
ILLINOIS

REGISTER



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TABLE OF CONTENTS

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PROPOSED RULES

CAPITAL DEVELOPMENT BOARD

Illinois Energy Conservation Code

71 Ill. Adm. Code 600.....12425

PUBLIC HEALTH, DEPARTMENT OF

Hospital Report Card Code

77 Ill. Adm. Code 255.....12460

STATE BOARD OF ELECTIONS

Administrative Complaint Procedures for Violations of
Title III of HAVA

26 Ill. Adm. Code 150.....12475

Established Political Party and Independent Candidate

Nominating Petitions

26 Ill. Adm. Code 201.....12485

New Political Party Nominating Petitions

26 Ill. Adm. Code 202.....12490

ADOPTED RULES

COMMERCE COMMISSION, ILLINOIS

Standards of Service for Gas Utilities and Alternative Gas Suppliers

83 Ill. Adm. Code 501.....12494

INSURANCE, DEPARTMENT OF

Coordination of Benefits

50 Ill. Adm. Code 2009.....12548

Health Carrier External Review

50 Ill. Adm. Code 5430.....12577

PUBLIC HEALTH, DEPARTMENT OF

Rules Governing the Reporting of Reye's Syndrome (Repealer)

77 Ill. Adm. Code 663.....12584

Control of Communicable Diseases Code

77 Ill. Adm. Code 690.....12586

REVENUE, DEPARTMENT OF

Retailers' Occupation Tax

86 Ill. Adm. Code 130.....12597

STATE TOLL HIGHWAY AUTHORITY, ILLINOIS

State Toll Highway Rules

92 Ill. Adm. Code 2520.....12640

NOTICE OF CORRECTION TO NOTICE ONLY

INSURANCE, DEPARTMENT OF

Surplus Line Business Requirements

50 Ill. Adm. Code 2801.....12650

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

| | |
|---|-------|
| HEALTHCARE AND FAMILY SERVICES, DEPARTMENT OF | |
| Medical Payment (Withdrawal) | |
| 89 Ill. Adm. Code 140..... | 12651 |
| JOINT COMMITTEE ON ADMINISTRATIVE RULES AGENDA | |
| JOINT COMMITTEE ON ADMINISTRATIVE RULES | |
| September Agenda..... | 12652 |
| SECOND NOTICES RECEIVED | |
| JOINT COMMITTEE ON ADMINISTRATIVE RULES | |
| Second Notices Received..... | 12657 |

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 2015

| Issue# | Rules Due Date | Date of Issue |
|--------|-------------------|-------------------|
| 1 | December 22, 2014 | January 2, 2015 |
| 2 | December 29, 2014 | January 9, 2015 |
| 3 | January 5, 2015 | January 16, 2015 |
| 4 | January 12, 2015 | January 23, 2015 |
| 5 | January 20, 2015 | January 30, 2015 |
| 6 | January 26, 2015 | February 6, 2015 |
| 7 | February 2, 2015 | February 13, 2015 |
| 8 | February 9, 2015 | February 20, 2015 |
| 9 | February 17, 2015 | February 27, 2015 |
| 10 | February 23, 2015 | March 6, 2015 |
| 11 | March 2, 2015 | March 13, 2015 |
| 12 | March 9, 2015 | March 20, 2015 |
| 13 | March 16, 2015 | March 27, 2015 |
| 14 | March 23, 2015 | April 3, 2015 |
| 15 | March 30, 2015 | April 10, 2015 |
| 16 | April 6, 2015 | April 17, 2015 |
| 17 | April 13, 2015 | April 24, 2015 |
| 18 | April 20, 2015 | May 1, 2015 |
| 19 | April 27, 2015 | May 8, 2015 |

| | | |
|----|--------------------|--------------------|
| 20 | May 4, 2015 | May 15, 2015 |
| 21 | May 11, 2015 | May 22, 2015 |
| 22 | May 18, 2015 | May 29, 2015 |
| 23 | May 26, 2015 | June 5, 2015 |
| 24 | June 1, 2015 | June 12, 2015 |
| 25 | June 8, 2015 | June 19, 2015 |
| 26 | June 15, 2015 | June 26, 2015 |
| 27 | June 22, 2015 | July 6, 2015 |
| 28 | June 29, 2015 | July 10, 2015 |
| 29 | July 6, 2015 | July 17, 2015 |
| 30 | July 13, 2015 | July 24, 2015 |
| 31 | July 20, 2015 | July 31, 2015 |
| 32 | July 27, 2015 | August 7, 2015 |
| 33 | August 3, 2015 | August 14, 2015 |
| 34 | August 10, 2015 | August 21, 2015 |
| 35 | August 17, 2015 | August 28, 2015 |
| 36 | August 24, 2015 | September 4, 2015 |
| 37 | August 31, 2015 | September 11, 2015 |
| 38 | September 8, 2015 | September 18, 2015 |
| 39 | September 14, 2015 | September 25, 2015 |
| 40 | September 21, 2015 | October 2, 2015 |
| 41 | September 28, 2015 | October 9, 2015 |
| 42 | October 5, 2015 | October 16, 2015 |
| 43 | October 13, 2015 | October 23, 2015 |
| 44 | October 19, 2015 | October 30, 2015 |
| 45 | October 26, 2015 | November 6, 2015 |
| 46 | November 2, 2015 | November 13, 2015 |
| 47 | November 9, 2015 | November 20, 2015 |
| 48 | November 16, 2015 | November 30, 2015 |
| 49 | November 23, 2015 | December 4, 2015 |
| 50 | November 30, 2015 | December 11, 2015 |
| 51 | December 7, 2015 | December 18, 2015 |
| 52 | December 14, 2015 | December 28, 2015 |

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Illinois Energy Conservation Code
- 2) Code Citation: 71 Ill. Adm. Code 600
- 3)

| <u>Section Numbers:</u> | <u>Proposed Actions:</u> |
|-------------------------|--------------------------|
| 600.100 | Amendment |
| 600.110 | Amendment |
| 600.120 | Amendment |
| 600.200 | Amendment |
| 600.300 | Amendment |
| 600.320 | Amendment |
| 600.340 | Amendment |
| 600.400 | Amendment |
| 600.420 | Amendment |
| 600.440 | Amendment |
| 600.APPENDIX A | Amendment |
- 4) Statutory Authority: Implementing and authorized by the Capital Development Board Act [20 ILCS 3105] and the Energy Efficient Commercial Building Act [20 ILCS 3125]
- 5) A Complete Description of the Subjects and Issues Involved: The Energy Efficient Building Act requires the adoption of latest published edition of the International Code Council's International Energy Conservation Code (IECC) as the energy code for Illinois. This rulemaking updates the version of the Code from the 2012 IECC to the 2015 IECC.

The Act allows the CDB to appropriately adapt the IECC for economic, geographical, climate, etc., considerations. The Board, through the addition of Appendix A in this Part, is recommending adaptations to various Sections of the 2015 IECC. This Appendix supplants and adds Sections on administration, definitions, and various technical Sections related to building envelope; additions, alterations and repairs of existing buildings; alternative compliance methods; and ventilation requirements for residential buildings.

The rules were also altered to allow for travel reimbursement for Illinois Energy Conservation Advisory Council members; remove two exceptions for State Funded Facilities that have been addressed in a newer version of the referenced standard; and to rearrange or reword a few Sections to provide consistency.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: 2015 International Energy Conservation Code® and ANSI/ASHRAE/IES

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

Standard 90.1-2013: Energy Standard for Buildings Except Low-Rise Residential Buildings and 2012 International Residential Code

- 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 as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(6)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views or arguments concerning this proposed rulemaking in writing for a period of 45 days following publication of this Notice. All comments must be in writing and should be addressed to:

Lisa Mattingly
Administrator of Professional Services
Capital Development Board
401 S. Spring Street
3rd Floor Stratton Building
Springfield IL 62706

217/524-6408
email: lisa.mattingly@illinois.gov
fax: 217/524-4208

Comments submitted by small business should be identified as such.

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Those that are constructing, renovating or adding to commercial and residential building structures or issuing build permit applications

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

- B) Reporting, bookkeeping or other procedures required for compliance: Those necessary for regulatory compliance
 - C) Types of professional skills necessary for compliance: Licensed Design Professionals
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: the matter that is the subject of this rulemaking was not known at the time the agendas were submitted.

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

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 71: PUBLIC BUILDINGS, FACILITIES, AND REAL PROPERTY

CHAPTER I: CAPITAL DEVELOPMENT BOARD

SUBCHAPTER d: ENERGY CODES

PART 600

ILLINOIS ENERGY CONSERVATION CODE

SUBPART A: GENERAL

Section

| | |
|---------|---|
| 600.100 | Definitions |
| 600.110 | Adoption and Modification of the Code |
| 600.120 | Illinois Energy Conservation Advisory Council |
| 600.130 | Revisions to the Code |

SUBPART B: STATE FUNDED FACILITIES

Section

| | |
|---------|---------------------------------------|
| 600.200 | Standards for State Funded Facilities |
| 600.210 | Request for Variance |
| 600.220 | Compliance |

SUBPART C: PRIVATELY FUNDED COMMERCIAL FACILITIES

Section

| | |
|---------|--|
| 600.300 | Standards for Privately Funded Commercial Facilities |
| 600.310 | Exemptions |
| 600.320 | Local Jurisdiction |
| 600.330 | Compliance |
| 600.340 | Application to Home Rule Units |

SUBPART D: RESIDENTIAL BUILDINGS

Section

| | |
|---------|-------------------------------------|
| 600.400 | Standards for Residential Buildings |
| 600.410 | Exemptions |
| 600.420 | Local Jurisdiction |
| 600.430 | Compliance |
| 600.440 | Application to Home Rule Units |

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

600.APPENDIX A Supplanted and Additional ~~2015~~~~2012~~ International Energy Conservation Code Sections

AUTHORITY: Implementing and authorized by the Capital Development Board Act [20 ILCS 3105] and the Energy Efficient Building Act [20 ILCS 3125].

