, as required by 56 Ill. Adm. Code 2732.306. B's wages are removed from A's account, which creates a credit balance of \$500 in A's account. The available balance will transfer to the account of B.

(Source: Amended at 43 Ill. Reg. 1585, effective January 15, 2019)

Section 2765.71 Waiver ~~of~~ Interest Accruing Due ~~to a~~ ~~To A~~ Delay ~~in the~~ ~~In The~~ Issuance ~~of a~~ ~~Of A~~ Decision ~~on a~~ ~~On A~~ Protested Determination ~~and~~ ~~And~~ Assessment

- a) The Director shall find good cause for the waiver of all interest accrued upon unpaid contributions ~~which are~~ due and owing pursuant to a Determination and

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Assessment for any period from the 181st day after the date on which the employer filed its sufficient Petition in protest to the Determination and Assessment (see 56 Ill. Adm. Code 2725.110) to 60 days after the later of the date of the ~~decision~~Decision of the Director in the matter (see 56 Ill. Adm. Code 2725.280) or the date that the Department mails the employer a statement of the balance due on its account as a result of the recommended decision in the matter (see 56 Ill. Adm. Code 2725.270) or the decision of the Director in the matter, but only to the extent that the delay was not caused by the employer or its agent.

- 1) ~~EXAMPLE~~Example 1: The employer files its sufficient Petition to protest a Determination and Assessment on March 1, ~~2017~~1993. After completion of the administrative process within the Department, a ~~decision~~Decision of the Director, affirming the Determination and Assessment, is issued on October ~~16, 2017~~15, 1993. On October 19, 2017, the Department mails the employer a statement of the balance due on its account as a result of the decision of the Director. Pursuant to this subsection (a), this employer will be entitled to a waiver of interest from August 29, ~~2017~~1993 (the 181st day after the date on which the employer filed its Petition) to December ~~15, 2017~~ (60 days after the Department mailed the employer a statement of the balance due on its account as a result of the decision of the Director)~~14, 1993~~.
- 2) ~~EXAMPLE~~Example 2: The employer files a sufficient Petition to protest a Determination and Assessment on March 1, ~~2017~~1993. A hearing is scheduled for April ~~3, 2017~~1, 1993. The employer's accountant is not available on April ~~3, 2017~~1, 1993, so the employer requests a continuance until April 5, ~~2017~~1993. Because the Director's ~~representative~~Representative already has hearings scheduled for the month of April, a continuance is granted until May 12, ~~2017~~1993, the next available hearing date. After completion of the administrative process within the Department, a ~~decision~~Decision of the Director, affirming the Determination and Assessment, is issued on October ~~16, 2017~~15, 1993. On the same day, the Department mails the employer a statement of the balance due on its account as a result of the decision of the Director. Pursuant to this subsection (a), this employer will be entitled to a waiver of interest from October ~~7, 2017~~9, 1993 (the 181st day after the date on which the employer filed its petition plus the ~~394~~ day delay attributable to the employer's request for a continuance) to December ~~15, 2017~~14, 1993.

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- 3) EXAMPLE~~Example~~ 3: An employer association requests that the Director not make any decision on Determination and Assessments based on a particular issue while the legislature is discussing a possible change in the statute on that issue. Any delays in issuing decisions on that particular issue caused by the Director agreeing to hold ~~those such~~ cases are not attributable to the employer or its agent.
- 4) EXAMPLE~~Example~~ 4: On March 1, ~~2017~~~~1993~~, an employer files a sufficient Petition to protest a Determination and Assessment. A hearing is held on April ~~3, 2017~~~~1, 1993~~. At the conclusion of the hearing, the employer's attorney requests 45 days in which to submit a brief in support of its position. Because this additional delay is attributable to the agent of the employer, these additional days are added in determining the extent of waiver to be granted to this employer.
- b) The provisions of Section 2765.74 shall not be applicable to requests for waiver under this Section.
- c) The payment of all contributions assessed, all penalties due and any interest not subject to waiver, within 60 days ~~after from~~ the date of the ~~decision~~~~Decision~~ of the Director or the date that the Department mails the employer a statement of the balance due on its account as a result of the decision of the Director in the matter, whichever is later, is a condition precedent to a waiver of interest pursuant to this Section.

EXAMPLE~~Example~~: On July 1, 2016, an employer files a sufficient Petition in protest to a Determination and Assessment. The Director issues a decision~~Decision~~ affirming the Determination and Assessment on March 1, 2017~~1993~~. On the same day, the Department mails the employer a statement of the balance due on its account as a result of the decision of the Director. In the decision~~this Decision~~, the Director grants a conditional waiver under~~pursuant to~~ this Section from~~December 29, 2016~~~~October 15, 1992~~ to April 30, 2017~~1993~~. December 29, 2016 is the 181st day after the date on which the employer filed its sufficient Petition in protest to the Determination and Assessment. If this employer has not yet paid this assessment, it has until April 30, 2017~~1993~~ to pay the contributions due. If the contributions are not paid by April 30, 2017~~1993~~, the condition precedent is not met, and the employer is not entitled to waiver under this Section.

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- d) The granting of waiver under this Section does not foreclose the granting of waiver to the employer under another Section of this Part for another period.
- e) ~~When~~~~In a case where~~ no objection is filed to the recommended decision~~Recommended Decision~~ of the Director's representative~~Representative~~ and that recommended decision~~Recommended Decision~~ becomes the decision~~Decision~~ of the Director pursuant to 56 Ill. Adm. Code 2725.270(d)~~Section 2725.270(d)~~, the date of the Director's decision~~Decision~~ shall be the date on which the recommended decision~~Recommended Decision~~ of the Director's representative~~Representative~~ becomes the decision~~Decision~~ of the Director.

EXAMPLE 1: The recommended decision~~Recommended Decision~~ of the Director's representative~~Representative~~ is issued on October 2, 2017~~1, 1993~~. If no objections are filed by October 22, 2017~~21, 1993~~, the recommended decision~~Recommended Decision~~ becomes the decision~~Decision~~ of the Director on October 23, 2017~~22, 1993~~. October 23, 2017~~22, 1993~~ is the date of the decision~~Decision~~ of the Director.

EXAMPLE 2: The employer files a sufficient Petition to protest a Determination and Assessment on March 1, 2017. The recommended decision of the Director's representative is issued on October 2, 2017. The employer calls the Department on October 3, 2017 to ask for a statement of the balance due on its account as a result of the recommended decision. The Department mails the employer the statement on October 4, 2017. The employer does not file objections by October 22, 2017, so the recommended decision becomes the decision of the Director on October 23, 2017. This employer will be entitled to a waiver of interest from August 29, 2017 (the 181st day after the date on which the employer filed its petition) to December 22, 2017 (60 days after the date of the decision of the Director).

EXAMPLE 3: The employer files a sufficient Petition to protest a Determination and Assessment on March 1, 2017. The recommended decision of the Director's representative is issued on October 2, 2017. The employer calls the Department on October 3, 2017 to ask for a statement of the balance due on its account as a result of the recommended decision. The Department mails the employer the statement on November 6, 2017. If no objections are filed by October 22, 2017, the recommended decision becomes the decision of the Director on October 23, 2017. This employer will be entitled to a waiver of interest from August 29, 2017

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(the 181st day after the date on which the employer filed its Petition) to January 5, 2018 (60 days after the Department mailed the employer a statement of the balance due on its account as a result of the decision of the Director).

(Source: Amended at 43 Ill. Reg. 1585, effective January 15, 2019)

Section 2765.73 Waiver ~~of~~ Penalties and Interest ~~for~~ For Certain Nonprofit Organizations ~~Hospitals~~

- a) Upon application of an employer, the Director shall find good cause to grant a conditional waiver of any reporting penalty required by Section 1402 of the Act and any interest owed by the employer with respect to contributions due, and interest on past due payments in lieu of contributions, for quarters prior to calendar year 2014 and specified in the conditional waiver, provided where the employer is a nonprofit organization, as that term is used in Section 211.2 of the Act [820 ILCS 405/211.2], operating as a hospital and the following conditions are met:
- 1) the employer is an Illinois nonprofit organization, as that term is used in Section 211.2 of the Act, and a local affiliate of a national organization that holds a congressional charter under 36 USC, whose purpose is to promote the health, social, educational, vocational, and character development of youth has experienced a year-end loss of more than \$1,000,000 in each of at least three of the employer's fiscal years during the period in which the interest has accrued; and
 - 2) the employer experienced a decrease of more than \$50,000 from its prior fiscal year in the value of its total net assets in:
 - A) each of the employer's two fiscal years preceding the first quarter specified in the conditional waiver; and
 - B) each of at least two of the employer's fiscal years that include one or more quarters specified in the conditional waiver; and
 - 3) the losses described in subsection (a)(2+) are established by certified, audited statements of the financial condition of the employer.
- b) The Director shall waive penalties and interest covered by a conditional waiver

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granted under subsection (a) upon payment, within four years after the date on which the conditional waiver is granted, of the full amount of all contributions and payments in lieu of contributions due for the quarters specified in the conditional waiver.

- c) A conditional waiver granted under subsection (a) shall be revoked by the Director when:where
- 1) payment of the contributions due, and past due payments in lieu of contributions, for the quarters specified in the conditional waiver is to be made pursuant to a deferred payment agreement and the employer commits a substantial breach of that agreement; or:where
 - 2) the employer fails to timely pay contributions or payments in lieu of contributions due for quarters not specified in the conditional waiver.
- d) Notwithstanding subsection (a), the Director shall not grant more than one conditional waiver of interest with respect to contributions due, or past due payments in lieu of contributions, for the same quarter.

(Source: Amended at 43 Ill. Reg. 1585, effective January 15, 2019)

Section 2765.74 Time ~~for~~ Paying ~~or~~ Filing Delayed Payment ~~or~~ Report

In order to obtain a waiver of all or part of any ~~interest or~~ penalty, the employer must (in addition to filing an application for waiver as provided in Section 2765.68 or 2765.75) ~~either make, except if the ground for waiver is Section 2765.65(c), the late payment of all contributions due or~~ file the delayed report, ~~as the case may be,~~ within 30 days ~~after~~from the date of the resolution of the ~~occurrence~~ereence or event relied upon as a ground for waiver. In order to obtain a waiver of all or part of any interest, the employer must (in addition to filing an application for waiver as provided in Section 2765.75), except if the ground for waiver is Section 2765.65(c), make the late payment of all contributions due and file all wage reports for the period covered by the waiver within 30 days from the date of the resolution of the occurrence or event relied upon as a ground for waiver.

(Source: Amended at 43 Ill. Reg. 1585, effective January 15, 2019)

Section 2765.75 Application for Waiver

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~~In order to obtain a waiver of all or part of any interest or penalty, the employer must file a signed sworn~~ written application for waiver of the interest or penalty, or both, with the Department within the time limits set forth in Section 2765.74. ~~The application should be filed online using MyTax Illinois (mytax.illinois.gov) or by mail to: Illinois Department of Employment Security, Revenue Division, 33 S. South State St., Street— 10th Floor, Chicago, IL 60603, within the time limits set forth in Section 2765.74.~~ An application is not complete unless it contains the name and address of the employer, the U.I. account number, the period involved and the good cause applicable. The late payment or missing report, as provided in Section 2765.74, must accompany the application. If an application for waiver has been timely filed, an employer may file additional information to be considered as part of its application within 30 days after filing the application.

(Source: Amended at 43 Ill. Reg. 1585, effective January 15, 2019)

Section 2765.85 Insufficient ~~or~~ Incomplete Application

If the application contains an allowable good cause but otherwise is insufficient or incomplete in other respects, the employer has ~~15~~fifteen days ~~after~~from the date of the Director's notice of application deficiency within which to file an amended application based on the same ground. If an amended application for waiver has been timely filed, an employer may file additional information to be considered as part of its amended application within 30 days after the period for filing an amended application for waiver has ended.~~An amended application that alleges a different good cause is to be stricken and the Director shall order the original application disapproved.~~

(Source: Amended at 43 Ill. Reg. 1585, effective January 15, 2019)

SUBPART B: EXPERIENCE RATING

Section 2765.200 Transfer of Trade or Business Subject to Section 1507.1 of the Act~~Effect Of A Successor Employing Unit's Failure To Notify The Director Of Its Succession~~

- a) Within 30 days after the date of any transfer to which Section 1507.1(A)(1) of the Act applies, the transferor and transferee shall provide the Department the number of covered workers employed by the transferor on the last day of business immediately preceding the date of transfer and the number of those workers transferred to the transferee.~~Pursuant to 56 Ill. Adm. Code 2760.105(b) and Section 1507 of the Act, any employing unit which succeeds to substantially all of the employing enterprises of another employing unit or which desires to acquire~~

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~~or retain a distinct, severable portion of the employing enterprises of an employing unit shall notify the Director within 120 days of such succession, acquisition or retention.~~

- b) In the case of a transfer to which Section 1507.1 (A)(1) of the Act applies: Any employing unit which fails to comply with the provisions of subsection (a) shall not be entitled to the experience rating record of the predecessor except where such transfer would result in a higher revised contribution rate for the successor in the year of the succession. In the situation where the employing unit fails to give notice of the succession as required by subsection (a), but where the transfer would result in a higher revised contribution rate for the successor in the year of the succession, the entire experience rating record of the predecessor shall be transferred to the successor.
- 1) Of the benefit charges that were incurred by the transferor, and wages that were paid by the transferor for insured work, for each calendar quarter prior to the quarter in which the transfer takes effect:
- A) the percentage apportioned to the transferee shall equal the percentage of the covered workers transferred to the transferee; and
- B) the percentage apportioned to the transferor shall equal;
- i) the difference between 100% and the percentage apportioned to the transferee pursuant to this subsection (b)(1); or
- ii) in the case of multiple transferees, the difference between 100% and the percentage apportioned to the transferees pursuant to this subsection (b)(1).
- 2) Of the benefit charges that were incurred by the transferor, and wages that were paid by the transferor for insured work prior to the transfer, for the calendar quarter in which the transfer takes effect;
- A) the percentage apportioned to the transferee shall equal the percentage of the covered workers transferred to the transferee multiplied by the quotient obtained by dividing the number of the

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days elapsed in the quarter as of the day of the transfer, including the day of the transfer, by the total number of days in the quarter, rounded to the nearest multiple of .0001% (e.g., if the transfer occurred on November 7, the quotient would be 41.3043% because the transfer occurs on the 38th day of the quarter and there are 92 days in that quarter); and

- B) the percentage apportioned to the transferor shall equal:
- i) the difference between 100% and the percentage apportioned to the transferee pursuant to this subsection (b)(2); or
 - ii) in the case of multiple transferees, the difference between 100% and the percentage apportioned to the transferees pursuant to this subsection (b)(2).