SOURCE: Adopted by emergency rulemaking at 28 Ill. Reg. 11355, effective July 26, 2004, for a maximum of 150 days; emergency rules expired December 22, 2004; adopted at 29 Ill. Reg. 777, effective January 1, 2005; new Part adopted by emergency rulemaking at 29 Ill. Reg. 5736, effective April 8, 2005, for a maximum of 150 days; emergency expired September 4, 2005; emergency rulemaking repealed at 29 Ill. Reg. 6093, effective April 18, 2005, for a maximum of 150 days; emergency expired September 14, 2005; old Part repealed at 29 Ill. Reg. 16414 and new Part adopted at 29 Ill. Reg. 14790, effective April 8, 2006; amended at 31 Ill. Reg. 14422, effective October 9, 2007; emergency amendment at 33 Ill. Reg. 12407, effective August 18, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 16702, effective November 23, 2009; emergency rulemaking at 34 Ill. Reg. 2582, effective January 29, 2010, for a maximum of 150 days; emergency expired June 27, 2010; amended at 34 Ill. Reg. 11398, effective July 26, 2010; amended at 37 Ill. Reg. 789, effective January 11, 2013; amended at 37 Ill. Reg. 12822, effective July 23, 2013; amended at 39 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 600.100 Definitions

Definitions of terms in the International Energy Conservation Code, incorporated by reference in Subpart C of this Part, apply, as do the following definitions:

"Act" means the Capital Development Board Act [20 ILCS 3105].

"Authority Having Jurisdiction" or "AHJ" means the organization, office or individual responsible for approving equipment, materials, an installation or procedure.

"CDB" or "Board" means the Illinois Capital Development Board.

"Commercial Facility" means any building except a building that is classified as a residential building. [20 ILCS 3125/10]

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

"Council" means the Illinois Energy Conservation Advisory Council appointed under Subpart B of this Part and whose purpose it is to recommend modifications to the *Illinois Energy Conservation Code*.

"EEB Act" means the Energy Efficient Building Act [20 ILCS 3125].

"IECC" means the International Energy Conservation Code.

"Illinois Energy Conservation Code" or "Code" means:

With respect to the State facilities covered by Subpart B:

This Part, all additional requirements incorporated within Subpart B (including ASHRAE 90.1 Standards), and any statutorily authorized adaptations to the incorporated standards adopted by CDB;

With respect to the privately funded commercial facilities covered by Subpart C:

This Part, all additional requirements incorporated within Subpart C (including the ~~2015~~2012 International Energy Conservation Code that encompasses ASHRAE 90.1, including all published errata but excluding published supplements, ~~which encompasses ASHRAE 90.1~~), and any statutorily authorized adaptations to the incorporated standards adopted by CDB; and

With respect to the residential buildings covered by Subpart D:

This Part, all additional requirements incorporated within Subpart D (including the ~~2015~~2012 International Energy Conservation Code, including all published errata but excluding published supplements) and any statutorily authorized adaptations to the incorporated standards adopted by CDB.

"Municipality" means any city, village or incorporated town. [20 ILCS 3125/10]

"Professional Services Agreement" means the contract for services entered into by CDB and design professionals.

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

"Residential Building" means a detached one-family or 2-family dwelling or any building that is 3 stories or less in height above grade that contains multiple dwelling units, in which the occupants reside on a primarily permanent basis, such as a townhouse, a row house, an apartment house, a convent, a monastery, a rectory, a fraternity or sorority house, a dormitory, and a rooming house; provided, however, that when applied to a building located within the boundaries of a municipality having a population of 1,000,000 or more, the term "residential building" means a building containing one or more dwelling units, not exceeding 4 stories above grade, where occupants are primarily permanent. [20 ILCS 3125/10]

"State Funded Building" means and includes buildings under the jurisdiction of each officer, department, board, commission, institution and body politic and corporate of the State, including the Illinois Building Authority, school districts, and any other person expending or encumbering State or federal funds by virtue of an appropriation or other authorization by the General Assembly or federal authorization or grant. This includes State funded housing, hospitals, penitentiaries, laboratories, educational facilities, administrative facilities, recreational facilities, environmental equipment and parking facilities [20 ILCS 3105/4.01].

"Using Agency" means the State agency using facilities described in Section 4.01 of the Act.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 600.110 Adoption and Modification of the Code

- a) The purpose of the Illinois Energy Conservation Code is to implement Section 10.09-5 of the Capital Development Board Act [20 ILCS 3105/10.09-5], which requires CDB to adopt rules implementing a statewide Energy Code. Additionally, Section 15 of the Energy Efficient Building Act [20 ILCS 3125/15] requires CDB to officially adopt, as a minimum requirement, the 2012 International Energy Conservation Code, including all published errata but excluding any published supplements, to apply that Code to all commercial structures in Illinois, and to assist local code officials with enforcing the requirements of the Code. The ~~2015~~2012 Illinois Energy Conservation Code will become effective on January 1, 2013.

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

- b) This Code as described in Subpart B (State facilities) is effective July 26, 2004. This Code as described in Subpart C (privately-funded commercial facilities) is effective April 8, 2007. The Code as described in Subpart D (residential buildings) is effective January 29, 2010.
- c) Application of the Code
 - 1) State Facilities. The Code as described in Subpart B of this Part applies to all State facilities for which money has been appropriated or authorized by the General Assembly.
 - 2) Privately Funded Commercial Facilities and Residential Buildings. The Code as described in Subparts C and D of this Part applies *to any new building or structure in this State for which a building permit application is received by a municipality or county.* [20 ILCS 3125/20]
 - A) *Additions, alterations, renovations or repairs to an existing building, building system or portion thereof shall conform to the provisions of the Code as they relate to new construction without requiring the unaltered portion of the existing building or building system to comply with the Code.* [20 ILCS 3125/20(c)]
 - B) All exceptions listed in the Code related to additions, alterations, renovations or repairs to an existing building are acceptable provided the energy use of the building is not increased.
- d) This Code, together with the standards incorporated by reference in this Part, has the force of a building code and is administrative law applicable in the State of Illinois.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 600.120 Illinois Energy Conservation Advisory Council

- a) The Executive Director of the Capital Development Board shall appoint an Advisory Council. The Council shall be composed of the Executive Director or his or her authorized representative, who shall serve as Chairman ex-officio, and 11 additional members appointed by the Executive Director. The appointed

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

members shall consist of 1 person representing the Department of Commerce and Economic Opportunity; 2 persons representing the residential construction contracting industry; 2 licensed architects; 1 licensed mechanical engineer; 1 licensed electrical engineer; 2 persons representing local code officials; and 2 persons representing the construction contracting industry. Members of the Council shall be appointed for 4 year terms. The members appointed by the Executive Director shall serve for the term of their appointments and may be reappointed upon expiration of the term. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of the term.

- b) The Council shall meet as frequently as the Chairman deems necessary, but at least once each year. Additional meetings may be called by the Chairman or by 3 members of the Council upon delivery of 10 days' written notice to the mailing address of each member of the Council. Seven members of the Council shall constitute a quorum. The Chairman shall only vote to break a tie or when necessary to establish a quorum.
- c) The purpose of the Council shall be to recommend modifications to the Illinois Energy Conservation Code.
- d) Members of the Council shall serve without compensation but shall be reimbursed for reasonable travel expenses necessarily incurred in the performance of their duties.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART B: STATE FUNDED FACILITIES

Section 600.200 Standards for State Funded Facilities

- a) ANSI/ASHRAE/IESNA Standard 90.1, Energy Standard for Buildings Except Low-Rise Residential Buildings (2010), available from ASHRAE at 1791 Tullie Circle, N.E., Atlanta GA 30329, is hereby incorporated into the Illinois Energy Conservation Code, as described in this Subpart as applicable to State funded facilities, with the modifications outlined in subsection (c).

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

- b) All incorporations by reference in this Section are of the cited standards as they existed on the date specified. These incorporations include no later editions or amendments.
- c) Modifications to ASHRAE 90.1
ASHRAE 90.1 is incorporated by this Section, but with the following modifications:

- 1) ASHRAE 90.1 Section 3.2

The terms "adopting authority" and "authority having jurisdiction" shall both be read to mean the Capital Development Board.

- 2) ~~Replace Exception to 9.4.1.2c with the following:~~

~~Exceptions to 9.4.1.2c:~~

- A) ~~Remote location shall be permitted for reasons of safety or security when the remote control device has an indicator pilot light as part of or next to the control device and the light is clearly labeled to identify the controlled lighting.~~
- B) ~~Spaces not subject to partial occupancy, such as gymnasiums, cafeterias, lecture halls, etc., shall not be required to have more than one control device.~~

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART C: PRIVATELY FUNDED COMMERCIAL FACILITIES

Section 600.300 Standards for Privately Funded Commercial Facilities

- a) The ~~2015~~ 2012 International Energy Conservation Code (IECC), including published errata but excluding published supplements, available from the International Code Council at 500 New Jersey Avenue NW, 6th Floor, Washington DC 20001, phone: 1-888-ICC-SAFE (422-7233), is hereby incorporated into the Illinois Energy Conservation Code, as described in this Subpart as applicable to privately funded commercial facilities, with the modifications outlined in subsection (c).

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

- b) All incorporations by reference in this Section are of the cited standards as they existed on the date specified. These incorporations include no later editions or amendments.
- c) **Modifications to IECC**
Under Section 15 of the EEB Act, when applying the Code to privately funded commercial facilities, CDB may modify the incorporated standards to respond to the unique economy, population distribution, geography and climate of Illinois, as long as the objectives of the Act are maintained pursuant to that statutory authority. Modifications, additions or omissions to IECC are specified in Appendix A and are rules of the CDB and are not requirements of the IECC.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 600.320 Local Jurisdiction

- a) Construction projects involving privately funded commercial facilities and for which a municipality or county requires a building permit must comply with the Illinois Energy Conservation Code if the project involves new construction, addition, alteration, renovation or repair. *In the case of any addition, alteration, renovation or repair to an existing commercial structure, the Code as described by this Subpart C applies only to the portions of that structure that are being added, altered, renovated or repaired.* [20 ILCS 3125/20(a)]
- b) The local authority having jurisdiction (AHJ) shall establish its own procedures for enforcement of the Illinois Energy Conservation Code. The AHJ is authorized to enforce a building code that differs with the Code as described in this Subpart C, but any standards applied by an AHJ must be at least as stringent as the Code as described in this Subpart C.
- c) *A unit of local government that does not regulate energy efficient building standards is not required to adopt, enforce or administer the Code; however, any energy efficient building standards adopted by a unit of local government must comply with the Act. If a unit of local government does not regulate energy efficient building standards, any construction, renovation or addition to buildings or structures is still subject to the provisions contained in the Act. [\[20 ILCS 3125/20\(d\)\]](#)*

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 600.340 Application to Home Rule Units

No unit of local government, including any home rule unit, may apply energy efficient building standards to privately funded commercial facilities in a manner that is less stringent than the Code as described in this Subpart C. However, nothing in the EEB Act or this Subpart prevents a unit of local government from adopting an energy efficiency code or standards that are more stringent than this Code. [20 ILCS 3125/45(a)]

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART D: RESIDENTIAL BUILDINGS

Section 600.400 Standards for Residential Buildings

- a) The ~~2015~~ 2012 ~~International Energy Conservation Code (IECC)~~, including published errata but excluding published supplements, available from the International Code Council at 500 New Jersey Avenue NW, 6th Floor, Washington DC 20001, phone: 1-888-ICC-SAFE (422-7233), is hereby incorporated into the Illinois Energy Conservation Code, as described in this Subpart as applicable to residential buildings, with the modifications outlined in subsection (c).
- b) All incorporations by reference in this Section are of the cited standards as they existed on the date specified. These incorporations include no later editions or amendments.
- c) **Modifications to IECC**
Under Section 15 of the EEB Act, when applying the Code to residential buildings, CDB may modify the incorporated standards to respond to the unique economy, population distribution, geography and climate of Illinois, as long as the objectives of the Act are maintained pursuant to that statutory authority. Modifications, additions or omissions to IECC are specified in Appendix A and are rules of the CDB and are not requirements of the IECC.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 600.420 Local Jurisdiction

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

- a) Construction projects involving residential buildings and for which a municipality or county requires a building permit must comply with the Illinois Energy Conservation Code if the project involves new construction, addition, alteration, renovation or repair. *In the case of any addition, alteration, renovation or repair to an existing commercial structure, the Code as described by this Subpart D applies only to the portions of that structure that are being added, altered, renovated or repaired.* [20 ILCS 3125/20(a)]
- b) The local authority having jurisdiction (AHJ) shall establish its own procedures for enforcement of the ~~Illinois Energy Conservation~~ Code.
- c) *A unit of local government that does not regulate energy efficient building standards is not required to adopt, enforce or administer the Code; however, any energy efficient building standards adopted by a unit of local government must comply with the Act. If a unit of local government does not regulate energy efficient building standards, any construction, renovation or addition to buildings or structures is still subject to the provisions contained in the Act.* [20 ILCS 3125/20(d)].
- e) ~~No unit of local government, including any home rule unit, may regulate energy efficient building standards for residential buildings in a manner that is either less or more stringent than the standards established pursuant to this Subpart D.~~
 - 1) ~~However, the following entities may regulate energy efficient building standards for residential buildings in a manner that is more stringent than the provisions contained in this Subpart D:~~
 - i) ~~a unit of local government, including a home rule unit, that has, on or before May 15, 2009, adopted or incorporated by reference energy efficient building standards for residential buildings that are equivalent to or more stringent than the 2006 International Energy Conservation Code;~~
 - ii) ~~a unit of local government, including a home rule unit, that has, on or before May 15, 2009, provided to the Capital Development Board, as required by Section 55 of the Illinois Building Commission Act, an identification of an energy efficient building~~

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

~~code or amendment that is equivalent to or more stringent than the 2006 International Energy Conservation Code; and~~

~~iii) a municipality with a population of 1,000,000 or more.~~

- 2) ~~No unit of local government, including any home rule unit or unit of local government that is subject to State regulation under the Code as provided in 20 ILCS 3125/15 may enact any annexation ordinance or resolution, or require or enter into any annexation agreement, that imposes energy efficient building standards for residential buildings that are either less or more stringent than the energy efficiency standards in effect, at the time of construction, throughout the unit of local government.~~

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 600.440 Application to Home Rule Units

- a) *No unit of local government, including any home rule unit, may regulate energy efficient building standards for residential buildings in a manner that is either less or more stringent than the standards established in this Subpart D. ~~[20 ILCS 3125/45(a)]~~*
- b) *The following entities may regulate energy efficient building standards for residential buildings in a manner that is more stringent than the provisions contained in this Subpart D:*
- 1) *a unit of local government, including a home rule unit, that has, on or before May 15, 2009, adopted or incorporated by reference energy efficient building standards for residential buildings that are equivalent to or more stringent than the 2006 IECC;*
- 2) *a unit of local government, including a home rule unit, that has, on or before May 15, 2009, provided to the Capital Development Board, as required by Section 55 of the Illinois Building Commission Act [20 ILCS 3918], an identification of an energy efficient building code or amendment that is equivalent to or more stringent than the 2006 IECC; and*
- 3) *a municipality with a population of 1,000,000 or more. [20 ILCS 3125/45(b)]*

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

- c) No unit of local government, including any home rule unit or unit of local government that is subject to State regulation under the Code as provided in Section 15 of the EEB may enact any annexation ordinance or resolution, or require or enter into any annexation agreement, that imposes energy efficient building standards for residential buildings that are either less or more stringent than the energy efficiency standards in effect, at the time of construction, throughout the unit of local government. [20 ILCS 3125/45(c)]

(Source: Amended at 39 Ill. Reg. _____, effective _____)

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 600.APPENDIX A Supplanted and Additional 2015 ~~2012~~ International Energy Conservation Code Sections

The following Code sections shall be referenced in place of the corresponding 2015 ~~2012~~ IECC sections.

CHAPTER 1 [CE]
SCOPE AND ADMINISTRATION ~~ADMINISTRATION~~

SECTION C101
SCOPE AND GENERAL REQUIREMENTS

C101.1 Title. This Code shall be known as the Illinois Energy Conservation Code or ~~this~~ Code and shall mean:

With respect to the State facilities covered by 71 Ill. Adm. Code 600.Subpart B:

This Part, all additional requirements incorporated within Subpart B (including ASHRAE 90.1 Standards, including all published errata but ~~and~~ excluding published supplements that encompass ASHRAE 90.1-2013), and any statutorily authorized adaptations to the incorporated standards adopted by CDB₂ are effective November 30, 2015~~January 29, 2010~~.

With respect to the privately funded commercial facilities covered by 71 Ill. Adm. Code 600.Subpart C:

This Part, all additional requirements incorporated within Subpart C (including the 2015~~2012~~ International Energy Conservation Code, including all published errata and excluding published supplements that encompass ASHRAE 90.1-2013), and any statutorily authorized adaptations to the incorporated standards adopted by CDB₂ are effective November 30, 2015~~January 29, 2010~~.

C101.1.2 Adoption. The Board shall adopt amendments to this Code within 12 months after publication of changes to the International Energy Conservation Code. Any such update in this ~~The Board shall adopt this Code within 12 months after its publication. This Code shall take effect within 6 months after it is adopted by the Board and shall apply to any new building or structure in this State for which a building permit application is received by a municipality or county, except as otherwise provided by the EEB Act.~~

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

C101.1.3 Adaptation. The Board may appropriately adapt the International Energy Conservation Code to apply to the particular economy, population distribution, geography and climate of the State and construction within the State, consistent with the public policy objectives of the EEB Act.

C101.5 Compliance. Commercial buildings shall meet the provisions of the Illinois Energy Conservation Code covered by 71 Ill. Adm. Code 600.Subpart C. The local authority having jurisdiction (AHJ) shall establish its own procedures for enforcement of the Illinois Energy Conservation Code. Minimum compliance shall be demonstrated by submission of:

1. Compliance ~~The compliance~~ forms published in the ASHRAE 90.1 User's Manual; or
2. Compliance Certificates generated by the U.S. Department of Energy's COMCheckTM Code compliance tool; or
3. Other comparable compliance materials that meet or exceed C101.5.1 or C101.5.2, as determined by the AHJ, ~~the compliance forms published in the ASHRAE 90.1 User's Manual or the U.S. Department of Energy's COMcheck code compliance tool~~; or
4. The seal of the architect/engineer as required by Section 14 of the Illinois Architectural Practice Act [225 ILCS 305], Section 12 of the Structural Engineering Licensing Act [225 ILCS 340] and Section 14 of the Illinois Professional Engineering Practice Act [225 ILCS 325].

C102.1.1 Above Code ProgramsProgram. No unit of local government, including any home rule unit, may apply energy efficient building standards to privately funded commercial facilities in a manner that is less stringent than this Code as described in 71 Ill. Adm. Code 600.Subpart C. However, nothing in the EEB Act or ~~that~~ Subpart C prevents a unit of local government from adopting an energy efficiency code or standards that are more stringent than this Code~~the Illinois Energy Conservation Code~~. The requirements identified as "mandatory" in Chapter 4 shall be met.

**SECTION C109
BOARD OF APPEALS**

C109.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the code official relative to the application and interpretation of this Code, there may be created a board of appeals. The code official shall be an ex officio ~~ex officio~~ member of the board of appeals but shall not have a no-vote on any matter before the board. The board of

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the code official.

C109.3 Qualifications. The board of appeals shall consist of members who are qualified by experience and training.

**CHAPTER 2 [CE]
DEFINITIONS****SECTION C202
GENERAL DEFINITIONS**

"Authority Having Jurisdiction" or **"AHJ"** – means the organization, officer or individual responsible for approving equipment, materials, an installation or procedure.

"Board" – means the Illinois Capital Development Board.

"Council" – means the Illinois Energy Conservation Advisory Council whose purpose is to recommend modifications to the Illinois Energy Conservation Code.

"EEB Act" – means the Energy Efficient Building Act [20 ILCS 3125].

**CHAPTER 4 [CE]
COMMERCIAL ENERGY EFFICIENCY****SECTION C402
BUILDING ENVELOPE REQUIREMENTS**

C402.2.2 Roof Assembly. The minimum thermal resistance (*R*-value) of the insulating material installed either between the roof framing or continuously on the roof assembly shall be as specified in Table C402.1.3, based on construction materials used in the roof assembly. Skylight curbs shall be insulated to the level of roofs with insulation entirely above deck or *R*-5, whichever is less.

Exceptions:

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

1. Continuously insulated roof assemblies in which the thickness of insulation varies 1 inch (25 mm) or less and in which the area-weighted *U*-factor is equivalent to the same assembly with the *R*-value specified in Table C402.1.3.
2. When tapered insulation is used with insulation entirely above deck, the *R*-value when the insulation thickness varies 1 inch (25 mm) or less from the minimum thickness of tapered insulation shall comply with the *R*-value specified in Table C402.1.3.
3. Unit skylight curbs included as a component of a skylight listed and labeled in accordance with NFRC 100 shall not be required to be insulated.
4. For roofs on existing buildings with slope less than 2.5" in 12", refer to Section C503.1, exceptions.
5. For roofs on existing buildings, refer to Section C503.1 or C504.2.