EXAMPLE: On November 7, 2017, Employer A transfers 30.0000% of its covered workers to Employer B. At the time of the transfer, there was substantial common ownership, management, or control of Employers A and B. Thirty percent of the benefit charges incurred by A, and 30.0000% of the wages paid by A for insured work, for all quarters prior to the 4th quarter of 2017, will be transferred to Employer B. For the 4th quarter of 2017, since there are 92 days in the quarter, and since the transfer occurred on the 38th day of the quarter, 12.3913% of the benefit charges Employer A incurred, and 12.3913% of the wages Employer A paid for insured work, prior to the transfer, for the quarter (30.0000% of 41.3043%) will be apportioned to Employer B. The remainder will be apportioned to Employer A.

- 3) For purposes of this subsection (b), the percentage of covered workers transferred to the transferee shall equal the number of covered workers employed by the transferor on the last day of business immediately preceding the date of transfer divided by the number of those workers transferred to the transferee. The percentage shall be calculated to the nearest multiple of .0001% and, if equally near to 2 multiples of .0001%, increased to the higher multiple of .0001%;

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EXAMPLE: Employer A has 165 covered workers as of November 6, 2017. On November 7, 2017, Employer A transfers 11 of those workers to Employer B. The percentage of the covered workers transferred to Employer B equals 6.6667 percent (11 divided by 165 equals 0.06666667 calculated to 8 decimal places and equals 6.6667% rounded to the nearest multiple of .0001%).

- 4) As of the effective date of the transfer, the transferor and transferee shall each be considered to have been liable for the payment of contributions during each calendar year during which the transferor was liable for the payment of contributions.

EXAMPLE: Employer A incurred liability for the payment of contributions in each of the calendar years 2010 through 2017. Prior to the transfer, Employer B incurred liability for the payment of contributions in calendar year 2017. On May 7, 2017, Employer A transfers a portion of its trade or business to Employer B. At the time of the transfer, there was substantial common ownership, management, or control of Employers A and B. As a result, Employers A and B will have incurred liability for the payment of contributions in each of the calendar years 2010 through 2017.

(Source: Amended at 43 Ill. Reg. 1585, effective January 15, 2019)

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- 1) Heading of the Part: Collection of Unemployment Contributions
- 2) Code Citation: 56 Ill. Adm. Code 2790
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
2790.15	Amendment
2790.20	Amendment
2790.25	New Section
- 4) Statutory Authority: Implementing and authorized by Sections 1400, 1401, 1402, 1404, 1405, 1700, 1701 and 240 of the Illinois Unemployment Insurance Act [820 ILCS 405].
- 5) Effective Date of Rules: January 15, 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 rulemaking is on file in the Department of Employment Security's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 17048; September 28, 2018
- 10) Has JCAR issued a Statement of Objection to this rule? No
- 11) Differences between Proposal and Final Version: No changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Changes the amount that will be disregarded from \$1 to \$2 to reflect the statutory change made by PA 90-554. Requires an employer to reimburse the Department for the recording fee as a condition for releasing a lien, to reflect changes made by PA 98-107 and PA 98-1133.

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

Thomas D. Chan, Acting General Counsel
Illinois Department of Employment Security
33 South State Street – Room 933
Chicago IL 60603

312/793-2338
fax: 312/338-0361
Thomas.D.Chan@illinois.gov

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

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER d: COLLECTION AND REFUNDPART 2790
COLLECTION OF UNEMPLOYMENT CONTRIBUTIONS

SUBPART A: GENERAL PROVISIONS

Section

2790.1	Collection Remedies The Same For Contributions And Payment In Lieu Of Contributions
2790.5	When Collection In Jeopardy, Payment Period Shortened
2790.10	Cases When Collection May Be Deferred
2790.15	Contributions of Less Than \$2.00 Disregarded \$1.00 Deemed Paid
2790.20	No Refund of Disregarded Contributions Deemed Paid
<u>2790.25</u>	<u>Reimbursement of Lien Recording Fee</u>

AUTHORITY: Implementing and authorized by Sections 1400, 1401, 1402, 1404, 1405, 1700, 1701 and 2401 of the Illinois Unemployment Insurance Act [820 ILCS 405/1400, 1401, 1402, 1404, 1405, 1700, 1701 and 2401].

SOURCE: Adopted as 56 Ill. Adm. Code 700: Subpart A at 6 Ill. Reg. 3858, effective March 31, 1982; recodified to 56 Ill. Adm. Code 2790: Subpart A at 8 Ill. Reg. 19421; amended at 43 Ill. Reg. 1606, effective January 15, 2019.

SUBPART A: GENERAL PROVISIONS

Section 2790.15 Contributions ~~of~~ Less Than ~~\$2.00 Disregarded~~ ~~\$1.00 Deemed Paid~~

If, ~~at any time,~~ the total amount payable with respect to a quarter, including any contributions, payments in lieu of contributions, interest or penalties of quarterly contributions plus interest, if ~~any, is payable and that amount~~ is less than ~~\$2.00, that amount shall be disregarded one dollar (\$1.00) and there is no penalty for late filing of the applicable report provided in Section 1402 of the Act, the payment of such total amount shall be excused.~~ For experience rating and certification purposes, amounts disregarded pursuant to this Section such excused non-payment of contributions shall be considered as paid.

(Source: Amended at 43 Ill. Reg. 1606, effective January 15, 2019)

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Section 2790.20 No Refund ~~of~~ Of Disregarded Contributions ~~Deemed Paid~~

No refund or adjustment under Section 2201 of the Act will be granted for an amount ~~disregarded deemed paid~~ but not actually paid (see Section pursuant to 56 Ill. Adm. Code ~~Part~~ 2790.15).

(Source: Amended at 43Ill. Reg. 1606, effective January 15, 2019)

Section 2790.25 Reimbursement of Lien Recording Fee

Except in instances in which the Department filed its lien in error, and except when an employing unit's liability covered by a lien arose solely under Section 2600 of the Act, the Director shall not issue a release, withdrawal or partial release of his or her lien unless and until the employer reimburses the Director for any recording fees paid with respect to the lien. If a recorded lien covers multiple quarters, recording fees will be attributed to the oldest quarter covered by the lien that is not attributable to liability that arose solely under Section 2600 of the Act.

EXAMPLE: An employer owes contributions, penalties and interest for a quarter totaling \$500. The Director has incurred \$50 in recording fees with respect to the filing of a lien. The employer sends a payment of \$500 to the Department and requests a release of the recorded lien. The Department will not release the recorded lien because the first \$50 was applied to reimburse the Director for the lien recording fee under the application of payment provisions at Section 2765.45 and, therefore, the liability that gave rise to the lien has not been paid in full.

(Source: Added at 43 Ill. Reg. 1606, effective January 15, 2019)

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- 1) Heading of the Part: Payment of Benefits
- 2) Code Citation: 56 Ill. Adm. Code 2830
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
2830.10	Amendment
2830.50	Repealed
2830.200	Amendment
2830.205	Repealed
2830.206	Repealed
2830.210	Repealed
2830.215	Repealed
2830.220	Repealed
2830.300	Amendment
2830.305	Repealed
2830.310	Amendment
2830.315	Amendment
2830.320	Amendment
2830.325	Amendment
2830.330	Amendment
2830.335	Amendment
2830.340	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 400, 401, 404, 1700 and 1701 of the Unemployment Insurance Act [820 ILCS 405/400, 401, 404, 1700 and 1701].
- 5) Effective Date of Rules: January 15, 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 rulemaking is on file in the Department of Employment Security's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 17052; September 28, 2018
- 10) Has JCAR issued a Statement of Objection to this rule? No

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- 11) Differences between Proposal and Final Version: No substantive changes were made. The following technical correction was made by agreement with JCAR during 2nd Notice: in 2830.310(a), inserting "by" in between "or mail" in the first sentence.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The Department no longer pays unemployment benefits by check. All payments are made by direct deposit or debit card. This rulemaking explains how debit cards are mailed, how misdirected payment claims are investigated, and how benefits due to a deceased or comatose claimant are paid. Section 2830.50 is repealed because the language this section defined was removed from Section 401 (PA 93-634).
- 16) Information and questions regarding these adopted rules shall be directed to:

Thomas D. Chan, Acting General Counsel
Illinois Department of Employment Security
33 South State Street – Room 933
Chicago IL 60603

312/793-2338
fax: 312/338-0361
Thomas.D.Chan@illinois.gov

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

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER e: RIGHTS AND DUTIES OF EMPLOYEESPART 2830
PAYMENT OF BENEFITS

SUBPART A: GENERAL PROVISIONS

Section	
2830.10	Mailing Address for For Debit Cards Benefit Checks
2830.50	Calculating The "National Average Of This Ratio" Under Section 401 Of The Act (Repealed)

SUBPART B: PAYMENT TO DECEASED CLAIMANTS

Section	
2830.200	Payment of Benefits Due a Deceased or Comatose Claimant
2830.205	Order Of Payment To Survivors Of A Deceased Claimant (Repealed)
2830.206	Order of Payment on Behalf of a Comatose Claimant (Repealed)
2830.210	Payment to a Minor Survivor of a Deceased Claimant or to a Minor When the Claimant is Comatose (Repealed)
2830.215	Time and Manner for Claiming Benefits Due a Deceased or a Comatose Claimant (Repealed)
2830.220	Right of Appeal (Repealed)

SUBPART C: REISSUANCE OF BENEFIT CHECKS, MISDIRECTED
PAYMENTS OR LOST OR STOLEN DEBIT CARDS

Section	
2830.300	Requests for For Reissuance Of Checks Or Replacement of Of Electronic Payments
2830.303	Lost Or Stolen Debit Cards
2830.305	Where Original Benefit Check Has Been Processed By The Payor Bank Or Where Direct Deposit Has Been Established Without Authorization (Repealed)
2830.310	Debit Card Check Or Direct Deposit Authorization Forgery Investigation
2830.315	Notice of Of Interview
2830.320	Continuances
2830.325	Debit Card or Check Or Direct Deposit Authorization Forgery Interview

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2830.330	The Record
2830.335	Decision
2830.340	Appeals

AUTHORITY: Implementing and authorized by Sections 400, 401, 404, 1700 and 1701 of the Unemployment Insurance Act [820 ILCS 405/400, 401, 404, 1700 and 1701].

SOURCE: Illinois Department of Labor, Bureau of Employment Security, Regulation 26, filed as amended May 2, 1952, effective May 12, 1952; rule repealed by operation of law, October 1, 1984; new rules adopted at 9 Ill. Reg. 10005, effective June 15, 1985; amended at 14 Ill. Reg. 9101, effective May 23, 1990; amended at 15 Ill. Reg. 16960, effective November 12, 1991; amended at 32 Ill. Reg. 13183, effective July 24, 2008; expedited correction at 32 Ill. Reg. 19178, effective July 24, 2008; amended at 32 Ill. Reg. 18972, effective December 1, 2008; amended at 43 Ill. Reg. 1610, effective January 15, 2019.

SUBPART A: GENERAL PROVISIONS

Section 2830.10 Mailing Address ~~for~~ For Debit Cards ~~Benefit Checks~~

- a) The Department utilizes a third-party vendor to issue, mail and manage all debit cards. Debit cards will ~~Benefit checks shall~~ be mailed to the address provided by the claimant in accordance with 56 Ill. Adm. Code 2720.35 to the local office where the claim is filed. Envelopes in which benefit checks are mailed shall advise the United States Postal Service that such checks shall be returned to the Agency, as defined in 56 Ill. Adm. Code 2720.1, if delivery cannot be made at the address indicated on the envelope. The vendor will only mail a debit card to the address given to the vendor by the Department. It is the claimant's responsibility to ensure the Department has the claimant's correct address.
- b) Debit cards ~~Benefit checks~~ shall not be mailed to a Post Office box ~~Box~~ unless the claimant provides the local office with his or her home address and an explanation of why he or she wants his or her debit card ~~checks~~ sent to a Post Office box ~~Box~~.
- c) Debit cards ~~Benefit checks~~ shall not be mailed to an address outside of the United States or Canada unless the claimant provides a reason that ~~which~~ indicates only a temporary absence from this country or Canada.

(Source: Amended at 43 Ill. Reg. 1610, effective January 15, 2019)

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Section 2830.50 Calculating The "National Average Of This Ratio" Under Section 401 Of The Act (Repealed)

~~Section 401 of the Act (Ill. Rev. Stat. 1989, ch. 48, par. 401) provides that, if certain factors occur, the "Statewide average weekly wage" will be frozen for a particular benefit period. One of these factors involves a determination of whether the *average contribution rate for all employers in this State for the calendar two years prior to the benefit period, as a ratio of total contribution payments (including payments in lieu of contributions) to the total wages reported by employers in this State for that same period is 0.2% greater than the national average of this ratio. For purposes of calculating the "national average of this ratio":*~~

- ~~a) Payments in lieu of contributions shall be included in the total contribution payments;~~
- ~~b) Contribution payments made by workers shall be included in the total contribution payments;~~
- ~~c) Contribution payments and total wages reported in Puerto Rico, the Virgin Islands and the District of Columbia shall be included.~~

(Source: Repealed at 43 Ill. Reg. 1610, effective January 15, 2019)

SUBPART B: PAYMENT TO DECEASED CLAIMANTS

Section 2830.200 Payment of Benefits Due a Deceased or Comatose Claimant

- a) ~~In the event that an individual dies or becomes comatose before receiving benefits to which he or she is entitled, the Department will make payment to the account designated by the individual for direct deposit or the debit card assigned to the claimant by the Department. If the Department is unable to make payment to the deceased or comatose claimant's direct deposit account, the Department will make payment by debit cardthe benefits shall be paid over to the person or persons determined to be entitled to receive those benefits, in accordance with Section 2830.205 or 2830.206 of this Part. However, any benefit checks previously issued to the individual that have not been presented for payment must be returned to the Director, or an affidavit must be submitted stating that the benefit checks were lost, stolen, or destroyed.~~
- b) In the case of a claimant who became and remains comatose or who died prior to

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certifying for benefits, a completed certification form must be submitted by an individual with first hand knowledge of the matters asserted in the certification, together with an affidavit attesting that the individual has first hand knowledge and that the matters asserted are true to the best of his or her knowledge. The completed certification form must be submitted within nine months after the date of death or entry into the comatose state. Unless the certification form is received within nine months after the date of death or entry into the comatose state, any benefits due the deceased or comatose claimant shall revert to and be returned to the State's unemployment trust fund. The certification form shall be submitted to the local unemployment office where the deceased or comatose claimant last filed his or her claim for benefits or serving the geographic area in which the claimant resides or resided. The certification form shall be submitted either in person or by certified mail, shall be supported by an affidavit setting forth the relationship to the deceased or comatose claimant, and shall be accompanied by a certified copy of the death certificate for the deceased claimant or, in the case of a comatose claimant, the statement of a licensed and practicing physician indicating the date as of which the claimant became comatose. The forms required to certify for a deceased or comatose claimant are available at local unemployment offices. Under no circumstances shall the claimant's eligibility extend beyond the date that he or she died. Under no circumstances shall a claimant be eligible for benefits for the period during which he or she was in aentered the comatose state or died.