Insulation installed on a suspended ceiling with removable ceiling tiles shall not be considered part of the minimum thermal resistance of the roof insulation.

C402.5.1 Air Barriers. A continuous air barrier shall be provided throughout the building thermal envelope. The air barriers shall be permitted to be located on the inside or outside of the building envelope, located within the assemblies composing the envelope, or any combination thereof. The air barrier shall comply with Sections C402.5.1.1 and C402.5.1.2. For roof air barriers on existing buildings, refer to Section C503.1 or C504.2.

Exception: Air barriers are not required in buildings located in Climate Zone 2B.

C402.5.1.1 Air Barrier Construction. The continuous air barrier shall be constructed to comply with the following:

1. The air barrier shall be continuous for all assemblies that are the thermal envelope of the building and across the joints and assemblies.
2. Air barrier joints and seams shall be sealed, including sealing transitions in places and changes in materials. The joints and seals shall be securely installed in or on the joint for its entire length so as not to dislodge, loosen or otherwise impair its ability to resist positive and negative pressure from wind, stack effect and mechanical ventilation.

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

3. Penetrations of the air barrier shall be caulked, gasketed or otherwise sealed in a manner compatible with the construction materials and location. Paths for air leakage from the building to the space between the roof deck and roof covering used air barrier shall be caulked, gasketed or otherwise covered with a moisture vapor-permeable material. Joints and seals associated with penetrations shall be sealed in the same manner or taped or covered with moisture vapor-permeable wrapping material. Sealing materials shall be appropriate to the construction materials being sealed and shall be securely installed around the penetration so as not to dislodge, loosen or otherwise impair the penetrations' ability to resist positive and negative pressure from wind, stack effect and mechanical ventilation. Sealing of concealed fire sprinklers, where required, shall be in a manner that is recommended by the manufacturer. Caulking or other adhesive sealants shall not be used to fill voids between fire sprinkler cover plates and walls or ceilings.
4. Recessed lighting fixtures shall comply with Section C402.5.7. When similar objects are installed that penetrate the air barrier, provisions shall be made to maintain the integrity of the air barrier.

CHAPTER 5 [CE]
EXISTING BUILDINGS

SECTION C503
ALTERATIONS

C503.1 General. Alterations to any building or structure shall comply with the requirements of this Code for new construction. Alterations shall be such that the existing building or structure is no less conforming to the provisions of this Code than the existing building or structure was prior to the alteration. Alterations to an existing building, building system or portion thereof shall conform to the provisions of this Code as those provisions relate to new construction without requiring the unaltered portions of the existing building or building system to comply with this Code. Alterations shall not create an unsafe or hazardous condition or overload existing building systems.

Alterations complying with ANSI/ASHRAE/IESNA 90.1 need not comply with Sections C402, C403, C404 and C405.

Exceptions: The following alterations need not comply with the requirements for new construction, provided the energy use of the building is not increased:

1. Storm windows installed over existing fenestration.

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

2. Surface-applied window film installed on existing single-pane fenestration assemblies reducing solar heat gain, provided the Code does not require the glazing or fenestration to be replaced.
3. Existing ceiling, wall or floor cavities exposed during construction, provided that these cavities are filled with insulation.
4. Construction in which the existing roof, wall or floor cavity is not exposed.
5. Roof recover.
6. Air barriers shall not be required for roof recover and roof replacement when the alterations or renovations to the building do not include alterations, renovations or repairs to the remainder of the building envelope.

**CHAPTER 1 [RE]
SCOPE AND ADMINISTRATION**

**SECTION R101
SCOPE AND GENERAL REQUIREMENTS**

R101.1 Title. This Code shall be known as the Illinois Energy Conservation Code or ~~this~~ Code, and shall mean:

With respect to the residential buildings covered by 71 Ill. Adm. Code 600.Subpart D:

This Part, all additional requirements incorporated within Subpart D (including the ~~2015~~2012 International Energy Conservation Code, including all published errata but excluding published supplements) and any statutorily authorized adaptations to the incorporated standards adopted by CDB are effective January 29, 2010.

R101.1.2 Adoption. The Board shall adopt amendments to this Code within 12 months after publication of changes to the International Energy Conservation Code. Any such update in this ~~The Board shall adopt this Code within 12 months after its publication. This Code shall take effect within 6 months after it is adopted by the Board and shall apply to any new building or structure in this State for which a building permit application is received by a municipality or county, except as otherwise provided by the EEB Act.~~

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

R101.1.3 Adaptation. The Board may appropriately adapt the International Energy Conservation Code to apply to the particular economy, population distribution, geography, and climate of the State and construction within the State, consistent with the public policy objectives of the EEB Act.

~~**R101.4.3 Additions, Alterations, Renovations or Repairs.** Additions, alterations, renovations or repairs to an existing building, building system or portion of a building shall conform to the provisions of this Code as they relate to new construction without requiring the unaltered portion of the existing building or building system to comply with this Code. In the case of any addition, alteration, renovation or repair to an existing residential structure, this Code applies only to the portions of the structure that are being added, altered, renovated or repaired. (See 20 ILCS 3125/20(a).) Additions, alterations, renovations or repairs shall not create unsafe or hazardous conditions or overload existing building systems. An addition shall be deemed to comply with this Code if the addition alone complies or if the existing building and addition comply with this Code as a single building.~~

~~**Exception:** The following need not comply provided the energy use of the building is not increased:~~

- ~~1. Storm windows installed over existing fenestration.~~
- ~~2. Glass only replacements in an existing sash and frame.~~
- ~~3. Existing ceiling, wall or floor cavities exposed during construction, provided that these cavities are filled with insulation.~~
- ~~4. Construction with the existing roof, wall or floor cavity not exposed.~~
- ~~5. Reroofing for roofs where neither the sheathing nor the insulation is exposed. Roofs without insulation in the cavity and with the sheathing or insulation exposed during reroofing shall be insulated either above or below the sheathing.~~
- ~~6. Replacement of existing doors that separate conditioned space from the exterior shall not require the installation of a vestibule or revolving door; provided, however, that an existing vestibule that separates a conditioned space from the exterior shall not be removed.~~

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

7. ~~Alterations that replace less than 50 percent of the luminaires in a space, provided that the alterations do not increase the installed interior lighting power.~~
8. ~~Alterations that replace only the bulb and ballast within the existing luminaires in a space, provided that the alteration does not increase the installed interior lighting power.~~

R101.5 Compliance. Residential buildings shall meet the provisions of the Illinois Energy Conservation Code covered by 71 Ill. Adm. Code 600.Subpart D. The local authority having jurisdiction (AHJ) shall establish its own procedures for enforcement of the Illinois Energy Conservation Code. Minimum compliance shall be demonstrated by submission of:

1. Compliance Certificates generated by the U.S. Department of Energy's RESCheck™ Code compliance tool; or
2. Other comparable compliance materials that meet or exceed [R101.5.1](#), as determined by the AHJ, ~~U.S. Department of Energy's RESCheck code compliance tool~~; or
3. The seal of the architect/engineer as required by Section 14 of the Illinois Architectural Practice Act [225 ILCS 305], Section 12 of the Structural Engineering Licensing Act [225 ILCS 340] and Section 14 of the Illinois Professional Engineering Practice Act [225 ILCS 325].

SECTION R102**ALTERNATIVE MATERIALS DESIGN AND METHODS
~~—METHOD OF CONSTRUCTION AND EQUIPMENT~~
, DESIGN OR INSULATING SYSTEMS**

R102.1.1 Above Code Programs. No unit of local government, including any home rule unit, may regulate energy efficient building standards for residential ~~building buildings~~ in a manner that is either less or more stringent than the standards established pursuant to this Code. The requirements identified as "mandatory" in Chapter 4 shall be met.

However, the following entities may regulate energy efficient building standards for residential buildings in a manner that is more stringent than the provisions contained in this Code:

- ~~i)1-~~ A unit of local government, including a home rule unit, that has, on or before May 15, 2009, adopted or incorporated by reference energy efficient building standards for residential buildings that are equivalent to or more stringent than the 2006 International Energy Conservation Code;

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

- ii)2- A unit of local government, including a home rule unit, that has, on or before May 15, 2009, provided to the Capital Development Board, as required by Section 55 of the Illinois Building Commission Act, an identification of an energy efficient building code or amendment that is equivalent to or more stringent than the 2006 International Energy Conservation Code; and
- iii)3- A municipality with a population of 1,000,000 or more.

**SECTION R109
BOARD OF APPEALS**

R109.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the code official relative to the application and interpretation of this Code, there may be created a board of appeals. The code official shall be an ex officio ~~ex-officio~~ member of the board of appeals but shall not have a no-vote on any matter before the board. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the code official.

R109.3 Qualifications. The board of appeals shall consist of members who are qualified by experience and training.

**CHAPTER 2 [RE]
DEFINITIONS****SECTION R202
GENERAL DEFINITIONS**

"Authority Having Jurisdiction" or "AHJ" – means the organization, officer or individual responsible for approving equipment, materials, an installation or procedure.

"Board" – means the Illinois Capital Development Board.

"Council" – means the Illinois Energy Conservation Advisory Council whose purpose is to recommend modifications to the Illinois Energy Conservation Code.

"EEB Act" – means the Energy Efficient Building Act [20 ILCS 3125].

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

"Local Exhaust" – means an exhaust system that uses one or more fans to exhaust air from a specific room or rooms within a dwelling.

"Residential Building" – means a detached one-family or 2-family dwelling or any building that is 3 stories or less in height above grade that contains multiple dwelling units, in which the occupants reside on a primarily permanent basis, such as a townhouse, a row house, an apartment house, a convent, a monastery, a rectory, a fraternity or sorority house, a dormitory and a rooming house; provided, however, that when applied to a building located within the boundaries of a municipality having a population of 1,000,000 or more, the term "residential building" means a building containing one or more dwelling units, not exceeding 4 stories above grade, where occupants are primarily permanent.

"Whole House Mechanical Ventilation System" – means an exhaust system, supply system or combination thereof that is designed in accordance with Section ~~R403.6~~ ~~R403.5~~ to mechanically exchange indoor air ~~with for~~ outdoor air when operating continuously or through a programmed intermittent schedule to satisfy the whole house ventilation ~~rates~~~~rate~~. Outdoor air intakes and exhausts shall have automatic or gravity dampers that close when the ventilation system is not operating.