(Source: Amended at 43 Ill. Reg. 1610, effective January 15, 2019)

Section 2830.205 Order Of Payment To Survivors Of A Deceased Claimant (Repealed)

~~Benefits which are payable, but as yet unpaid or not yet presented for payment, to a deceased individual shall be paid over to the persons claiming such benefits on behalf of the deceased claimant in the following order:~~

- ~~a) The administrator or executor of the decedent's estate;~~
- ~~b) The decedent's surviving spouse;~~
- ~~c) The surviving children in equal shares, if the decedent has no surviving spouse;~~
- ~~d) The surviving parents in equal shares, if no spouse or child survives the decedent;~~
- ~~e) Such brothers or sisters who survive the decedent in equal shares, if no spouse,~~

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~~child or parent survives the decedent;~~

- f) ~~Such other relatives, either by blood or marriage, who have paid the funeral expenses connected with the last illness of the decedent, in such shares as may be equitable, depending on the proportional contribution of said relative to said expenses, if no spouse, child, parent, sister or brother survives the decedent.~~

(Source: Repealed at 43 Ill. Reg. 1610, effective January 15, 2019)

Section 2830.206 Order of Payment on Behalf of a Comatose Claimant (Repealed)

~~Benefits that are payable, but as yet unpaid or not yet processed for payment, to a comatose individual shall be paid over to the persons claiming the benefits on behalf of the comatose claimant in the following order:~~

- a) ~~The guardian of his or her estate, if one has been appointed;~~
- b) ~~The living spouse;~~
- e) ~~The living children in equal shares, if the claimant has no living spouse;~~
- d) ~~The living parents in equal shares, if there is no living spouse or living child of the claimant;~~
- e) ~~The living brothers or sisters of the claimant in equal shares, if there is no living spouse, child or parent of the claimant; or~~
- f) ~~Other relatives, either by blood or marriage, who have paid the expenses connected with the claimant's care in his or her comatose state, in such shares as may be equitable, depending on the proportional contribution of the relative to the expenses, if there is no living spouse, child, parent, sister or brother of the claimant.~~

(Source: Repealed at 43 Ill. Reg. 1610, effective January 15, 2019)

Section 2830.210 Payment to a Minor Survivor of a Deceased Claimant or to a Minor When the Claimant is Comatose (Repealed)

~~Whenever any share of benefits payable to a deceased or comatose claimant is payable to a~~

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~~person who has not attained majority age, the payment shall be paid to the person legally entitled to receive the payment on behalf of the minor for his or her use and for the benefit of the minor without further responsibility on the part of the Director as to its actual distribution.~~

(Source: Repealed at 43 Ill. Reg. 1610, effective January 15, 2019)

Section 2830.215 Time and Manner for Claiming Benefits Due a Deceased or a Comatose Claimant (Repealed)

- a) ~~Any individual specified in Section 2830.205 or 2830.206 of this Part who wishes to make application for any benefits due a deceased or comatose claimant must do so within nine months after the date of death or entry into the comatose state, as the case may be, or within nine months after the date when the payment is finally authorized, whichever is later.~~
- 1) ~~The application shall be made to the local unemployment office where the deceased or comatose claimant last filed his or her claim for benefits or serving the geographic area in which the claimant resides or resided.~~
 - 2) ~~The application shall be made either in person or by certified mail and shall be supported by an affidavit setting forth the relationship to the deceased or comatose claimant, along with the names, addresses and relationship of all other living relatives in the order specified in Section 2830.205 or 2830.206 of this Part, and shall be accompanied by a certified copy of the death certificate for the deceased claimant or, in the case of a comatose claimant, the statement of a licensed and practicing physician indicating the date as of which the claimant became comatose. The application forms shall be available at the local unemployment offices.~~
- b) ~~Unless the application is received within the time limits specified in subsection (a), any benefits due the deceased claimant shall revert to and be returned to the State's unemployment trust fund.~~

(Source: Repealed at 43 Ill. Reg. 1610, effective January 15, 2019)

Section 2830.220 Right of Appeal (Repealed)

~~Whenever an individual claiming a share of benefits payable to a deceased or comatose claimant is denied that share because of the provisions of Section 2830.205 or 2830.215 of this Part, the~~

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~~individual shall be notified in writing and have the right to appeal the determination in accordance with the provisions of Section 800 of the Unemployment Insurance Act [820 ILCS 405/800].~~

(Source: Repealed at 43 Ill. Reg. 1610, effective January 15, 2019)

SUBPART C: REISSUANCE OF BENEFIT CHECKS, MISDIRECTED
PAYMENTS OR LOST OR STOLEN DEBIT CARDS**Section 2830.300 Requests ~~for~~ Reissuance Of Checks Or Replacement ~~of~~ Electronic Payments**

~~Any issue concerning a benefit payment that, in the case of a debit card, was deposited into an account assigned to the claimant or, in the case of direct deposit, was deposited into an account designated by the claimant, must be resolved between the claimant and the financial institution at which the payment was deposited according to the terms and conditions of the cardholder or account agreement. When the claimant alleges that a debit card was mailed to an address that the claimant did not authorize, that a benefit payment was not deposited into an account that the claimant authorized, or that a benefit payment was not credited to the debit card assigned to the claimant, the claimant may file a request for review of the payment at a local office, on a form provided by the Department, or by calling Claimant Services (see 56 Ill. Adm. Code 2714 for interstate claims). The telephone number for Claimant Services is available at ides.illinois.gov. If a claimant's telephone inquiry cannot be resolved over the phone, the Department will provide the claimant with any forms needed to proceed. All requests for review of payment shall be submitted to the Department's Accounting Services Subdivision to determine if the issue can be resolved by the Department or if the claimant should be referred to the financial institution in which the payment was deposited. If the request is made in person at the local office, the forms needed to request review by the Department's Accounting Services Subdivision shall be forwarded by local office staff. Forms submitted by the claimant directly must be mailed to the Department's address provided on the form. When identity theft has been alleged, the Department's Accounting Services Subdivision shall refer the matter to the Department's Benefit Payment Control Subdivision for an investigation as provided in Section 2830.310.~~

- a) ~~If the claimant is filing an intrastate claim (see 56 Ill. Adm. Code 2714 for interstate claims), his or her request for the reissuance of a payment must be made in person at the claimant's local office. Such request shall be made in writing on a form provided by the Department.~~
- 1) ~~If the original check has already been processed by the payor bank, the~~

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~~claimant will be sent instructions as outlined in Section 2830.305.~~

- ~~2) If the original check has been returned to the Agency by either the individual or the Post Office, it shall be immediately reissued to the individual.~~
 - ~~3) If the original check has not been processed by the payor bank, the Department will submit a stop payment order. After confirmation that the stop payment order has been processed, a replacement check will immediately be issued.~~
- b) ~~Requests by a second endorser for replacement of a benefit check that has not already been processed by the payor bank shall be made in writing to Accounting Services Division, Trust Fund Subdivision, 33 S. State St., Chicago IL 60603.~~
- ~~1) If the original benefit check was lost, mutilated or stale dated after receipt by the second endorser, and if proof of that action is provided to the Department, disbursement of the funds to cover the check will be made to the second endorser.~~
 - ~~2) If the original benefit check was subject to a stop payment order initiated by the claimant pursuant to subsection (a)(3), the matter will be sent to the Benefit Payment Control Division for an interview pursuant to Section 2830.310.~~

(Source: Amended at 43 Ill. Reg. 1610, effective January 15, 2019)

Section 2830.305 Where Original Benefit Check Has Been Processed By The Payor Bank Or Where Direct Deposit Has Been Established Without Authorization (Repealed)

- a) ~~When a request for reissuance of a payment is made by a claimant pursuant to Section 2830.300 and it is determined that the check has already been processed by the payor bank or when the payment has been directly deposited into a financial institution account the claimant asserts he or she did not authorize pursuant to 56 Ill. Adm. Code 2720.11, the claimant will be sent a copy of the check or the Direct Deposit Authorization/Change Form and an Affidavit of Non-Endorsement or an Affidavit of Non-Authorization for Direct Deposit. If the claimant believes that neither the claimant nor the claimant's authorized agent endorsed the check or completed the direct deposit authorization, within 30 days~~

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~~after the mailing of the copy of the check or Direct Deposit Authorization/Change Form, the claimant must file the completed Affidavit of Non-Endorsement or Affidavit of Non-Authorization for Direct Deposit, as appropriate, at the local office where the claimant last filed a claim for benefits.~~

- b) ~~When a request for reissuance of a benefit check is made by a second endorser and the original benefit check has been processed by the payor bank, the request must be made within 90 days after the date that the check was paid by the payor bank.~~

(Source: Repealed at 43 Ill. Reg. 1610, effective January 15, 2019)

Section 2830.310 Debit Card~~Check~~ Or Direct Deposit Authorization ~~Forgery~~ Investigation

- a) ~~When ana forgery investigation is to be conducted because the claimant claims he or she did not receive the proceeds of a payment, the claimant must file a completed Affidavit of Non-Receipt of UI Benefits at a local office or by mail or as directed by the local office. This form is available on the Department's website (ides.illinois.gov). When submitting a completed Affidavit of Non-Receipt of UI Benefits, the claimant must also submit proof of identification by including a photocopy of a current and valid driver's license or State identification card and a valid Social Security card or other evidence of his or her Social Security number, such as a W-2 form. When an Affidavit has been filed at a local office, all materials relevant to the investigation~~ ~~matter~~ shall be forwarded to the Department's Benefit Payment Control Subdivision ~~where a special agent shall investigate the matter and prepare a recommendation as to whether to reissue the payment to the claimant.~~
- b) ~~The Department's Benefit Payment Control Subdivision will conduct an investigation, including an interview of the claimant as provided in Section 2830.325, and shall issue a decision either allowing or denying the request for reissuance of payment as provided in Section 2830.335~~ ~~If the recommendation of the special agent is not to reissue the payment, the special agent shall set the matter for a forgery interview pursuant to Section 2830.315.~~
- c) ~~Prior to the forgery interview required by~~ ~~provided in~~ Section ~~2830.325~~2830.315, the ~~Department employees~~ ~~special agent~~ who conducted the initial investigation shall ~~prepare a form, SI-1F, Report of Forgery Investigation, and record the results of the following in chronological order:~~

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- 1) Any contact with the ~~second endorser or~~ payor ~~bank of the check~~. Any relevant information or evidence, such as ~~check cashing registration cards or~~ direct deposit information, should be noted and included in the file;
- 2) Contact with additional witnesses as might be deemed necessary by the ~~Department employee who conducted the investigation; and special agent;~~
- 3) Any contact with the claimant, including any background information that might have been discovered, ~~;~~ and
- 4) ~~A summary of all relevant facts and the basis for the decision not to reissue the payment.~~

(Source: Amended at 43 Ill. Reg. 1610, effective January 15, 2019)

Section 2830.315 Notice ~~of~~ Interview

- a) Written notice of the date, time and place of the ~~for~~ interview ~~shall~~ will be mailed to the claimant, ~~at the address shown on the Affidavit of Non-Receipt of UI Benefits submitted by the claimant,~~ at least 10 days prior to the date of the interview.
- b) The notice of interview shall identify the facts and issues to be covered by the interview.
- e) ~~The notice of interview shall be sent to the claimant at the address shown on the Affidavit of Non-Endorsement or Affidavit of Non-Authorization for Direct Deposit, as the case may be.~~

(Source: Amended at 43 Ill. Reg. 1610, effective January 15, 2019)

Section 2830.320 Continuances

The ~~Department employee~~ ~~special agent~~ to whom the matter is assigned shall grant continuances only for good cause shown. When a continuance is granted, the interview shall be rescheduled ~~for~~ at the earliest possible time convenient to all parties. All parties shall be informed of the date, time and place of the rescheduled interview either orally or in writing.

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(Source: Amended at 43 Ill. Reg. 1610, effective January 15, 2019)

Section 2830.325 ~~Debit Card or Check Or Direct Deposit Authorization Forgery~~ Interview

- a) ~~The Department employee assigned to the matter shall conduct an A special agent other than the special agent who conducted the investigation will control the~~ interview of the claimant that is, ~~which will be~~ limited to the issues set forth in the notice of interview.;
- b) All testimony at the interview shall be made under oath or affirmation.;
- c) At the interview, the ~~Department employee assigned to the matter~~ special agent shall:
- 1) Inform the parties of the purpose of the interview and of their rights under the Act and the rules promulgated thereunder;
 - 2) Present to the claimant all relevant material obtained during the investigation;
 - ~~3) If the second endorser is present, take any testimony that he or she can offer on the cashing of the benefit check;~~
 - 34) Provide the claimant with an opportunity to explain any reasons or to present any evidence that would show that the signature on the change of address~~benefit check~~ or direct deposit authorization form is not his or hers (or otherwise that one of these forms~~the direct deposit authorization form~~ is not authentic if it was submitted via the internet), and then allow the claimant to cross-examine any witnesses at the hearing or rebut any other evidence presented; and
 - 45) Issue his or her decision on the available facts, even if the claimant does not appear at the interview (there shall be no defaults for want of prosecution, though the claimant may withdraw his or her request for reissuance).