**CHAPTER 4 [RE]
RESIDENTIAL ENERGY EFFICIENCY**

**SECTION R401
GENERAL**

R401.2 Compliance. Projects shall comply with one of the following:

1. Sections R401 through R404.
2. Section R405 and the provisions of Sections R401 through R404 labeled "Mandatory".
3. With the concurrence of the code official, an alternative method, an energy rating index (ERI) approach in Section R406, and the provisions of Sections R401 through R404 labeled "Mandatory".

**SECTION R402
BUILDING THERMAL ENVELOPE**

TABLE R402.1.2

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT^a

| <u>CLIMATE ZONE</u> | <u>FENES-TRATION U-FACTOR^b</u> | <u>SKYLIGHT^b U-FACTOR</u> | <u>GLAZED FENES-TRATION SHGC^{b,e}</u> | <u>CEILING R-VALUE</u> | <u>WOOD FRAME WALL R-VALUE</u> | <u>MASS WALL R-VALUEⁱ</u> | <u>FLOOR R-VALUE</u> | <u>BASEMENT^c WALL R-VALUE</u> | <u>SLAB^d R-VALUE & DEPTH</u> | <u>CRAWL SPACE^c WALL R-VALUE</u> |
|----------------------------|--|---|---|-------------------------------|---------------------------------------|---|-----------------------------|---|--|--|
| <u>1</u> | <u>NR</u> | <u>0.75</u> | <u>0.25</u> | <u>30</u> | <u>13</u> | <u>3/4</u> | <u>13</u> | <u>0</u> | <u>0</u> | <u>0</u> |
| <u>2</u> | <u>0.40</u> | <u>0.65</u> | <u>0.25</u> | <u>38</u> | <u>13</u> | <u>4/6</u> | <u>13</u> | <u>0</u> | <u>0</u> | <u>0</u> |
| <u>3</u> | <u>0.35</u> | <u>0.55</u> | <u>0.25</u> | <u>38</u> | <u>20 or 13+5^h</u> | <u>8/13</u> | <u>19</u> | <u>5/13^f</u> | <u>0</u> | <u>5/13</u> |
| <u>4 except Marine</u> | <u>0.35</u> | <u>0.55</u> | <u>NR</u> | <u>49</u> | <u>20 or 13+5^h</u> | <u>8/13</u> | <u>19</u> | <u>10/13</u> | <u>10, 2 ft</u> | <u>10/13</u> |
| <u>5 and Marine 4</u> | <u>0.32</u> | <u>0.55</u> | <u>NR</u> | <u>49</u> | <u>20 or 13+5^h</u> | <u>13/17</u> | <u>30^g</u> | <u>10/13</u> | <u>10, 2 ft</u> | <u>15/19</u> |
| <u>6</u> | <u>0.32</u> | <u>0.55</u> | <u>NR</u> | <u>49</u> | <u>20+5 or 13+10^h</u> | <u>15/20</u> | <u>30^g</u> | <u>15/19</u> | <u>10, 4 ft</u> | <u>15/19</u> |
| <u>7 and 8</u> | <u>0.32</u> | <u>0.55</u> | <u>NR</u> | <u>49</u> | <u>20+5 or 13+10^h</u> | <u>19/21</u> | <u>38^g</u> | <u>15/19</u> | <u>10, 4 ft</u> | <u>15/19</u> |

For SI: 1 foot = 304.8 mm

^a R-values are minimums. U-factors and SHGC are maximums. When insulation is installed in a cavity that is less than the label or design thickness of the insulation, the installed R-value of the insulation shall not be less than the R-value specified in the table.

^b The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestration. Exception: Skylights may be excluded from glazed fenestration SHGC requirements in Climate Zones 1 through 3 where the SHGC for skylights does not exceed 0.30.

^c "15/19" means R-15 continuous insulation on the interior or exterior of the home or R-19 cavity insulation at the interior of the basement wall. "15/19" shall be permitted to be met with R-13 cavity insulation on the interior of the basement wall plus R-5 continuous insulation on the interior or exterior of the home. "10/13" means R-10 continuous insulation on the interior or exterior of the home or R-13 cavity insulation at the interior of the basement wall.

^d R-5 shall be added to the required slab edge R-values for heated slabs. Insulation depth shall be the depth of the footing or 2 feet, whichever is less in Climate Zones 1 through 3 for heated slabs.

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

- ^e There are no SHGC requirements in the Marine Zone.
- ^f Basement wall insulation is not required in warm-humid locations as defined by Figure R301.1 and Table R301.1 (of the IECC).
- ^g Or insulation sufficient to fill the framing cavity, R-19 minimum.
- ^h The first value is cavity insulation, the second value is continuous insulation, so "13+5" means R-13 cavity insulation plus R-5 continuous insulation.
- ⁱ The second R-value applies when more than half the insulation is on the interior of the mass wall.

TABLE R402.1.4
EQUIVALENT U-FACTORS

| <u>CLIMATE ZONE</u> | <u>FENESTRATION U-FACTOR</u> | <u>SKYLIGHT U-FACTOR</u> | <u>CEILING U-FACTOR</u> | <u>FRAME WALL U-FACTOR</u> | <u>MASS WALL U-FACTOR</u> | <u>FLOOR U-FACTOR</u> | <u>BASEMENT WALL U-FACTOR</u> | <u>CRAWL SPACE WALL U-FACTOR</u> |
|-----------------------|------------------------------|--------------------------|-------------------------|----------------------------|---------------------------|-----------------------|-------------------------------|----------------------------------|
| <u>5 and Marine 4</u> | <u>0.32</u> | <u>0.55</u> | <u>0.026</u> | <u>0.060</u> | <u>0.082</u> | <u>0.033</u> | <u>0.059</u> | <u>0.055</u> |

R402.2.2 Ceilings Without Attic Spaces. When Section R402.1.2 would require insulation levels above R-30 and the design of the roof/ceiling assembly does not allow sufficient space for the required insulation, the minimum required insulation for those roof/ceiling assemblies shall be R-30. This reduction of insulation from the requirements of Section R402.1.2 shall be limited to 500 square feet (46 m²) or 20 percent of the total insulated ceiling area, whichever is less. This reduction shall not apply to the U-factor alternative approach in Section R402.1.4 and the total UA alternative in Section R402.1.5.

Exception: For roofs on existing buildings with slope less than 2.5" in 12", refer to Section R503.1.1.

R402.2.9R402.2.8 Basement Walls. Walls associated with conditioned basements shall be insulated from the top of the basement wall down to 104 feet (30481219 mm) below grade or to within 6 inches (152 mm) of the basement floor, whichever is less. Walls associated with unconditioned basements shall meet this requirement unless the floor overhead is insulated in accordance with Sections R402.1.2R402.1.4 and R402.2.2.8R402.2.7.

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

Exception: Walls associated with conditioned basements may be insulated from the top of the basement wall down to 4 feet (1219 mm) below grade when the basement wall *R*-value is at least 15/19, (basement wall *U*-Factor of 0.050).

R402.4.1.2 Testing. The building or dwelling unit shall be tested and verified as having an air leakage rate ~~of~~ not exceeding 5 air changes per hour (ACH) in Climate Zones 4 and 5. The building or dwelling unit shall be provided with a whole-house mechanical ventilation system as designed in accordance with Section ~~R403.6~~~~R403.5~~. Testing shall be conducted in accordance with ASTM E779 or ASTM E1827 and reported ~~with a blower door~~ at a pressure of 0.2 inches w.g. (50 Pascals). When required by the code official, ~~a~~ testing shall be conducted by an approved third party. A written report of the results of the test, indicating the ACH, shall be signed by the party conducting the test and provided to the code official. Testing shall be performed at any time after all penetrations of the building thermal envelope have been sealed.

Exceptions:

1. For additions, alterations, renovations or repairs to existing buildings, building envelope tightness and insulation installation shall be considered acceptable when the items in Table R402.4.1.1, applicable to the method of construction, are field verified. When required by the code official, an approved third party independent from the installer shall inspect both air barrier and insulation installation criteria.
2. For heated attached private garages and heated detached private garages accessory to 1- and 2-family dwellings and townhouses not more than 3 stories above grade plane in height, building envelope tightness and insulation installation shall be considered acceptable when the items in Table R402.4.1.1, applicable to the method of construction, are field verified. When required by the code official, an approved third party independent from the installer shall inspect both air barrier and insulation installation criteria. Heated attached private garage space and heated detached private garage space shall be thermally isolated from all other habitable, conditioned spaces.

During testing:

1. Exterior windows and doors and fireplace and stove doors shall be closed, but not sealed, beyond the intended weatherstripping or other infiltration control measures.;
2. Dampers, including exhaust, intake, makeup air, backdraft and flue dampers, shall be closed, but not sealed beyond intended infiltration control measures.;

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

3. Interior doors, if installed at the time of the test, shall be open.;
4. Exterior doors for continuous ventilation systems and heat recovery ventilators shall be closed and sealed.;
5. Heating and cooling systems, if installed at the time of the test, shall be turned off.;
6. Supply and return registers, if installed at the time of the test, shall be fully open.

~~**R402.4.1.3 Visual Inspection Option for Additions, Alterations, Renovations or Repairs.** Building envelope tightness and insulation installation shall be considered acceptable when the items in Table R402.4.1.1, applicable to the method of construction, are field verified. When required by the code official, an approved third party, independent from the installer, shall inspect air barrier and insulation installation.~~

~~**R402.4.4 Rooms Containing Fuel-burning Appliances.** This section has been deleted. It is not required in Illinois.~~

SECTION R403
SYSTEMS

~~**R403.6**~~**R403.5 Mechanical Ventilation (Mandatory).** When the air infiltration rate of a building or dwelling unit is 5 air changes per hour or less when tested in accordance with Section R402.4.1.2, the building or dwelling unit shall be provided with ventilation that meets the requirements of this section or the International Mechanical Code, as applicable, or with other approved means of ventilation. Outdoor air intakes and exhausts shall have automatic or gravity dampers that close when the ventilation system is not operating.

~~**R403.6.2**~~**R403.5.2 Recirculation of Air.** Exhaust air from bathrooms and toilet rooms shall not be recirculated within a residence or to another dwelling unit and shall be exhausted directly to the outdoors. Exhaust air from bathrooms and toilet rooms shall not discharge into an attic, crawl space or other areas inside the building.