(Source: Amended at 43 Ill. Reg. 1610, effective January 15, 2019)

Section 2830.330 The Record

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

A complete record shall be maintained of the interview ~~by before~~ the Department employee assigned to the matter~~special agent~~. The record will consist of ~~the special agent's~~ written summary of the testimony of the parties and their witnesses and copies of all documents, reports, briefs, motions and findings in the matter.

(Source: Amended at 43 Ill. Reg. 1610, effective January 15, 2019)

Section 2830.335 Decision

- a) A decision shall be made in writing, shall separately state findings of fact and conclusions of law, and shall be mailed to the parties ~~thereto~~;
- b) A decision to allow or deny a claim for reissuance of payment~~benefit check~~ under this Subpart shall be based on the testimony and evidence in the record and not solely on an analysis of the claimant's handwriting. The formal rules of evidence shall not, however, apply in these matters;
- c) No decision shall be based solely on unobjected to hearsay testimony ~~when~~where the claimant has testified to the contrary under oath unless the Department employee assigned to the matter~~special agent~~ finds that the claimant's testimony is incredible, inconsistent or inherently improbable.
- d) No decision shall be based on evidence ~~that~~which the claimant has not had an opportunity to review and rebut. The claimant shall be deemed to have waived his or her right to review and rebut when he or she fails to appear at the scheduled hearing.

(Source: Amended at 43 Ill. Reg. 1610, effective January 15, 2019)

Section 2830.340 Appeals

The decision described in Section 2830.335~~of the special agent~~ shall constitute a final administrative decision, subject to review under the ~~State's~~ Administrative Review Law [735 ILCS 5/Art. III].

(Source: Amended at 43 Ill. Reg. 1610, effective January 15, 2019)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Public Use of State Parks and Other Properties of the Department of Natural Resources
- 2) Code Citation: 17 Ill. Adm. Code 110
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
110.200	New Section
110.210	New Section
110.215	New Section
110.220	New Section
110.225	New Section
110.230	New Section
110.235	New Section
110.240	New Section
110.245	New Section
110.250	New Section
- 4) Statutory Authority: Implementing and authorized by Section 8 of the State Forest Act [525 ILCS 40/8] and by Sections 1, 2, 4 and 6 of the State Parks Act [20 ILCS 835/1, 2, 4 and 6] and by Section 5 of the State Parks Designation Act [20 ILCS 840/5] and by Sections 805-10, 805-45, 805-520, 805-525, 805-330, 805-335 and 805-515 of the Civil Administrative Code of Illinois [20 ILCS 805/805-10, 805-45; 805-520, 805-525, 805-330, 805-335 and 805-515].
- 5) Effective Date of Rules: January 17, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including all material incorporated by reference is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 7905, May 11, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 11) Differences between Proposal and Final Version: The background check language has been deleted from this proposed rulemaking.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes, all agreements have been made as indicated in the agreements issued by JCAR
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part has been amended to establish procedures for the Adopt-A-Trail Program, pursuant to PA 100-180
- 16) Information and questions regarding these adopted rules shall be directed to:

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

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER a: LANDSPART 110
PUBLIC USE OF STATE PARKS AND OTHER PROPERTIES OF THE
DEPARTMENT OF NATURAL RESOURCESSUBPART A: GENERAL PROVISIONS

Section	
110.4	Fees and Charges
110.5	Unlawful Activities (Repealed)
110.20	Alcoholic Beverages – Possession, Consumption, Influence
110.30	Animals – Pets, Dogs, Cats, Equine; Noisy, Vicious, Dangerous Animals; Livestock; Animal Waste
110.40	Boats and Other Watercraft
110.45	Abandoned Watercraft
110.50	Capacity of Areas – Usage Limitation
110.60	Camping – Campfires – Firewood
110.70	Destruction of Property – Flora – Fauna – Man-Made and Inanimate Natural Objects-Collection of Artifacts
110.90	Group/Activity Permits
110.95	Demonstrations
110.100	Littering
110.110	Prohibited Fishing Areas – Cleaning of Fish
110.120	Restricted Areas
110.140	Soliciting/Advertising/Renting/Selling
110.150	Swimming/Wading/Diving
110.160	Vehicles – Operation on Roadway – Speed – Parking – Weight Limit
110.165	Bicycles – Operation on Roadway – Designated Trails
110.170	Weapons and Firearms – Display and Use
110.175	Nudity Prohibited
110.180	Violation of Rule
110.185	Emergency Modification of Site Rules

SUBPART B: ADOPT-A-TRAIL110.200 Purpose

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NOTICE OF ADOPTED AMENDMENTS

110.210	Definitions
110.215	Registration
110.220	Application
110.225	Agreements
110.230	Type of Work Permitted
110.235	Form of Submittal of Adopt-a-Trail Applications
110.240	Department Approval
110.245	Coordination
110.250	Volunteer Responsibilities

AUTHORITY: Implementing and authorized by Section 8 of the State Forest Act [525 ILCS 40/8] and by Sections 1, 2, 4 and 6 of the State Parks Act [20 ILCS 835/1, 2, 4 and 6] and by Section 5 of the State Parks Designation Act [20 ILCS 840/5] and by Sections 805-10, 805-520, 805-525, 805-330, 805-335 and 805-515 of the Civil Administrative Code of Illinois [20 ILCS 805/805-10, 805-520, 805-525, 805-330, 805-335 and 805-515].

SOURCE: Adopted at 4 Ill. Reg. 11, p. 59, effective March 4, 1980; emergency amendment at 5 Ill. Reg. 8933, effective August 25, 1981, for a maximum of 150 days; codified at 5 Ill. Reg. 10621; amended at 6 Ill. Reg. 7401, effective June 11, 1982; amended at 8 Ill. Reg. 9967, effective June 19, 1984; amended at 10 Ill. Reg. 9797, effective May 21, 1986; amended at 10 Ill. Reg. 13256, effective July 25, 1986; amended at 13 Ill. Reg. 3785, effective March 13, 1989; amended at 15 Ill. Reg. 14423, effective October 1, 1991; emergency amendment at 16 Ill. Reg. 7934, effective May 11, 1992, for a maximum of 150 days; emergency expired October 8, 1992; amended at 16 Ill. Reg. 15435, effective September 28, 1992; amended at 19 Ill. Reg. 6471, effective April 28, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 22 Ill. Reg. 14832, effective August 3, 1998; amended at 24 Ill. Reg. 12556, effective August 7, 2000; emergency amendment at 25 Ill. Reg. 13786, effective October 12, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 1206, effective January 16, 2002; amended at 26 Ill. Reg. 6534, effective May 1, 2002; amended at 27 Ill. Reg. 8866, effective May 19, 2003; amended at 28 Ill. Reg. 7061, effective May 3, 2004; amended at 29 Ill. Reg. 2268, effective January 28, 2005; emergency amendment at 30 Ill. Reg. 13536, effective July 27, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 19376, effective November 30, 2006; amended at 32 Ill. Reg. 174, effective December 19, 2007; amended at 37 Ill. Reg. 6652, effective May 1, 2013; amended at 43 Ill. Reg. 1624, effective January 17, 2019.

SUBPART B: ADOPT-A-TRAILSection 110.200 Purpose

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

The purpose of the Adopt-a-Trail program is to promote public involvement in and increased public appreciation of the many trails throughout the State of Illinois by allowing volunteer groups to assist in maintaining and enhancing trails on State-owned land.

(Source: Added at 43 Ill. Reg. 1624, effective January 17, 2019)

Section 110.210 Definitions

"Accessibility projects" – means projects that provide improved access to trails or trail amenities for all trail users, but especially for trail users with disabilities.

"Adopt-a-Trail Agreement" – means a legally binding document on and between a volunteer group and the Department in which the volunteer project is fully described and the parties' individual responsibilities as related to the volunteer project are defined.

"Adopt-a-Trail Program" or "Program" – means the program created by Section 805-45 of the Department of Natural Resources (Conservation) Law [20 ILCS 805/805-45].

"Application" – means a request, submitted on a form provided by the Department, by a volunteer group proposing to engage in a volunteer activity on a trail or a segment of a trail.

"Authorized representative" – means an individual who has been approved to act on behalf of the Department.

"Department" – means the Illinois Department of Natural Resources.

"Eligible member" – means an individual who has complied with all existing Department procedures, as well as any other federal, State or local requirements, to participate as a volunteer of the Department.

"Law" – means the Department of Natural Resources (Conservation) Law [20 ILCS 805].

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"Public information and assistance" – means projects that are associated with events in which volunteers may provide information and assistance during the event.

"Responsible party" – means an individual who will coordinate an approved volunteer group, and ensure compliance with the submitted project proposal, Section 805-45 of the Law and this Part while that group is engaged in Adopt-a-Trail activities on Department land.

"Special events" – means a function or occasion held on an adopted trail, trail segment or trail system in association with a specific purpose for attendance or participation.

"Spring cleanups" – means projects that assist in the removal of natural debris and plant materials that may have accumulated over the period of closure.

"Trail" – means a named trail, or segment of a named trail, agreed upon and approved by the Department.

"Trail maintenance, enhancement or realignment" – means projects that focus on general maintenance and removal of trash and natural debris. Enhancement means projects that focus on Department approved alterations that enhance and improve the trail and trail user experience.

"Training" – means projects that educate volunteers on the Adopt-a-Trail program or elements associated with projects.

"Volunteer group" – means a group of individuals approved by the Department that consists of at least 6 eligible members who are 18 years of age or older, or a school or scout group that will be supervised by someone 18 or older, who offer to perform services or undertakings approved by the Department through an Adopt-a-Trail project.

(Source: Added at 43 Ill. Reg. 1624, effective January 17, 2019)

Section 110.215 Registration

- a) Volunteer groups must register with the Department to participate in the program.

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- b) Individual members must also register with the Department to participate in the program.
- c) No unregistered persons will be permitted to take part in any Adopt-a-Trail activities.
- d) Members, whether a group or an individual, shall be responsible for updating any changes in their personal information.

(Source: Added at 43 Ill. Reg. 1624, effective January 17, 2019)

Section 110.220 Application

Volunteer groups that wish to participate in the Adopt-a-Trail program are required to submit an Adopt-a-Trail application pursuant to Section 110.235. All applications are subject to review, amendment and acceptance by the Department.

(Source: Added at 43 Ill. Reg. 1624, effective January 17, 2019)

Section 110.225 Agreements

- a) After the Department accepts a volunteer group's application, the Department will provide that group with an Adopt-a-Trail Agreement to review, sign and return to the Department's authorized representative. The Department may unilaterally suspend or terminate an Agreement at any time for any reason.
- b) Adopt-a-Trail Agreements shall involve:
 - 1) a two-year term of work, that involves at least 200 hours of service;
 - 2) a group of at least 6 eligible members.

(Source: Added at 43 Ill. Reg. 1624, effective January 17, 2019)

Section 110.230 Type of Work Permitted

- a) Any Adopt-a-Trail Agreement may propose certain volunteer activities to be performed solely by registered volunteers at their own risk. Adopt-a-Trail volunteer activities may include any of the following:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Spring cleanups;
 - 2) Accessibility projects;
 - 3) Trail maintenance, enhancement or realignment;
 - 4) Public information and assistance; or
 - 5) Training.
- b) *Volunteer activities shall not include work historically performed by Department employees, including activities that result in a reduction of hours or compensation or that may be performed by a Department employee on layoff, nor shall volunteer activities be inconsistent with the terms of a collective bargaining agreement. [20 ILCS 805-45]*
- c) The Department may approve other proposed volunteer activities on a case-by-case basis.

(Source: Added at 43 Ill. Reg. 1624, effective January 17, 2019)

Section 110.235 Form of Submittal of Adopt-a-Trail Applications

Adopt-a-Trail applications shall be submitted to the Department by providing the application to the site superintendent. Application forms are provided on the Department's website at www.dnr.illinois.gov. Applications shall be submitted during January or at the request of the Department throughout the year, as determined by operation needs.

(Source: Added at 43 Ill. Reg. 1624, effective January 17, 2019)

Section 110.240 Department Approval

The Department has the sole and final authority to accept, modify or deny an Adopt-a-Trail application or Agreement. The Department may elect to have multiple Adopt-a-Trail Agreements for specific trails and may select more than one group to cover any given trail or trail segment. The operational needs of the Department for work at any particular site will determine how proposed volunteer activities are selected and executed.

DEPARTMENT OF NATURAL RESOURCES

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(Source: Added at 43 Ill. Reg. 1624, effective January 17, 2019)

Section 110.245 Coordination

The Department shall be responsible for coordination of Adopt-a-Trail and similar programs such as Adopt-a-Park.

(Source: Added at 43 Ill. Reg. 1624, effective January 17, 2019)

Section 110.250 Volunteer Responsibilities

Volunteer groups shall, at all times, comply with the Act, this Part, Department application procedures, and any subsequent Adopt-a-Trail Agreement.