~~**R403.6.3**~~**R403.5.3 Whole-house Mechanical Ventilation System.** Whole-house mechanical ventilation systems shall be designed in accordance with Sections ~~R403.6.4~~**R403.5.4** through ~~R403.6.6~~**R403.5.6**.

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

R403.6.4R403.5.4 System Design. The whole-house ventilation system shall consist of one or more supply or exhaust fans, or a combination of such, and associated ducts and controls. Local exhaust or supply fans are permitted to serve as such a system. Outdoor air ducts connected to the return side of an air handler shall be considered to provide supply ventilation.

R403.6.5R403.5.5 System Controls. The whole-house mechanical ventilation system shall be provided with controls that enable manual override.

R403.6.6R403.5.6 Mechanical Ventilation Rate. The whole house mechanical ventilation system shall provide outdoor air at a continuous rate of not less than that determined in accordance with Table R403.6.6R403.5.6(1).

ExceptionsException:

1. The whole-house mechanical ventilation system is permitted to operate intermittently when the system has controls that enable operation for not less than 25 percent of each 4-hour segment and the ventilation rate prescribed in Table R403.6.6R403.5.6(1) is multiplied by the factor determined in accordance with Table R403.6.6R403.5.6(2).
2. The total required outdoor air ventilation rate (Q_{tot}) shall be as specified in Table 403.6.6(1) or calculated in accordance with Equation 4-1.

Equation 4-1:

$$\underline{CFM_{total} = 0.01CFA + 7.5(Nbr + 1)}$$

Where:

CFM_{total} = total required ventilation rate, (cfm)

CFA = conditioned floor area of residence, (ft²)

Nbr = number of bedrooms (not to be less than 1)

R403.6.6.1 Different Occupant Density. Table R403.6.6(1) assumes two persons in a dwelling unit and an additional person for each additional bedroom. When higher occupant densities are known, the airflow rate shall be increased by 7.5 cfm (3.5 L/s) for each additional person. When approved by the authority having jurisdiction, lower occupant densities may be used.

R403.6.6.2 Airflow Measurement. The airflow rate required is the quantity of outdoor ventilation air supplied and/or indoor air exhausted by the whole-house mechanical ventilation

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

system installed, and shall be measured using a flow hood, flow grid, or other airflow measuring device. Ventilation airflow of systems with multiple operating modes shall be tested in all modes designed to meet Section R403.6.6. Where required by the *code official*, testing shall be conducted by an *approved third party*. A written report of the results of the test, indicating the verified airflow rate, shall be signed by the party conducting the test and provided to the *code official*.

R403.6.7~~R403.5.7~~ Local Exhaust Rates~~exhaust rates~~. Local exhaust systems shall be designed to have the capacity to exhaust the minimum air flow rate determined in accordance with Table R403.6.7~~R403.5.7~~.

TABLE R403.5.7
MINIMUM REQUIRED LOCAL EXHAUST RATES FOR
ONE- AND TWO-FAMILY DWELLINGS

| AREA TO BE EXHAUSTED | EXHAUST RATES |
|-----------------------------|---|
| Kitchens | 100 cfm intermittent or 25 cfm continuous |
| Bathrooms Toilet Rooms | Mechanical exhaust capacity of 50 cfm intermittent or 20 cfm continuous |

For SI: 1 cubic foot per minute = 0.0004719 m³/s.

TABLE R403.6.6~~R403.5.6~~(1)
CONTINUOUS WHOLE-HOUSE MECHANICAL
VENTILATION SYSTEM AIRFLOW RATE~~REQUIREMENTS~~

| DWELLING UNIT FLOOR AREA (square feet) | NUMBER OF BEDROOMS | | | | |
|---|---------------------------|--------------|--------------|--------------|---------------|
| | 0 - 1 | 2 - 3 | 4 - 5 | 6 - 7 | > 7 |
| | Airflow in CFM | | | | |
| < 1,500 | 30 | 45 | 60 | 75 | 90 |
| 1,501 - 3,000 | 45 | 60 | 75 | 90 | 105 |
| 3,001 - 4,500 | 60 | 75 | 90 | 105 | 120 |
| 4,501 - 6,000 | 75 | 90 | 105 | 120 | 135 |
| 6,001 - 7,500 | 90 | 105 | 120 | 135 | 150 |
| > 7,500 | 105 | 120 | 135 | 150 | 165 |

For SI: 1 square foot = 0.0929 m², 1 cubic foot per minute = 0.0004719 m³/s.

TABLE R403.6.6~~R403.5.6~~(2)
INTERMITTENT WHOLE-HOUSE MECHANICAL

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

VENTILATION RATE FACTORS^{a, b}

| RUN-TIME PERCENTAGE IN EACH 4-HOUR SEGMENT | 25% | 33% | 50% | 66% | 75% | 100% |
|---|------------|------------|------------|------------|------------|-------------|
| Factor ^a | 4 | 3 | 2 | 1.5 | 1.3 | 1.0 |

^a For ventilation system run time values between those given, the factors are permitted to be determined by interpolation.

^b Extrapolation beyond the table is prohibited.

TABLE R403.6.7
MINIMUM REQUIRED LOCAL EXHAUST RATES FOR
ONE- AND TWO-FAMILY DWELLINGS

| <u>AREA TO BE EXHAUSTED</u> | <u>EXHAUST RATES</u> |
|------------------------------------|--|
| <u>Kitchens</u> | <u>100 cfm intermittent or 25 cfm continuous</u> |
| <u>Bathrooms-Toilet Rooms</u> | <u>Mechanical exhaust capacity of 50 cfm intermittent or 20 cfm continuous</u> |

For SI: 1 cubic foot per minute = 0.0004719 m³/s.

SECTION R405
SIMULATED PERFORMANCE ALTERNATIVE (PERFORMANCE)

TABLE R405.5.2(1)
SPECIFICATIONS FOR THE STANDARD
REFERENCE AND PROPOSED DESIGNS

| <u>BUILDING COMPONENT</u> | <u>STANDARD REFERENCE DESIGN</u> | <u>PROPOSED DESIGN</u> |
|----------------------------------|---|-------------------------------|
|----------------------------------|---|-------------------------------|

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

| | | |
|---------------------------------|--|---|
| <p><u>Air Exchange Rate</u></p> | <p><u>Air leakage rate of 5 air changes per hour in climate zones 4 and 5. Testing shall be conducted in accordance with ASTM E779 or ASTM E1827 and reported at a pressure of 0.2 inches w.g. (50 Pascal). The mechanical ventilation rate shall be in addition to the air leakage rate and the same as in the proposed design, but no greater than $0.01 \times CFA + 7.5 \times (N_{br} + 1)$</u></p> <p><u>where:</u></p> <p><u>CFA = conditioned floor area</u></p> <p><u>N_{br} = number of bedrooms</u></p> <p><u>Energy recovery shall not be assumed for mechanical ventilation.</u></p> | <p><u>For residences that are not tested, the same air leakage rate as the standard reference design.</u></p> <p><u>For tested residences, the measured air exchange rate^a. The mechanical ventilation rate^b shall be in addition to the air leakage rate and shall be as proposed.</u></p> |
|---------------------------------|--|---|

REVISE Table R405.5.2(1), entry for "air exchange rate" as follows:

~~STANDARD REFERENCE DESIGN. Air leakage rate of 5 air changes per hour in Climate Zones 4 and 5 at a pressure of 0.2 inches w.g. (50 Pa). The mechanical ventilation rate shall be in addition to the air leakage rate and the same as in the proposed design, but no greater than $0.01 \times CFA + 7.5 \times (N_{br} + 1)$ where:~~

~~CFA = conditioned floor area~~

~~N_{br} = number of bedrooms~~

~~Energy recovery shall not be assumed for mechanical ventilation.~~

SECTION 406

ENERGY RATING INDEX COMPLIANCE ALTERNATIVE

R406.1 Scope. This section establishes an alternative compliance criteria using an Energy Rating Index (ERI) analysis. For purposes of clarification, the Illinois Department of Commerce and Economic Opportunity declares that Section R406 of the 2015 International Energy Conservation Code affords an alternative form of compliance and is not a mandate on the Department to provide training to Section R406.

CHAPTER 5 [RE] EXISTING BUILDINGS

SECTION R502 ADDITIONS

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

R502.1.1.2 Heating and Cooling Systems. New heating, cooling and duct systems that are part of the addition shall comply with Sections R403.1, R403.2, R403.3, R403.5 and R403.6.

Exception: When ducts from an existing heating and cooling system are extended to an addition, the new and existing duct systems shall not be required to be tested in accordance with Section R403.3.3. New duct systems shall be sealed in accordance with Section R403.3.2.

SECTION R503
ALTERATIONS

R503.1.1 Building Envelope. Building envelope assemblies that are part of the alteration shall comply with Section R402.1.2 or R402.1.4, Sections R402.2.1 through R402.2.12, R402.3.1, R402.3.2, R402.4.3 and R402.4.4.

Exception: The following alterations need not comply with the requirements for new construction provided the energy use of the building is not increased:

1. Storm windows installed over existing fenestration.
2. Existing ceiling, wall or floor cavities exposed during construction provided that these cavities are filled with insulation.
3. Construction in which the existing roof, wall or floor cavity is not exposed.
4. Roof recover.
5. Roofs without insulation in the cavity and where the sheathing or insulation is exposed during reroofing shall be insulated either above or below the sheathing.
6. For roof replacement on existing buildings with a roof slope of less than 2" in 12", and when the roof covering is removed and insulation remains, and when the required R-value cannot be provided due to thickness limitations presented by existing rooftop conditions, (including heating, ventilating and air-conditioning equipment, low door or glazing heights, parapet heights, weep holes, and roof flashing heights not meeting the manufacturer's specifications), the maximum thickness of insulation compatible with the available space and existing uses shall be installed. Insulation used shall be minimum R-3.5 per inch. In areas where flashing may be terminated a minimum of 8" above the roof covering (including required insulation), insulation shall be a minimum of R-20.

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

7. R-value for roof assemblies with tapered insulation above deck with slope greater than $\frac{1}{8}$ " in 12" shall average R-20.
8. Surface-applied window film installed on existing single pane fenestration assemblies to reduce solar heat gain provided the Code does not require the glazing or fenestration assembly to be replaced.