(Source: Added at 43 Ill. Reg. 1624, effective January 17, 2019)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Birth Center Demonstration Program Code
- 2) Code Citation: 77 Ill. Adm. Code 265
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
265.1050	Amendment
265.1100	Amendment
265.1800	Amendment
265.1900	Amendment
- 4) Statutory Authority: Alternative Health Care Delivery Act [210 ILCS 3]
- 5) Effective Date of Rules: January 18, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 16604; September 14, 2018
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking implements PA 99-834 relating to mandatory hearing testing for newborn infants.
- 16) Information and questions regarding these adopted rules shall be directed to:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

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

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

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIESPART 265
BIRTH CENTER DEMONSTRATION PROGRAM CODE

SUBPART A: GENERAL REQUIREMENTS

Section	
265.1000	Scope and Purpose
265.1050	Definitions
265.1100	Incorporated and Referenced Materials
265.1150	Demonstration Program Elements
265.1200	Information Available for Public Inspection
265.1250	General Requirements for Licensure
265.1300	Application for Initial License
265.1400	Inspections and Investigations
265.1450	Notice of Violation and Plan of Correction
265.1500	Adverse Licensure Action and Administrative Hearings
265.1550	Admission Protocols for Acceptance for Birth Center Clients
265.1600	Governing Body
265.1650	Length of Stay
265.1700	Client Rights
265.1750	Personnel
265.1800	Clinical Services
265.1850	Labor and Birth Procedures
265.1900	Newborn Infant Care
265.1950	Discharge Policies and Procedures
265.2000	Infection Control
265.2050	Disposal of Medical Waste
265.2100	Emergency Services
265.2150	Laboratory and Pharmacy Services
265.2200	Clinical Records
265.2250	Transfer Agreement
265.2300	Equipment
265.2350	Environmental Management
265.2400	Food Services
265.2450	Quality Assurance and Improvement

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

265.2500 Reports

SUBPART B: CONSTRUCTION STANDARDS

- 265.2550 Applicability of This Subpart
- 265.2600 Submission of Plans for New Construction, Alterations or Additions to Birth Centers
- 265.2650 Preparation of Drawings and Specifications – Submission Requirements
- 265.2700 General Construction Requirements
- 265.2750 Birth Unit Requirements
- 265.2800 Plumbing
- 265.2850 Heating, Ventilating and Air-Conditioning Systems (HVAC)
- 265.2900 Electrical Systems
- 265.2950 Emergency Electric Service
- 265.3000 Security Systems

AUTHORITY: Alternative Health Care Delivery Act [210 ILCS 3].

SOURCE: Adopted at 35 Ill. Reg. 6501, effective March 31, 2011; amended at 43 Ill. Reg. 1633, effective January 18, 2019.

SUBPART A: GENERAL REQUIREMENTS

Section 265.1050 Definitions

Act – the Alternative Health Care Delivery Act.

Administrator – the person who is directly responsible for the operation and administration of the birth center, irrespective of the person's assigned title.

Applicant – any person, acting individually or with any other person, who proposes to build, own, establish or operate a birth center.

Adequate – enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the clients of a facility under the particular set of circumstances in existence at the time of review.

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Advanced practice nurse or APN – a person who has met the qualifications for a certified nurse midwife (CNM); certified nurse practitioner (CNP); certified registered nurse anesthetist (CRNA); or clinical nurse specialist (CNS) and has been licensed by the Department of Financial and Professional Regulation. (Section 50-10 of the Nurse Practice Act)

Antepartum – the period of time before labor or childbirth.

Birth assistant – a person *licensed or certified in Illinois* by the Department of Financial and Professional Regulation *in a health-related field and under the supervision of the physician or certified nurse midwife in attendance*, who has *specialized training in labor and delivery techniques and care of newborns, and receives planned and ongoing training as needed to perform assigned duties effectively.* (Section 35(6) of the Act)

Birth attendant – *an obstetrician, family practitioner physician, or certified nurse midwife who attends each woman in labor from the time of admission and throughout the immediate postpartum period.* (Section 35(6) of the Act)

Birth center or center – an alternative health care delivery model that is *exclusively dedicated to serving the childbirth-related needs of women and their newborns and has no more than 10 beds. A birth center is a designated site that is away from the mother's usual place of residence in which births are planned to occur following a normal, uncomplicated, and low-risk pregnancy.*

Birth room – a room specifically designed and equipped for a single occupancy client to give birth under the care of professionals in that health care specialty.

Birth unit – a number of birth rooms grouped or clustered around a central area/station that maintains direct supervision (electronic supervision is not permitted) of the birth rooms.

Certified nurse midwife or CNM – a registered nurse who meets the requirements for licensure as an advanced practice nurse under the category of certified nurse midwife under Section 15 of the Nurse Practice Act.

Charitable care – the intentioned provision of free or discounted birth center services to persons who cannot afford to pay for the services.

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Client – a woman who gives birth at a center and the infant of that birth.

Community education services – information and education provided to the pregnant woman and her family, during both early and late pregnancy, that promote healthy outcomes for the woman and her infant.

Demonstration Program or Program – a program to license and study alternative health care models authorized under the Act. (Section 10 of the Act)

Department – the Illinois Department of Public Health. (Section 10 of the Act)

Federally qualified health center – a community health center funded under Section 330 of the federal Public Health Service Act (42 USC 254b).

Governing body – a board of trustees, governing board, board of directors or other body or individual responsible for governing a birth center.

Health-related field – either a registered nurse or licensed practical nurse, physician, physician assistant, or other classifications that are licensed, registered or certified by the Illinois Department of Financial and Professional Regulation.

Hospital – any institution, place, building or agency licensed pursuant to the Hospital Licensing Act. (Section 3 of the Hospital Licensing Act)

Immediate postpartum period – a minimum of two hours following the delivery of the placenta and until the client is clinically stable.

Inspection – any survey, evaluation, or investigation of the birth center's compliance with the Act and this Part by the Department or designee.

Intrapartum – the time from the onset of true labor until the delivery of the infant and placenta.

Licensee – the person or entity licensed to operate the birth center.

Low-risk pregnancy – a pregnancy that, based on history, application of risk criteria, and adequate prenatal care, is broadly predicted to have a normal, uncomplicated outcome.

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Medical care facility – a hospital, birthing center, and any other licensed facility that provides obstetrical and newborn nursery services. (Section 2 of the Early Hearing Detection and Intervention Act)

Medical director – a physician, licensed to practice medicine in all of its branches, who is certified or eligible for certification by the American ~~Board~~College of Obstetricians and Gynecologists, who provides guidance, leadership, oversight and quality assurance to the birth center.

Newborn infant or newborn – an infant who is less than 72 hours old.

Nurse – a registered nurse or licensed practical nurse as defined in the Nurse Practice Act.

Operator – the person responsible for the control, maintenance and governance of the birth center, its personnel and physical plant.

Owner – the individual, partnership, corporation, or other person who owns the birth center.

Perinatal center – a referral facility designated under the Regionalized Perinatal Health Care Code (~~77 Ill. Adm. Code 640~~) and intended to care for the high risk patient before, during, or after labor and delivery and characterized by sophistication and availability of personnel, equipment, laboratory, transportation techniques, consultation and other support services.

Person – any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity.

Physician – any person licensed to practice medicine in all of its branches under the Medical Practice Act of 1987.

Prenatal care – medical care for a pregnant woman and her fetus throughout her pregnancy.

Program narrative – a description of the center's proposed operation, which clarifies or explains choices related to such items as space, equipment, finishes or other specifications in the architectural plans. The program narrative shall include, but is not limited to, the:

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Number~~number~~ of beds;

Medical~~medical~~ needs of proposed clients;

Proposed~~proposed~~ food service operation;

Proposed~~proposed~~ laundry operation; and

Interrelation~~interrelation~~ of the functions of the birth center.

Quality assurance – an ongoing, objective and systematic process of monitoring, evaluating and improving the quality, appropriateness and effectiveness of care.

Quality improvement or performance improvement – an organized, structured process that selectively identifies projects to achieve improvement in products or services.

Registered nurse – a person who is licensed as a registered professional nurse under the Nurse Practice Act.

Risk assessment – a process by which historical, physical, and laboratory data are applied for the prediction of pregnancy outcome.

Sanitize – to destroy microorganisms by cleaning or disinfecting.

Sterilization – the use of a physical or chemical procedure to destroy all microbial life, including bacterial endospores.

Substantial compliance or substantially comply – meeting requirements, except for variance from the strict and literal performance that results in unimportant omissions or defects, given the particular circumstances involved.

Supervision – authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his/her sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity.

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Support person – an individual who provides emotional support and help with relaxation techniques and comfort measures.

Survey – a detailed, complete inspection of the birth center.

Universal/standard precautions – as defined by the Centers for Disease Control and Prevention (CDC), recommendations designed to prevent transmission of human immunodeficiency virus (HIV), hepatitis B virus (HBV) and other blood borne pathogens when providing health care.

Vaginal delivery – spontaneous labor and delivery.

(Source: Amended at 43 Ill. Reg. 1633, effective January 18, 2019)

Section 265.1100 Incorporated and Referenced Materials

- a) The following private and professional association standards are incorporated in this Part:
- 1) [FGI Guidelines \(2010 edition\)](#), ~~AIA~~ Guidelines for Design and Construction of Health Care Facilities, ~~2006~~, which may be obtained from the American Institute of Architects (AIA) Academy of Architecture for Health, Facilities Guidelines Institute, 1919 McKinney Ave., Dallas, Texas 75201.
 - 2) The standards of the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), Handbook of Fundamentals (~~2009~~2005), which may be obtained from the American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc., 1791 Tullie Circle, N.E., Atlanta, Georgia 30329.
 - 3) The following standards of the National Fire Protection Association (NFPA), which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269:
 - ~~A)~~ [No. 99 \(1999\): Standard for Healthcare Facilities](#)
 - ~~AB)~~ [NFPA No. 101 \(2012~~2000~~\)](#): Life Safety Code [and all appropriate references under Chapter 2, Referenced Publications](#)

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- B) [NFPA 101A \(2013\): Guide on Alternative Approaches to Life Safety](#)
 - C) ~~NFPA 30 (1996): Flammable and Combustible Liquids Code~~
 - D) ~~NFPA 70 (1999): National Electric Code~~
 - E) ~~NFPA 110 (1999): Standard for Emergency and Standby Power System~~
- 4) International Building Code (~~2012~~[2003](#)), which may be obtained from the International Code Council, 4051 Flossmoor Road, Country Club Hills, Illinois 60477-5795.
 - 5) The American Academy of Pediatrics and the American College of Obstetricians and Gynecologists, Guidelines for Perinatal Care, ~~seventh~~[sixth](#) edition (~~2012~~[2007](#)), which may be obtained from the American Academy of Pediatrics, 141 Northwest Point Boulevard, P.O. Box 927, Elk Grove Village, Illinois 60009-0927.
 - 6) The American Association of Birth Centers, Standards for Birth Centers (~~2016~~[2004](#)), which may be obtained from the American Association of Birth Centers, 3123 Gottschall Road, Perkiomenville, Pennsylvania 18074
- b) The following federal guidelines are incorporated in this Part:
- 1) Center for Infectious Diseases, Centers for Disease Control and Prevention, United States Public Health Service, Department of Health and Human Services. The guidelines may be obtained from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.
 - A) Guideline for Hand Hygiene in Health-Care Settings (October 2002)
 - B) Guidelines for Infection Control in Health Care Personnel (1998)

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- c) All incorporations by reference of federal guidelines and regulations and the standards of nationally recognized organizations refer to the regulations, guidelines, and standards on the date specified and do not include any later amendments or editions.
- d) The following federal laws are referenced in this Part:
 - 1) Title XVIII and Title XIX of the Social Security Act (42 USC 301 et seq., 1395 et seq., and 1396 et seq.)
 - 2) Clinical Laboratory Improvement Amendments (42 USC 1861 and 1902)
 - 3) Public Health Service Act (42 USC 254b)
- e) The following State laws and administrative rules are referenced in this Part:
 - 1) State of Illinois laws:
 - A) Nurse Practice Act [225 ILCS 65]
 - B) Medical Practice Act of 1987 [225 ILCS 60]
 - C) Hospital Licensing Act [210 ILCS 85]
 - D) Illinois Health Facilities Planning Act [20 ILCS 3960]
 - E) Pharmacy Practice Act [225 ILCS 85]
 - F) Illinois Administrative Procedure Act [5 ILCS 100]
 - G) Health Care Worker Background Check Act [225 ILCS 46]
 - H) Alternative Health Care Delivery Act [210 ILCS 3]
 - I) Ambulatory Surgical Treatment Center Act [210 ILCS 5]
 - J) Vital Records Act [410 ILCS 535]
 - K) Infant Eye Disease Act [410 ILCS 215]

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L) Illinois Insurance Code [215 ILCS 5]

M) [Early Hearing Detection and Intervention Act \[410 ILCS 213\]](#)

2) State of Illinois rules:

A) Control of Communicable Diseases Code, Illinois Department of Public Health (77 Ill. Adm. Code 690)

B) Control of Tuberculosis Code, Illinois Department of Public Health (77 Ill. Adm. Code 696)

C) Rules of Practice and Procedure in Administrative Hearings, Illinois Department of Public Health (77 Ill. Adm. Code 100)

D) Illinois Plumbing Code, Illinois Department of Public Health (77 Ill. Adm. Code 890)

E) Illinois Accessibility Code, Illinois Capital Development Board (71 Ill. Adm. Code 400)

F) Food Service Sanitation Code, Illinois Department of Public Health (77 Ill. Adm. Code 750)

G) Health Care Worker Background Check Code, Illinois Department of Public Health (77 Ill. Adm. Code 955)

H) Regionalized Perinatal Health Care Code, Illinois Department of Public Health (77 Ill. Adm. Code 640)

I) Illinois Vital Records Code, Illinois Department of Public Health (77 Ill. Adm. Code 500)

J) Perinatal HIV Prevention Code, Illinois Department of Public Health (77 Ill. Adm. Code 699)

K) Nonhazardous Special Waste Handling and the Uniform Program, Illinois Pollution Control Board (35 Ill. Adm. Code 809)

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(Source: Amended at 43 Ill. Reg. 1633, effective January 18, 2019)

Section 265.1800 Clinical Services

- a) Clients shall meet all the requirements of Section 265.1550 before being admitted and receiving services at the birth center.
- b) Each birth center shall assure that each woman and her family registering for admission for care at the birth center shall be given an orientation to the birth center, which includes, but is not limited to:
 - 1) The philosophy and goals of the birth center;
 - 2) Services directly available at the birth center;
 - 3) Services provided through consultation and referrals;
 - 4) Policies and procedures;
 - 5) The requirement for signed consent for care and services, attesting to full awareness of care and services to be provided;
 - 6) The involvement of the mother (and support person whenever possible) in the development and assessment of a protocol of care in accordance with this Section;
 - 7) Charges for required care and potential additional charges; and
 - 8) The risk assessment process and risk factors that might preclude admission for care at the birth center.
- c) Each birth center shall provide a childbirth education program or shall arrange with another health care provider to make a program available to the center's clients.
 - 1) The program shall consist of a course of instruction to expectant mothers and support persons pertaining to prenatal care and its outcome; care of

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the newborn; and an understanding of labor and delivery, self-care, and preparation for participation in the childbirth process.