R503.1.2 Heating and Cooling Systems. New heating, cooling and duct systems that are part of the alteration shall comply with Sections R403.1, R403.2, R403.3 and R403.6.

Exception: When ducts from an existing heating and cooling system are extended, the new and existing duct systems shall not be required to be tested in accordance with Section R403.3.3. Altered duct systems shall be sealed in accordance with Section R403.3.2.

SECTION R504
REPAIRS

R504.2 Application. For the purposes of this Code, the following shall be considered repairs:

1. Glass-only replacements in an existing sash and frame.
2. Roof repairs.
3. Insulation with new roof covering for roof slopes less than 2" in 12" inches only in areas where the tapered insulation is used above an existing roof covering to create slope between drains or upslope from obstructions to water flow.
4. Repairs in which only the bulb and/or ballast within the existing luminaires in a space are replaced, provided that the replacement does not increase the installed interior lighting power.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Hospital Report Card Code
- 2) Code Citation: 77 Ill. Adm. Code 255
- 3)

| <u>Section Numbers:</u> | <u>Proposed Actions:</u> |
|-------------------------|--------------------------|
| 255.100 | Amendment |
| 255.110 | Amendment |
| 255.250 | Amendment |
| 255.260 | Repealed |
- 4) Statutory Authority: Hospital Report Card Act [210 ILCS 86]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking seeks to eliminate hospital Surgical Care Improvement Project (SCIP) reporting to the Department. The SCIP measures are part of the Centers for Medicare and Medicaid (CMMS) Medicare Inpatient Prospective Payment System. The data for these measures is concurrently submitted to CMMS and accessible for download. The Department's no-cost vendor, CompData, is unable to process this data because of the resources needed to update the code associated with ongoing changing definitions and requirements. In addition, CMMS is planning phased retirement of these measures beginning in January 2015, as most hospitals are successfully meeting target quality goals of 95% or better. Language in the rule will be updated and the Compliance Section repealed as hospitals have met the initial reporting phase in requirements.

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

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.
- 6) Published studies or reports, and sources of underlying data used to compose this rulemaking: <https://www.federalregister.gov/articles/2014/08/22/2014-18545/medicare-program-hospital-inpatient-prospective-payment-systems-for-acute-care-hospitals-and-the#t-81>http://www.jointcommission.org/core_measure_sets.aspx
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 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 rule change does not affect local government expenditure of funds.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:

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

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Hospitals will be affected in that they will no longer have to submit this data to the Department.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2015

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 255

HOSPITAL REPORT CARD CODE

Section

| | |
|---------|---------------------------------------|
| 255.100 | Definitions |
| 255.110 | Referenced Materials |
| 255.120 | Confidentiality |
| 255.150 | Staffing Levels |
| 255.200 | Orientation and Training |
| 255.250 | Hospital Reports |
| 255.260 | Compliance (Repealed) |
| 255.270 | Reporting |
| 255.280 | Enforcement |

AUTHORITY: Implementing and authorized by the Hospital Report Card Act [210 ILCS 86].

SOURCE: Adopted at 31 Ill. Reg. 5839, effective March 28, 2007; amended at 39 Ill. Reg. _____, effective _____.

Section 255.100 Definitions

~~For the purpose of this Part:~~

"Act" means the Hospital Report Card Act ~~[210 ILCS 86]~~.

"Actual nurse staffing assignment roster" means the nurse-patient assignment on each unit that reflects direct nursing services provided within a 24-hour time period to each patient, excluding any information that might identify a particular patient or nurse.

"Acute care" means the treatment of a condition or disease for a short period of time in which a patient is treated for a brief but severe episode of illness with the goal of discharging the patient.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

"Appropriately trained" means has completed the orientation course for the job title as specified by the employing hospital.

"Artificial life support" ~~means is~~ a system that uses medical technology to aid, support, or replace a vital function of the body that has been seriously damaged.

"Assigned" means that the registered professional nurse, licensed practical nurse, or other nursing personnel have responsibility for the provision of care to a particular patient within their scope of practice.

"Assistive nursing personnel" means personnel assigned responsibility for the provision of nursing care to a particular patient within their scope of practice, other than registered professional nurses or licensed practical nurses.

"Average daily census" means the average number of inpatients receiving service on any given 24-hour period beginning at midnight in each clinical service area of the hospital. (Section 10 of the Act) Average daily census ~~shall must~~ be calculated as the sum of inpatients every day at midnight for the quarter, divided by the number of days in the quarter.

"Average daily hours worked" means the total number of direct care nursing hours paid in the quarter per clinical service area, divided by the total number of calendar days in the quarter, to obtain the average number of worked hours per calendar day.

"Behavioral health" means the clinical service areas in which inpatients are receiving care and treatment for mental illnesses, substance abuse disorders ~~and~~ or dependence, co-occurring mental illness and substance abuse disorders, or organic brain disorders, such as Alzheimer's Disease or senile dementia with psychotic or depressive symptoms. For the ~~purposes purpose~~ of this Part, behavioral health clinical service areas do not include the following areas and their subcategories: critical care; maternal-child; medical-surgical; pediatrics; perioperative; and telemetry.

"Clinical service area" means a grouping of clinical services by a generic class of various types or levels of support functions, equipment, care, or treatment provided to inpatients. Hospitals may have, but are not required to have, behavioral health, critical care, maternal-child care, medical-surgical, pediatrics, perioperative services, and telemetry. (Section 10 of the Act) These services shall

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

be measured in patient day units. "Perioperative" clinical service areas are defined in the definition of "perioperative" in this Part.

~~"CMMS" means the Centers for Medicare and Medicaid Services.~~

"Critical care" means the clinical service areas organized, operated, and maintained to provide for monitoring and caring for patients with severe or potentially severe physiologic instability requiring technical support and often requiring artificial life support.

"Critical care service area" ~~means, as defined in this Part, does include~~ adult and pediatric critical care patient populations, but does not include intensive care newborn nursery services. ~~For the purposes~~ ~~Furthermore, for the purpose~~ of this Part, critical care clinical service areas do not include the following areas and their subcategories: behavioral health; maternal-child; medical-surgical; pediatrics; perioperative; and telemetry.

"Current nursing staff schedules" means the prospective staffing schedules for each patient care unit, excluding any information that might identify a particular nurse, made in advance of a designated time frame, e.g., weekly, monthly or quarterly.

"Department" means the Department of Public Health. (Section 10 of the Act)

"Direct-care nurse" and "direct-care nursing staff" include any registered nurse, licensed practical nurse, or assistive nursing personnel with direct responsibility to oversee or carry out medical regimens or nursing care for one or more patients. (Section 10 of the Act)

"Direct patient care responsibilities" means the activities of direct care nurses and direct care assistive nursing personnel who are assigned to a patient or patients.

"Direct supervision" means a situation in which an individual is responsible for directing the actions of another individual in the facility and is physically close enough to be readily available, if needed, by the supervised individual. "Direct supervision" ~~shall~~ ~~must~~ be conducted by a registered professional nurse.

"Employee" means any full-time or part-time direct care nursing staff employee who works a regularly scheduled number of hours in a defined pay period. Not

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

included are direct care nursing staff who work on an as-needed basis and are not guaranteed work hours, including, but not limited to, casual, per diem, and registry personnel.

"Full-time equivalent" means hospital-employed licensed nursing hours budgeted to work in a seven-day time period divided by 37.5, or in a 14-day time period divided by 75, or annually divided by 1950.

"Indirect patient care responsibilities" means the activities of nurses, such as nurse managers, charge nurses, clinical nurse specialists and other ancillary licensed nursing personnel, when they are not assigned to direct patient care activities.

"Hospital" means a health care facility licensed under the Hospital Licensing Act. (Section 10 of the Act)

"Hospital Quality Alliance" means the public-private collaboration that collects and reports hospital quality performance information and makes it available to consumers through [Centers for Medicare and Medicaid Services \(CMMS\)](#) information channels.

"Inpatient" means a person admitted for at least one overnight stay to health facilities, usually hospitals, that provide board and room, for the purpose of observation, care, diagnosis or treatment.

"Intensive Care Unit" or "ICU" means a hospital facility for provision of intensive nursing and medical care of critically ill patients, characterized by high quality and quantity of continuous nursing and medical supervision and by use of sophisticated monitoring and resuscitative equipment. An ICU may be organized for the care of specific patient groups, e.g., neonatal or newborn ICU, neurological ICU, or pulmonary ICU.

"Licensed nursing hours per inpatient day" means, for the quarter, the total number of productive hours worked by licensed nursing personnel with direct care responsibilities, divided by the total inpatient days.

"Licensed practical nurse" or "LPN" means a person meeting the requirements for licensure by the Department of Financial and Professional Regulation as a licensed practical nurse pursuant to the [NurseIllinois Nursing and Advanced Practice Nursing Act](#).

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

"Maternal-child" means the clinical service areas that are designed, equipped, organized and operated in accordance with the requirements of the Hospital Licensing Act relating to the medical-surgical care of a patient prior to and during the act of giving birth to either a living child or a dead fetus and the continuing care of both patient and newborn infant. For the ~~purposes~~ ~~purpose~~ of this Part, intensive care newborn nursery services are included in maternal-child clinical service areas. ~~Maternal~~However, maternal-child clinical service areas do not include the following clinical service areas and their subcategories: behavioral health; critical care; medical-surgical; pediatrics; perioperative; and telemetry.

"Medical-surgical" means the clinical service areas in which patients who require less care than that which is available in intensive care units or telemetry units have available 24-hour inpatient general medical services, post-surgical services, or both general medical and post-surgical services. These units may include mixed patient populations of diverse diagnoses and diverse age groups. For the ~~purposes~~ ~~purpose~~ of this Part, medical-surgical clinical service areas do not include the following areas and their subcategories: behavioral health; critical care; maternal-child; pediatrics; perioperative; and telemetry.

"Nursing care" means care that falls within the scope of practice set forth in the ~~Nurse Nursing and Advanced Practice Nursing~~ Act or is otherwise encompassed within recognized professional standards of nursing practice, including assessment, nursing diagnosis, planning, intervention, evaluation, and patient advocacy. (Section 10 of the Act)

"Nursing hours per inpatient day" means, for the quarter, the total number of productive hours worked by registered nurses, licensed practical nurses, and assistive nursing personnel, in each case, with direct patient care responsibilities, divided by the total inpatient days.