- 2) The education program shall be coordinated with other health care services available in the community.
 - 3) The birth center shall require all women who have not previously attended a childbirth education program to attend such a program, preferably with a support person.
 - 4) Childbirth education can be provided at any location in the community. The location should meet the needs of the participant by encouraging and supporting attendance.
- d) The birth center shall ensure that mothers have adequate prenatal care in accordance with the birth center's written policies and procedures and acceptable standards of practice. The policies shall require the following:
- 1) Every mother shall be involved in the development and assessment of a protocol of care.
 - 2) Every mother shall be evaluated within four weeks after the initial request for admission for care. If the mother is at 32 weeks gestation when she makes her initial request for admission, the birth center shall evaluate the woman as soon as possible, pursuant to Section 265.1550. ~~To~~In order to establish a database of risk assessment, identify problems and needs, and develop a protocol of care, the evaluation shall include:
 - A) Data from history and physical examination, including documented HIV status;
 - B) Laboratory findings;
 - C) Social, nutritional and health assessments; and
 - D) Frequency of prenatal visits.

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- e) Any risk factor pertaining to labor, delivery or postpartum periods as outlined in Section 265.1550 shall be cause to discontinue care of the mother and/or newborn at the birth center.
- 1) If a clinical complication occurs in the course of labor or delivery or postpartum, the obstetrician, family physician or certified nurse midwife shall have the mother and/or newborn transferred promptly to a licensed hospital obstetrical service and shall notify the medical director.
 - 2) Records necessary to explain the situation fully shall accompany a mother and/or newborn upon transfer to the hospital.
- f) *The maximum length of stay in a birth center shall be consistent with existing State laws allowing a 48-hour stay or appropriate post-delivery care, if the mother and infant are discharged earlier than 48 hours.* (Section 35(6) of the Act) If a mother or newborn is not in satisfactory condition for discharge within 48 hours following birth, the mother and/or newborn shall be transferred to a hospital that has obstetrical and nursery services.
- g) The written policies and procedures established by the medical director and Director of Nursing and Midwifery Services for a follow-up program of care and postpartum evaluation after discharge from the birth center shall include, but not be limited to, the following:
- 1) The birth center's medical director, obstetrician, family physician, or certified nurse midwife shall be accessible by telephone, 24 hours per day, to assist mothers in case of need during the postpartum period.
 - 2) The birth center's postpartum program shall include the assessment of mother and infant, including physician examination, laboratory screening tests at appropriate times, and maternal postpartum status; and instructions in child care, including immunization, referral to sources of pediatric care, provisions for family planning services, the importance of newborn hearing screening, pursuant to Section 265.1900, and assessment of mother-child relationship, including breastfeeding.
- h) *No general, which includes spinal/epidural, or regional anesthesia may be administered at the birth center.* (Section 35(6) of the Act) Local anesthesia for

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episiotomies and/or repair of lacerations may be administered in accordance with written policies and procedures established by the medical director.

- i) No surgical procedures shall be performed except episiotomy, repair of episiotomy or laceration, or circumcision.

(Source: Amended at 43 Ill. Reg. 1633, effective January 18, 2019)

Section 265.1900 Newborn Infant Care

- a) Each birth center shall adopt, implement and enforce written policies and procedures for the care of the infant. The medical director and Director of Nursing and Midwifery Services shall review and revise the policies as necessary to reflect current practices. The policies shall comply with the Guidelines for Perinatal Care, published by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists, and include, at a minimum:
 - 1) Resuscitation of the newborn;
 - 2) Within two hours after delivery, ophthalmic ointment, or drops containing tetracycline or erythromycin, instilled into the eyes of the newborn infant as a preventive against ophthalmia neonatorum in accordance with the Infant Eye Disease Act;
 - 3) A single parenteral dose of vitamin K-1, water soluble 0.5 ~~milligrams~~^{mg}, given to the infant soon after birth as a prophylaxis against hemorrhagic disorder in the first days of life;
 - 4) Documentation of a physical examination of the newborn performed before discharge;
 - 5) Referral for any abnormalities or problems;
 - 6) The collection of blood for newborn screening;
 - 7) Procedures for the detection of Rh and ABO isoimmunization;
 - 8) HIV testing pursuant to the Perinatal HIV Prevention Code; and

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- 9) Preparation and submission of birth certificates.
- b) Identification of Newborns
- 1) While the newborn is still in the birth room, the nurse or certified nurse midwife in the birth room shall prepare identical identification bands for both the mother and the newborn. Wrist bands alone may be used; however, it is recommended that both wrist and ankle bands be used on the newborn. The birth center shall not use footprinting and fingerprinting alone as methods of client identification. The bands shall indicate the mother's admission number, the newborn's gender, the date and time of birth, and any other information required by birth center policy. Birth room personnel shall review the bands prior to securing them on the mother and the newborn to ensure that the information on the bands is identical. The nurse or certified nurse midwife in the birth room shall securely fasten the bands on the newborn and the mother without delay as soon as he/she has verified the information on the identification bands. The birth records and identification bands shall be checked again before the newborn leaves the birth room.
 - 2) If the condition of the newborn does not allow the placement of identification bands, the identification bands shall accompany the newborn and shall be attached as soon as possible.
 - 3) When the newborn is taken to the mother, the nurse or other birth center staff shall examine the mother's and the neonate's identification bands to verify the gender of the neonate and to verify that the information on the bands is identical.
 - 4) The umbilical cord shall be identified according to birth center policy (e.g., by the use of a different number of clamps) so that umbilical cord blood specimens are correctly labeled. All umbilical cord blood samples shall be labeled correctly with an indication that these are a sample of the newborn's umbilical cord blood and not the blood of the mother.
 - 5) The birth center shall develop a newborn infant security system. This system shall include instructions to the mother regarding safety

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precautions designed to avoid abduction of her newborn infant. Electronic sensor devices may be included as well.

- c) Discharge of newborn infants shall be in accordance with the birth center policies (see Section 265.1950).
- d) The birth center shall communicate with the pediatric care provider and shall transfer birth and newborn records to the pediatric care provider.
- e) In breastfeeding and in the storage and handling of infant formula, the birth center shall comply with the provisions of the Guidelines for Perinatal Care.
- f) Mandatory Hearing Screening
 - 1) *Each birth center shall conduct bilateral hearing screening of each newborn infant prior to discharge unless medically contraindicated or the infant is transferred to a hospital before the hearing screening can be completed. (Section 5(a) of the Early Hearing Detection and Intervention Act)*
 - 2) *The facility performing the hearing screening shall report the results of the hearing screening to the Department within 7 days after screening.*
 - A) *If there is no hearing screening result or an infant does not pass the hearing screening in both ears at the same time the center shall refer the infant's parents or guardians to a health care practitioner for follow-up, and document and report the referral, including the name of the health care practitioner, to the Department in a format determined by the Department.*
 - B) *For infants born outside a birth center, the newborn's primary care provider shall refer the patient to a medical care facility for the hearing screening to be done in compliance with the Act within 30 days after birth, unless a different time period is medically indicated. (Section 5(b) of the Early Hearing Detection and Intervention Act)*

(Source: Amended at 43 Ill. Reg. 1633, effective January 18, 2019)

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- 1) Heading of the Part: Specialized Mental Health Rehabilitation Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 380
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
380.700	Amendment
380.710	Amendment
- 4) Statutory Authority: Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49]
- 5) Effective Date of Rules: January 18, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 16158; August 24, 2018
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking implemented PA 99-712, which changed the commencement of the provisional licensure period to the date a facility's provisional license is issued, and a portion of PA 100-365 regarding provisional licenses for recovery and rehabilitation support centers.
- 16) Information and questions regarding these adopted rules shall be directed to:

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

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

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

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 380
SPECIALIZED MENTAL HEALTH REHABILITATION FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section	
380.100	Definitions
380.110	Incorporated and Referenced Materials
380.120	Applicability and General Requirements
380.130	Staff Qualifications and Training Requirements
380.140	Consumer Rights and Choices
380.150	Informed Consent
380.160	Restraints and Therapeutic Separation
380.170	Consumer Background Checks
380.180	Identified Offenders
380.190	Consumer Records
380.200	Assessment, Level of Service Determination, and Authorization
380.210	Individualized Treatment Plan
380.220	Transfer Discharge

SUBPART B: SPECIALIZED MENTAL HEALTH
REHABILITATION FACILITIES PROGRAMS

Section	
380.300	Triage Centers
380.310	Crisis Stabilization Units
380.320	Recovery and Rehabilitation Supports Centers
380.330	Transitional Living Units

SUBPART C: PROGRAM PERSONNEL

Section	
380.400	Employee Personnel Policies and Records
380.410	Initial Health Evaluation for Employees, Interns and Volunteers
380.420	Health Care Worker Background Check

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380.430 Executive Director
380.440 Psychiatric Medical Director

SUBPART D: ADMINISTRATION

Section
380.500 Required Policies and Procedures
380.510 Quality Assessment and Performance Improvement
380.515 Reportable Performance Indicators
380.520 Information to Be Made Available to the Public
380.530 Incidents, Accidents and Emergency Care
380.540 Abuse, Neglect and Theft
380.550 Contacting Local Law Enforcement
380.560 Care and Treatment of Sexual Assault Survivors
380.570 Fire Safety and Disaster Preparedness
380.580 Research

SUBPART E: SUPPORT SERVICES AND ENVIRONMENT

Section
380.600 Required Support Services
380.610 Physician Medical Services
380.620 Health/Nursing Services
380.630 Pharmaceutical Services and Medication Administration
380.640 Infection Control and Vaccinations
380.650 Dietetic Services
380.660 Dental Services
380.670 Physical Plant and Environmental Requirements

SUBPART F: LICENSURE REQUIREMENTS

Section
380.700 Licensure Application Requirements
380.710 Application Process and Requirements for a Provisional License
380.720 Plan of Operation
380.730 Requirements for Accreditation
380.740 Surveys and Inspections
380.750 License Sanctions and Revocations
380.760 Citation Review and Appeal Procedures

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380.770 Safety, Zoning and Building Clearances
380.780 Special Demonstration Programs and Services

AUTHORITY: Implementing and authorized by the Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49].

SOURCE: Emergency rule adopted at 38 Ill. Reg. 11819, effective May 22, 2014, for a maximum of 150 days; emergency expired October 18, 2014; adopted at 38 Ill. Reg. 22897, effective November 21, 2014; amended at 43 Ill. Reg. 1651, effective January 18, 2019.

SUBPART F: LICENSURE REQUIREMENTS

Section 380.700 Licensure Application Requirements

- a) *The Act provides for licensure of long term care facilities that are federally designated as institutions for mental disease on July 22, 2013 and specialize in providing services to individuals with a serious mental illness.*
- b) *All consent decrees that apply to facilities federally designated as institutions for mental disease shall continue to apply to facilities licensed under the Act and this Part. (Section 1-101.5 of the Act)*
- c) *No person may establish, operate, maintain, offer, or advertise a facility within this State unless and until he or she obtains a valid license, which license remains unsuspended, unrevoked, and unexpired. No public official or employee may place any person in, or recommend that any person be in, or directly or indirectly cause any person to be placed in any facility that is being operated without a valid license. (Section 4-102 of the Act)*
 - 1) A facility whose license has been successfully revoked is disqualified from obtaining a provisional license under the Act and this Part.
 - 2) A facility with a pending Notice of Revocation and Opportunity for Hearing is disqualified from obtaining a provisional license until the Notice of Revocation is resolved, including, but not limited to, a voluntary withdrawal of the Notice of Revocation by the Department or a successful appeal of the Notice of Revocation by the facility.
- d) *All licenses and licensing procedures established under Article III of the Nursing*

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Home Care Act, except those contained in Section 3-202 of the Nursing Home Care Act, shall be deemed valid under the Act and this Part until the Department establishes licensure. The Department is granted the authority under the Act and this Part to establish provisional licensure and licensing procedures under the Act and this Part. (Section 4-102 of the Act)

- 1) All facilities that are federally designated as institutions for mental disease, and that were previously certified under Subpart T of 77 Ill. Adm. Code 300, shall apply for provisional licensure under the Act and this Part.
 - 2) All facilities that are federally designated as institutions for mental disease that are currently certified under Subpart S of 77 Ill. Adm. Code 300 shall apply for provisional licensure under the Act and this Part.
- e) *The Department shall be the sole agency responsible for licensure. Licensure shall be in accordance with the Act for the purpose of:*
- 1) *Protecting the health, welfare, and safety of consumers; and*
 - 2) *Ensuring the accountability for reimbursed care provided in facilities. (Section 4-101 of the Act)*
- f) Provisions of this Part establishing requirements for provisional licenses are effective for no more than three years pursuant to the Act and Section 380.710(b) beginning on May 22, 2014, will be in effect for a period of three years, and will not be extended beyond May 22, 2017. ~~(Section 4-103 of the Act)~~
- g) The Department will issue no more than 24 licenses statewide for specialized mental health rehabilitation facilities, in accordance with the Act and this Part.
- h) Pursuant to Section 4-102 of the Act, a new provisional license application is required upon initial licensure as a specialized mental health rehabilitation facility and whenever there is a change of ownership, in licensed bed capacity, in services provided, or of location.
- i) The application shall be under oath, and the submission of false or misleading information shall be a Class A misdemeanor. The application, in a form prescribed by the Department, shall contain the following information:

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- 1) The name, or proposed name, and address of the facility;
- 2) The name, residence and mailing address of the applicant;
- 3) If the applicant is a partnership, the name and principal business address of each partner;
- 4) If the applicant is a corporation or association, the name, title and business address of each officer and member of the governing board;
- 5) If, at the time of application, the applicant is associated with a clinical or operational management company, the name of the company, manager, principle business address, and written copies of consulting arrangements.
 - A) For the purposes of this Section, "associated" means employed by or in a contractual relationship with a clinical or operational management company.
 - B) The applicant shall submit to the Department written copies of all employment agreements and contracts in effect between the applicant and a clinical or operational management company. If, following the time of application, an applicant becomes employed by or enters into a contractual relationship with a clinical or operational management company, he or she shall inform the Department and submit all required documentation to the Department;
- 6) The name and address of the owner or owners of the facility premises, if the applicant is leasing or renting;
- 7) A written plan of operation as specified in Section 380.720;
- 8) A financial statement setting forth the financial condition of the applicant, demonstrating that the applicant's ability to maintain *the minimum financial or other resources necessary to meet the standards established under the Act* and this Part (Section 2-101(7) of the Act);
- 9) Documentation that a needs assessment survey was performed within the community in which the facility is located, justifying the levels of service

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

to be provided; and

- 10) A non-refundable license fee of \$5,700.

(Source: Amended at 43 Ill. Reg. 1651, effective January 18, 2019)

Section 380.710 Application Process and Requirements for a Provisional License

- a) *A provisional license shall be valid upon fulfilling the requirements established by the Department in this Part. The license shall remain valid as long as a facility remains in compliance with the licensure provisions established in this Part. (Section 4-105 of the Act)*
- b) *Provisional licenses issued upon initial licensure as a specialized mental health rehabilitation facility shall expire at the end of a 3-year period, which commences on the date the provisional license is issued. Issuance of a provisional license for any reason other than initial licensure (including, but not limited to, change of ownership, location, number of beds, or services) shall not extend the maximum 3-year period, at the end of which a facility must be licensed pursuant to the Act and this Part. (Section 4-105 of the Act)*
- c) *Notwithstanding any other provision of the Act or this Part to the contrary, if a facility has received notice from the Department that its application for provisional licensure to provide recovery and rehabilitation services has been accepted as complete and the facility has attested in writing to the Department that it will comply with the staff training plan approved by DHS-DMH, then a provisional license for recovery and rehabilitation services will be issued to the facility within 60 days after the Department determines that the facility is in compliance with the requirements of Chapter 33 of NFPA 101 in accordance with Section 4-104.5 of the Act. (Section 4-105 of the Act)*
- db) When an application for a provisional license and certification of any of the four programs identified in the Act and in Subpart B is submitted pursuant to this Part, the Department will notify the applicant in writing within 30 days after receipt of the application as to whether the application is complete and accepted for filing, or whether the application is incomplete, and what specific information or documentation is required to complete the application.
- ee) If the applicant fails to respond within 30 days after being notified that the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Department needs additional information or documentation, the applicant shall be considered to have withdrawn the application. Any applicant considered to have withdrawn an application may reapply by submitting a new application.

- f) The Department shall notify an applicant in writing, within 60 days following the acceptance of an application, of the Department's decision to approve or deny the application.
- g) If the Department fails to notify an applicant by the end of the 60-day time period, the applicant may request, in writing, a review by the Director. The written request shall include:
- 1) An identification of the applicant;
 - 2) The date the application was submitted;
 - 3) A copy of any correspondence between the Department and the applicant regarding the application; and
 - 4) Any other information the applicant wishes to submit regarding the timeliness of the Department's consideration of the application.
- h) The Department shall notify an applicant immediately upon denial of any application for provisional licensure. The notice shall be in writing and shall include:
- 1) A clear and concise statement of the basis of the denial. The statement shall include a citation to the provisions of the Act and this Part under which the application is being denied.
 - 2) A notice of the opportunity for a hearing. If the applicant desires to contest the denial of a license, it shall provide written notice to the Department of a request for a hearing within 10 days after receipt of the notice of denial. The hearing will be conducted pursuant to Sections 3-704 through 3-712 of the Nursing Home Care Act.
- i) Requirements for Provisional Licensure
- 1) DHS-DMH will advise the applicants of the training that shall be

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

completed prior to the issuance of the provisional license. Limited trainings may be conducted over a three-month period following the issuance of the provisional license.

- 2) All staff shall be hired in accordance with the requirements for each level of service prior to the beginning of clinical operations for the respective levels of service after the issuance of the provisional license.
- 3) Crisis stabilization, transitional living units and recovery and rehabilitation supports units shall comply with the physical plant standards in Subpart E within three years after [the date they are issued their provisional licenses by the Department](#) ~~May 22, 2014~~. Triage centers shall comply with all physical plant standards prior to the beginning of clinical operations, after the issuance of a provisional license.

(Source: Amended at 43 Ill. Reg. 1651, effective January 18, 2019)

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

- 1) Heading of the Part: Industrial Hemp Act
- 2) Code Citation: 8 Ill. Adm. Code 1200
- 3) Register Citation to Notice of Proposed Amendments: 42 Ill. Reg. 24360; December 28, 2018
- 4) Date, Time and Location of Public Hearing:

February 5, 2018
Registration – 12:00 pm
Hearing - 1:00 pm
John R. Block Auditorium
Illinois Department of Agriculture
State Fairgrounds
801 E. Sangamon Avenue
Springfield IL 62702

- 5) Other Pertinent Information:

The hearing will be held for the purpose of gathering public comments on the Proposed Amendments. Persons interested in presenting testimony at this hearing are advised that the Department of Agriculture will adhere to the following procedures in the conduct of the hearing:

Each person presenting oral testimony must register prior to the beginning of the hearing. A registration will begin outside of the Auditorium at 12:00 pm on the date of the hearing.

Organizations are asked to select one spokesperson to present oral testimony on behalf of the organization.

The Department of Agriculture encourages each person presenting oral testimony to provide a written copy of such testimony at the time the oral testimony is presented.

To the extent that a presenter has accompanying documents with his/her presentation, a copy of those documents must be submitted. Those documents will be made part of the hearing transcript.

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

In order to facilitate the orderly conduct of the hearing and to provide for a balanced presentation of views, the hearing officer may impose such other rules of procedure as he or she deems fit and proper, including, but not limited to, adjusting the time limit or the order of presentation.

Individuals in need of interpreters or other special accommodations must contact the agency contact person at least one calendar week prior to the meeting in order to effectuate the request for special accommodations. Reasonable accommodations will be made free of charge.

6) Name and Address of Agency Contact Person:

Pamela Harmon
Illinois Department of Agriculture
State Fairgrounds, P. O. Box 19281
Springfield IL 62794-9281

217/524-6905
fax: 217/785-4505

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC HEALTH

Heading of the Part: Skilled Nursing and Intermediate Care Facilities Code

Code Citation: 77 Ill. Adm. Code 300

Section Numbers: 300.272

Date Originally Published in the *Illinois Register*: 10/19/18
42 Ill. Reg. 18553

At its meeting on January 15, 2019, the Joint Committee on Administrative Rules considered the above-referenced rulemaking and recommended that the Department of Public Health be more timely in reflecting statutory requirements in rule. PA 98-104 became effective 7/22/13.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC HEALTH

Heading of the Part: Sheltered Care Facilities Code

Code Citation: 77 Ill. Adm. Code 330

Section Numbers: 330.272

Date Originally Published in the *Illinois Register*: 10/19/18
42 Ill. Reg. 18568

At its meeting on January 15, 2019, the Joint Committee on Administrative Rules considered the above-referenced rulemaking and recommended that the Department of Public Health be more timely in reflecting statutory requirements in rule. PA 98-104 became effective 7/22/13.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC HEALTH

Heading of the Part: Lead Poisoning Prevention Code

Code Citation: 77 Ill. Adm. Code 845

<u>Section Numbers:</u>	845.10	845.100	845.160	845.250	845.350
	845.15	845.105	845.165	845.255	845.355
	845.20	845.110	845.170	845.260	845.360
	845.25	845.115	845.175	845.265	845.365
	845.55	845.120	845.200	845.270	845.App. A Exhibit a
	845.60	845.125	845.205	845.275	845.App. A Exhibit b
	845.65	845.130	845.210	845.280	845.App. B
	845.70	845.135	845.215	845.285	
	845.75	845.140	845.220	845.290	
	845.80	845.150	845.225	845.295	
	845.85	845.155	845.230	845.300	

Date Originally Published in the *Illinois Register*: 8/17/18
42 Ill. Reg. 15784

At its meeting on January 15, 2019, the Joint Committee on Administrative Rules considered the above-referenced rulemaking and recommended that, if DPH wishes to substitute the broader term "lead exposure" for "lead poisoning" in its rules, it seek a statutory change to encompass the term "lead exposure".

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF INSURANCE

Heading of the Part: Required Procedure for Filing and Securing Approval of Policy Forms

Code Citation: 50 Ill. Adm. Code 916

Section Numbers: 916.30 916.EXHIBIT A

Date Originally Published in the *Illinois Register*: 10/5/18
42 Ill. Reg. 17342

At its meeting on 1/15/19, the Joint Committee on Administrative Rules objected to the above-referenced rulemaking because DOI has not adequately addressed JCAR questions and public comment.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

NOTICE OF FAILURE TO REMEDY
RECOMMENDATION TO PROPOSED RULEMAKING

DEPARTMENT OF HUMAN SERVICES

- 1) Heading of Part: Medicaid Community Mental Health Services Program (Repealer)
- 2) Code Citation: 59 Ill. Adm. Code 132
- 3) Section Numbers:

132.10	132.85
132.15	132.95
132.25	132.100
132.30	132.105
132.35	132.110
132.40	132.115
132.45	132.120
132.50	132.125
132.55	132.130
132.60	132.135
132.65	132.140
132.70	132.145
132.75	132.150
132.80	132.155
- 4) Notice of Proposal Published in *Illinois Register*: 4/20/18; 42 Ill. Reg. 7322
- 5) Summary of Rulemaking: Repeals existing rules governing Medicaid community mental health services. These rules are being replaced by a new Part.
- 6) JCAR Action: Recommendation; 12/11/18
- 7) Basis for JCAR Action: JCAR recommended that DHS delay adoption of the new Part and repeal of the existing Part until the Department of Healthcare and Family Services is ready to adopt related amendments to 89 Ill. Adm. Code 140.
- 8) Agency Response: DHS refused to delay adoption of the new Part and the Repealer and adopted both effective 1/1/19.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

NOTICE OF FAILURE TO REMEDY
RECOMMENDATION TO PROPOSED RULEMAKING

DEPARTMENT OF HUMAN SERVICES

- 1) Heading of Part: Medicaid Community Mental Health Services Program (New Part)
- 2) Code Citation: 59 Ill Adm Code 132
- 3) Section Numbers:

132.10	132.85
132.15	132.95
132.25	132.100
132.30	132.105
132.35	132.110
132.40	132.115
132.45	132.120
132.50	132.125
132.55	132.130
132.60	132.135
132.65	132.140
132.70	132.145
132.75	132.150
132.80	132.155
- 4) Notice of Proposal Published in *Illinois Register*: 4/20/18; 42 Ill. Reg. 7408
- 5) Summary of Rulemaking: New Part containing certification requirements and process for Medicaid community mental health services replaces the former 59 Ill. Adm. Code 132
- 6) JCAR Action: Recommendation; 12/11/18
- 7) Basis for JCAR Action: JCAR recommended that DHS delay adoption of the new Part and repeal of the existing Part until the Department of Healthcare and Family Services is ready to adopt related amendments to 89 Ill. Adm. Code 140.
- 8) Agency Response: DHS refused to delay adoption of the new Part and the Repealer and adopted both effective 1/1/19.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

NOTICE OF FAILURE TO REMEDY
OBJECTION TO PROPOSED RULEMAKING

POLLUTION CONTROL BOARD

- 1) Heading of Part: Emissions Reduction Market System
- 2) Code Citation: 35 Ill Adm Code 205
- 3) Section Numbers: 205.115
- 4) Notice of Proposal Published in *Illinois Register*: 4/13/18; 42 Ill. Reg. 6572
- 5) Summary of Rulemaking: Sunsets, effective 4/30/18, the Emissions Reduction Market System (ERMS).
- 6) JCAR Action: Objection; 11/13/18; 42 Ill. Reg. 51475
- 7) Basis for JCAR Action: JCAR objected to this rulemaking because it sets a retroactive sunset date for the system that predates any possible adoption date for this rulemaking. It also objected to EPA's implementation of the policy stated in this rulemaking prior to the rulemaking's adoption by PCB, and further recommended that, if PCB and EPA believe this program is no longer warranted, they seek repeal of Sec. 9.8 of the Environmental Protection Act, which requires EPA to design and carry out an emissions reductions market program.
- 8) Agency Response: PCB stated that retroactively sunsetting the program does not impose retroactive obligations on system participants because EPA already shut down the program. Regarding EPA's shutting down the program before the rule change was effective, PCB noted that it is only responding for itself and thus does not need to respond to this Objection. Regarding the Recommendation, PCB argues that Sec. 9.8 does not require the operation of an emissions market system because Sec. 9.8(c)(2) prohibits emissions reductions below what is necessary to achieve the NAAQS and, since the current VOM emissions levels have been reduced by command-and-control measures below what ERMS is able to achieve, clearly ERMS is not necessary to achieve NAAQS.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

AGENCY RESPONSE TO JOINT COMMITTEE OBJECTION TO AND SUSPENSION
OF EMERGENCY RULE

Heading of the Part: Rules for Administration of the Compassionate Use of Medical Cannabis Pilot Program

Code Citation: 68 Ill. Adm. Code 1290

Section Numbers: 1290.10 1290.110 1290.300 1290.420 1290.450
1290.30 1290.120 1290.320 1290.425 1290.500
1290.40 1290.140 1290.400 1290.430 1290.510
1290.50 1290.200 1290.405 1290.431 1290.540
1290.70 1290.210 1290.410 1290.440 1290.550
1290.100 1290.230 1290.415 1290.445

Date Notice of Emergency Rules published in the *Illinois Register*: 42 Ill. Reg. 23202;
December 14, 2018

Date of JCAR Statement of Objection and Filing Suspension published in the *Illinois Register*:
42 Ill. Reg. 24277; December 21, 2018

Summary of Action Taken by the Agency: At its meeting on December 11, 2018, the Joint Committee on Administrative Rules voted to object to and suspend specific portions of the emergency rules filed by the Department on December 1, 2018 entitled Rules for the Administration of the Compassionate Use of Medical Cannabis Pilot Program and to notify the Secretary of State of the suspension of those specific portions of the emergency rules. The Committee suspended all provisions of the rule that do not directly implement the Opioid Alternative Pilot Program as established by P.A. 100-1114. The Department, in accordance with 5 ILCS 100/5-125(a), has agreed to not repeal or modify its emergency rule based on JCAR's objection contained in its December 11, 2018 correspondence to the Department. Further, in accordance with 5 ILCS 100/5-120(c)(1), the Department has agreed to not repeal the emergency rules, thus leaving the emergency language, with the suspended provisions removed, on file. The current emergency language, with the suspended provisions removed, can be found on the General Assembly's website (www.ilga.gov) under Administrative Code, Title 68, Part 1290.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

AGENCY RESPONSE TO JOINT COMMITTEE STATEMENT OF RECOMMENDATION
TO EXISTING RULE

Heading of the Part: Wholesale Drug Distribution Licensing Act

Code Citation: 68 Ill. Adm. Code 1510

Section Number: 1510.10

Agency Response to Specific Joint Committee Objections: The Department has noted the Committee's concerns and subsequent recommendations and will take them under advisement in considering future changes.

ILLINOIS DEPARTMENT OF LABOR

NOTICE OF PUBLIC INFORMATION

NOTICE OF DEBARMENT DUE TO VIOLATION OF THE PREVAILING WAGE ACT

1. Statutory Authority: 820 ILCS 130/11a
2. Name of Contractor: National Roofing Corporation
3. Date of Violation: October 17, 2018
4. Description of Violation: National Roofing Corporation failed to keep or maintain workers starting and ending times of work each day.
5. Summary of Action Taken by the Agency: National Roofing is prohibited from participating in any public works project for 4 years from the Date of Violation.

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENT

NOTICE PURSUANT TO 415 ILCS 5/7.2(b)

Section 10(H) of the Environmental Protection Act (Act) (415 ILCS 5/10(H) (2018)) requires the Illinois Pollution Control Board (Board) to adopt regulations that are "identical in substance" to National Ambient Air Quality Standards (NAAQS) adopted by the United States Environmental Protection Agency (USEPA). These USEPA rules implement section 109 of the federal Clean Air Act (42 U.S.C. 7409 (2017)). The federal NAAQS regulations are found at 40 C.F.R. 50.

Section 10(H) also provides that Title VII of the Act (415 ILCS 5/26 *et seq.* (2016)) and Section 5-35 of the Administrative Procedure Act (5 ILCS 100/5-35 (2018)) do not apply to the Board's adoption of identical-in-substance regulations.

Section 7.2(a) of the Act (415 ILCS 5/7.2(a) (2018)) requires the Board to complete its identical-in-substance rulemaking actions within one year after the date of the USEPA action on which they are based. Section 7.2(b) allows the Board to extend the adoption deadline by causing *Illinois Register* publication of a notice of the extension and reasons for delay.

On January 17, 2019, the Board adopted an order in docket R19-6 that set forth reasons for delay in updating 35 Ill. Adm. Code 243 and extended the due date for final Board action in this rulemaking. The Board stated as follows:

ORIGINAL DEADLINE FOR FINAL BOARD ACTION

Under Section 7.2(b) of the Environmental Protection Act (Act) (415 ILCS 5/7.2(b) (2016)), the deadline for the Board to complete this NAAQS update is based on a USEPA action on February 13, 2018. This was the earliest federal amendment included in R19-6. As the Board's deadline is one year from that date, the Board must file its final amendments with the Office of the Secretary of State by February 13, 2019.

REASONS FOR DELAY AND EXTENSION OF DEADLINE

The Board held a public hearing on the proposed amendments on January 10, 2019. The Board expects that the Illinois Environmental Protection Agency (Illinois EPA) will submit these amendments to USEPA to be included in the Illinois state implementation plan (SIP) under the federal Clean Air Act (42 U.S.C. 7401 *et seq.* (2017) and implementing USEPA regulations. The Clean Air Act and implementing regulations require Illinois to offer opportunity for public hearing before submitting a SIP revision. 42 U.S.C. 7410(a) (2017); 40 C.F.R.

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENT

51.102 and appendix V (2018).

At hearing, the hearing officer extended the comment period until January 31, 2019 to ensure reasonable opportunity for additional comments after hearing. It is not possible for the Board to adopt amendments before the due date. The next regularly scheduled Board meeting after the end of the extended comment period is on February 14, 2019. The Board cannot meet the February 13, 2019 due date.

For the above reasons, the Board extends the due date for final Board action until March 1, 2019. This will allow the Board the added time needed to adopt amendments and file them with the Office of the Secretary of State.

EXECUTIVE ORDERS

2019-1**EXECUTIVE ORDER STRENGTHENING THE STATE'S COMMITMENT TO
EFFECTIVE AND TRANSPARENT GOVERNMENT IN
COMPLIANCE WITH THE LAWS**

WHEREAS, the agencies of the State of Illinois provide services and oversee programs that are critical to the health, safety and welfare of the people of this State; and

WHEREAS, the people of Illinois are entitled to demand that the State agencies operate efficiently, effectively and in full compliance with the laws; and

WHEREAS, the people of Illinois deserve the opportunity to review data regarding the performance of the agencies and to assess how the agencies are fulfilling their mission to serve the public; and

WHEREAS, in many instances over the last four years, agencies have failed to publish data that would allow the people of this State to determine the effectiveness and efficiency of government services, depriving Illinois taxpayers of the ability to hold their government accountable;

WHEREAS, Illinois government must uncover and address the failures of the previous administration head-on, get back to the basics of effective governing and create a plan to move our state forward into a new day; and

WHEREAS, the people of Illinois deserve to be served by agencies who hold themselves to the highest degree of transparency accountability standards; and

THEREFORE, I, JB Pritzker, Governor of Illinois, by virtue of the executive authority vested in me by Article V of the Constitution of the State of Illinois, hereby order as follows:

I. Definitions

As used in this Executive Order, "State Agency" means any office, department, agency, board, commission or authority of the Executive Branch of the State of Illinois under the jurisdiction of the Governor.

II. Review of Compliance with Statutory Mandates

Every State Agency shall, within 60 days of the effective date of this Executive Order, conduct a review of (a) all statutory obligations, and (b) all audit findings within the last four years and provide a plan to the Office of the Governor detailing steps to ensure statutory compliance and to address audit findings.

EXECUTIVE ORDERS

III. Review of and Compliance with Transparency and Data Publication Laws

Every State Agency, shall, within 30 days of the effective date of this Executive Order, conduct a comprehensive review of laws and regulations requiring the publication of data and take action to ensure compliance with these laws and regulations.

IV. Review of Publication Practices to Increase Transparency

Every State Agency shall, within 60 days of the effective date of this Executive Order, conduct a comprehensive review of its practices regarding the publication of data, including an analysis of past practices involving greater data disclosure, and provide a report to the Office of the Governor detailing plans to increase transparency by making more data accessible to the public.

V. Savings Clause

Nothing in this Executive Order shall be construed to contravene any federal or State law or regulation. Nothing in this Executive Order shall affect or alter the existing statutory powers of any State agency or be construed as a reassignment or reorganization of any State agency.

VI. Prior Executive Orders

This Executive Order supersedes any contrary provision of any other prior Executive Order.

VII. Severability Clause

If any part of this Executive Order is found to be invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. The provisions of this Executive Order are severable.

VIII. Effective Date

This Executive Order shall take effect immediately upon its filing with the Secretary of State.

Issued by Governor: January 15, 2019

Filed with Secretary of State: January 15, 2019

2019-2

EXECUTIVE ORDER STRENGTHENING WORKING FAMILIES

EXECUTIVE ORDERS

WHEREAS, the economy of Illinois is powered by hardworking families in every corner of the state; and

WHEREAS, the laws and policies that impact working families should reflect their importance to our State and create sustainable economic opportunity for the middle class and those striving to get to the middle class; and

WHEREAS, labor unions are vital partners in Illinois' efforts to build a strong middle class; and

WHEREAS, Illinois should enforce the laws and policies that protect, support and strengthen working families; and

WHEREAS, in addition to strengthening working families, the State of Illinois has a compelling interest in awarding public works contracts in a manner that ensures the highest standards of quality and efficiency at the lowest responsible cost; and

WHEREAS, a project labor agreement, a pre-hire collective bargaining agreement covering all terms and conditions of employment on a specific project, can ensure that public works projects proceed with the highest standards of quality and efficiency at the lowest responsible cost; and

WHEREAS, the State of Illinois has a compelling interest in having a highly skilled workforce employed on public works projects to ensure lower costs over the lifetime of the completed project for construction, repairs and maintenance; and

WHEREAS, project labor agreements provide the State with an assurance that public works projects will be completed with highly skilled workers; and

WHEREAS, project labor agreements provide for peaceful, orderly and mutually binding procedures for resolving labor issues without labor disruption, which historically has resulted in significant lost time on construction projects; and

WHEREAS, project labor agreements allow public agencies to predict more accurately the actual cost of the public works project; and

WHEREAS, the use of project labor agreements can be of specific benefit to complex construction projects; and

WHEREAS, equity in the workplace is vital to ensuring every Illinoisan can work with dignity for fair wages; and

EXECUTIVE ORDERS

WHEREAS, in many instances over the last four years, Illinois government has failed working families and actively pursued policies to undermine the protections for working families' and the rights of workers; and

WHEREAS, Illinois government must address these failures and take action to ensure that all offices, departments, agencies, boards, commissions and authorities of the Executive Branch are striving to strengthen the rights of and opportunities for workers;

THEREFORE, I, JB Pritzker, Governor of Illinois, by virtue of the executive authority vested in me by Article V of the Constitution of the State of Illinois, hereby order as follows:

I. Definitions

As used in this Executive Order, "State Agency" means any office, department, agency, board, commission or authority of the Executive Branch of the State of Illinois under the jurisdiction of the Governor.

II. Project Labor Agreements

All State Agencies shall immediately take action to comply with the Project Labor Agreements Act, 30 ILCS 571/1 et seq.

III. Review of Wage Cases by the Illinois Department of Labor

The Illinois Department of Labor ("Department") shall, within 60 days of the effective date of this Executive Order, review all pending cases under the wage laws, including the Wage Payment and Collection Act, the Minimum Wage Law, and the Day and Temporary Labor Services Act.

For cases under the Wage Payment and Collection Act, the Department shall (a) refer egregious and repeated violations directly to the Office of the Illinois Attorney General for civil prosecution, and (b) take action to ensure that all other cases are proceeding quickly to binding administrative hearings and, then, are referred to the Office of the Illinois Attorney General for enforcement of the administrative decision.

For cases under all other wage laws, the Department shall review and assess all pending cases and take action to (a) when possible, resolve them, or (b) when not possible to resolve them, refer them as quickly as possible to the Office of the Illinois Attorney General for civil prosecution.

IV. Increase Workplace Equity in State Government

EXECUTIVE ORDERS

The Department of Central Management Services and the Department of Human Rights shall review the State's pay plan to eliminate bias generated by asking employees for salary history, which often disadvantages women, with women of color experiencing the most inequity.

V. Savings Clause

Nothing in this Executive Order shall be construed to contravene any federal or State law or regulation. Nothing in this Executive Order shall affect or alter the existing statutory powers of any State Agency or be construed as a reassignment or reorganization of any State Agency.

VI. Prior Executive Orders

This Executive Order supersedes any contrary provision of any other prior Executive Order.

VII. Severability Clause

If any part of this Executive Order is found to be invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. The provisions of this Executive Order are severable.

VIII. Effective Date

This Executive Order shall take effect immediately upon its filing with the Secretary of State.

Issued by Governor: January 15, 2019

Filed with Secretary of State: January 15, 2019

PROCLAMATIONS

2019-1**Flag Lowering – Trooper Lambert**

WHEREAS, all Illinois residents owe a debt of gratitude to the men and women of law enforcement who selflessly serve to protect our lives and keep our families and communities safe; and,

WHEREAS, every day, these men and women face great risks and often put their lives in danger to perform their duties; and,

WHEREAS, on Saturday, January 12, 2019, 34-year-old Illinois State Police Trooper Christopher Lambert was killed in the line of duty when responding to a traffic accident on I-294; and,

WHEREAS, after serving for eight years in the United States Army, Trooper Lambert joined the Illinois State Police in 2013, earning numerous certificates of recognition for his exemplary service; and

WHEREAS, Trooper Lambert is survived by his wife, Halley, his daughter, Delaney, his father, Joseph Lambert, and his mother, Martha Lambert, as well as many family and friends; and,

WHEREAS, a funeral service for Trooper Lambert will be held on Friday, January 18, 2019, at Willow Creek Community Church in South Barrington, Illinois;

THEREFORE, I, JB Pritzker, Governor of the State of Illinois, do hereby order all persons or entities governed by the Illinois Flag Display Act to fly their flags at half-staff from sunrise on Wednesday, January 16, 2019, until sunset on Friday, January 18, 2019, in honor and remembrance of Illinois State Police Trooper Christopher Lambert whose selfless service and sacrifice shall forever be an inspiration to the people of Illinois.

Issued by the Governor: January 15, 2019

Filed by the Secretary of State: January 15, 2019

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 43, Issue 5 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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92 - 1030	1491
80 - 1650	1500

ADOPTED RULES

56 - 2720	1/15/2019	1523
56 - 2725	1/15/2019	1537
56 - 2732	1/15/2019	1560
56 - 2760	1/15/2019	1566
56 - 2765	1/15/2019	1585
56 - 2790	1/15/2019	1606
56 - 2830	1/15/2019	1610
17 - 110	1/17/2019	1624
77 - 265	1/18/2019	1633
77 - 380	1/18/2019	1651

JCAR REVIEW OF EXISTING RULES

STATEMENT OF RECOMMENDATIONS

77 - 300	1663
77 - 330	1664
77 - 845	1665

JCAR REVIEW OF EXISTING RULES

STATEMENT OF OBJECTIONS

50 - 916	1666
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NOTICE OF FAILURE TO REMEDY

JCAR OBJECTIONS

59 - 132	1667
59 - 132	1668
35 - 205	1669

EXECUTIVE ORDERS AND

PROCLAMATIONS

19 - 1	1/15/2019	1675
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19 - 2	1/15/2019	1676
19 - 1	1/15/2019	1680

**OTHER INFORMATION REQUIRED BY
LAW TO BE PUBLISHED IN THE
ILLINOIS REGISTER**

68 - 1290	1670
68 - 1510	1671