"Observation care" means those services furnished by a hospital on the hospital's premises, including use of a bed and at least periodic monitoring by a hospital's nursing or other staff, that are reasonable and necessary to evaluate an outpatient's condition or determine the need for a possible admission to the hospital as an inpatient. In general, the duration of observation care services does not exceed 24 to 48 hours, depending on the hospital, physician and health plan.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

"Pediatrics" means the clinical service areas in acute care hospitals that are designed, equipped, organized and operated to render non-intensive care to the 0-17 age population performed at the direction of a physician on behalf of the patient by physicians, dentists, nurses, and other professional and technical personnel. For the ~~purposes purpose~~ of this Part, pediatric clinical service areas in acute care hospitals do not include the following areas and their subcategories: behavioral health; critical care; maternal-child; medical-surgical; perioperative; and telemetry. Pediatric hospitals, ~~however~~, may incorporate any or all of these clinical service areas in fulfilling their role of specialty treatment facilities for the medical care of infants, children, and adolescents. Pediatric hospitals shall consider all care provided as pediatric without regard for where in the facility the service was rendered. For patients in specialty pediatric hospitals, age requirements are extended to include those patients who, due to condition, care and treatment requirements, continue to be considered pediatric. Clinical service area comparisons for pediatric hospitals ~~shall should~~ follow the guidelines of national pediatric organizations. ~~An In the event of an~~ adult or specialty hospital operating a pediatric hospital within the larger hospital ~~shall, the embedded pediatric hospital should~~ report using its National Provider Identifier and taxonomy codes to allow differentiation of nursing hours and more meaningful comparisons.

"Perioperative" means the clinical service areas that are designed, equipped, organized and operated to provide care for inpatients during the preoperative, intraoperative and immediate postoperative periods of a hospital stay. For the ~~purposes purpose~~ of this Part, perioperative clinical service areas do not include the following areas and their subcategories: behavioral health; critical care; maternal-child; medical-surgical; pediatrics; and telemetry.

"Productive hours" means the actual work hours, exclusive of vacation, holidays, sick leave and any other absences, with the following inclusions and exclusions.

Agency, per diem and registry RNs with direct patient care responsibility shall be included in the number of productive hours for the mandated reports.

The number of productive hours for mandated reports ~~under this Section~~ shall not include nurse managers, charge nurses who are not assigned direct patient care responsibilities, or any other licensed nursing personnel who do not have a direct care patient assignment.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

The number of productive hours for mandated reports ~~report~~ shall not include licensed nurses who are participating in orientation ~~in the number of productive hours~~.

"Registered professional nurse" or "RN" means a person meeting the requirements for licensure by the Department of Financial and Professional Regulation as a registered professional nurse pursuant to the provisions of the Nurse Illinois Nursing and Advanced Practice Nursing Act.

"Separated" means any licensed nursing employee who is permanently removed for any reason, including voluntary, involuntary or employee transfer, from the payroll allotted for a clinical service area.

"Staffing levels" means the numerical nurse to patient ratio by licensed nurse classification within a nursing department or unit. (Section 10 of the Act)

~~"Surgical Care Improvement Project" or "SCIP" means the infection-related quality measures developed under the Surgical Care Improvement Project of the Hospital Quality Alliance (HQA) (see www.medqic.org/scip).~~

"Telemetry unit" means a unit organized, operated and maintained to provide care for and continuous cardiac monitoring of patients in a stable condition, having or suspected of having a cardiac condition or a disease requiring the electronic monitoring, recording, retrieval, and display of cardiac electrical signals.

"Telemetry unit" ~~as defined in this Part~~ does not include fetal monitoring or fetal surveillance. ~~For Furthermore, for the purposes purpose~~ of this Part, telemetry clinical service areas do not include the following areas and their subcategories: behavioral health; critical care; maternal-child; medical-surgical; pediatrics; and perioperative care.

"Technical support" means specialized equipment and/or personnel providing for invasive monitoring, telemetry, or mechanical ventilation, for the immediate amelioration or remediation of severe pathology.

"Unit" means a functional division or area of a hospital in which nursing care is provided. (Section 10 of the Act)

(Source: Amended at 39 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Section 255.110 Referenced Materials

~~a)~~ The following statutes are referenced in this Part:

- ~~a)1)~~ Hospital Licensing Act [210 ILCS 85]
- ~~b)2)~~ ~~Nurse Nursing and Advanced Practice Nursing Act~~ [225 ILCS 65]
- ~~c)~~ Hospital Report Card Act [210 ILCS 86]
- ~~d)3)~~ Freedom of Information Act [5 ILCS 140]
- ~~b)~~ Hospital Quality Alliance
Surgical Care Improvement Project (SCIP)
www.medqic.org/scip

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 255.250 Hospital Reports

- a) *Individual hospitals shall prepare a quarterly report including all of the following (Section 25(a) of the Act):*
 - 1) Direct care hours, by reporting individually all of the following:
 - A) Total inpatient days, which is the sum of each daily census for the time period.
 - B) Total direct care RN hours, which equals the sum of the paid, productive hours for direct care RN employees, including agency, per diem and registry RNs.
 - C) Total direct care LPN hours, which equals the sum of the paid, productive hours for direct care LPN employees, including agency, per diem and registry LPNs.
 - D) Total direct care hours for assistive nursing personnel, which is the sum of the paid, productive hours for direct care assistive nursing

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

personnel, including agency, per diem and registry assistive nursing personnel.

- E) *Nursing hours per patient day* for direct care, which is the sum of total direct care RN hours and total direct care LPN hours and total direct care assistive nursing personnel hours divided by total inpatient days. (Section 25(a)(1) of the Act)
- F) Licensed nursing hours per patient day – by RNs and LPNs (RN hours per patient day, LPN hours per patient day), which is:
- i) the total direct care hospital employed RN hours divided by the total inpatient days for the quarter;³⁵
 - ii) the total direct care commercial agency contracted RN hours divided by the total inpatient days for the quarter;³⁵
 - iii) the total direct care hospital employed LPN hours divided by the total inpatient days for the quarter;³⁵ and
 - iv) the total direct care commercial agency contracted LPN hours divided by the total inpatient days for the quarter.
- G) *Average daily hours worked* (Section 25(a)(1) of the Act) – by RNs and LPNs (average daily RN hours worked, average daily LPN hours worked), which is:
- i) the total direct care hospital employed RN hours divided by the number of calendar days for the quarter,
 - ii) the total direct care commercial agency contracted RN hours divided by the number of calendar days for the quarter,
 - iii) the total direct care hospital employed LPN hours divided by the number of calendar days for the quarter, and

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- iv) the total direct care commercial agency contracted LPN hours divided by the number of calendar days for the quarter.
- H) *Average daily census per clinical service area*, which is the total inpatient days divided by the days in the quarter. (Section 25(a)(1) of the Act)
- 2) *Infection-related measures for the facility for the following clinical procedures* (Section 25(a)(2) of the Act) ~~according to the following schedule~~ for patients ages 18 and over in hospitals providing services where these treatments are clinically appropriate:
 - A) ~~Commencing on July 1, 2007 for Medicare PPS (prospective payment system) inpatient hospitals and October 1, 2007 for inpatient hospitals that are not Medicare PPS, surgical process measures as set forth in SCIP according to the following implementation dates and schedules or as modified by SCIP for CMMS/HQA as follows:~~
 - i) ~~Prophylactic antibiotic received within one hour prior to surgical incision.~~
 - ii) ~~Prophylactic antibiotic selection for surgical patients.~~
 - iii) ~~Prophylactic antibiotics discontinued within 24 hours after surgery end time.~~
 - B) ~~Commencing on October 1, 2007, surgical process measures as set forth in SCIP, according to the following implementation dates and schedules or as modified by SCIP for CMMS/HQA~~
 - i) ~~Cardiac surgery patients with prophylactic antibiotics discontinued within 48 hours after surgery.~~
 - ii) ~~Cardiac surgery patients with controlled 6 a.m. postoperative serum glucose.~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

~~A)C)~~ ~~Surgical Commencing on July 1, 2007, surgical~~ outcome measures by reporting postoperative wound infection diagnosed during index hospitalization.

~~B)D)~~ ~~Central Commencing on July 1, 2008, central~~ vascular catheter-related bloodstream infection rates in designated critical care units.

~~C)E)~~ ~~Patients Commencing on July 1, 2008, patients~~ diagnosed with postoperative ventilator-associated pneumonia (VAP) during index hospitalization ~~as set forth in SCIP~~.

- b) Individual hospitals may also, but are not required to, submit the following optional reports: (Agency, per-diem and registry RNs must be included in the number of productive hours for the optional report. The optional report may not include licensed nursing orientees in the number of productive hours.)
- 1) Total number of nursing hours per patient day and licensed nursing hours per patient day for those licensed nursing personnel with indirect patient care responsibilities. The licensed nursing hours per patient day will be reported separately for registered professional nurses and licensed practical nurses. Hospitals may also submit the number of licensed nursing hours per patient day that are associated with caring for outpatient and observation patients.
 - 2) Average daily hours worked and average daily census for the quarter per clinical service area.
- c) *Individual hospitals shall prepare annual reports including vacancy and turnover rates for licensed nurses per clinical service area* for direct care nurses as follows: (Section 25(b) of the Act)
- 1) **Vacancy Rate:**
The vacancy rate submitted for licensed nurses per clinical service area must equal the number of full-time equivalent openings for licensed nursing personnel on January 1 of each year, divided by the number of full-time equivalents for licensed nursing personnel budgeted as of January 1. Budgeted positions include both filled positions and vacant positions for which the hospital is recruiting on January 1. The vacancy rate does not include those licensed nursing employees who are on family,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

medical or disability leave or who provide per diem services to the hospital. The vacancy rate shall be reported separately for registered nurses and licensed practical nurses.

- 2) Turnover Rate:
The turnover rate submitted for licensed nurses per clinical service area must equal the number of separated employees for licensed nursing personnel for the calendar year preceding January 1, divided by the number of employees for licensed nursing personnel on the hospital's payroll for the same clinical service area as of the preceding January 1. The turnover rate does not include those licensed nursing employees who are on family, medical or disability leave or who provide per diem services to the hospital. The turnover rate shall be reported separately for registered nurses and licensed practical nurses.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 255.260 Compliance (Repealed)

- a) ~~The staffing data to be reported under Section 25(a)(1) of the Act shall be phased in from July 1, 2007 according to the following schedule:~~
- 1) ~~For the first three months, the Department shall educate hospitals about the reporting requirements, format and process for data required under Section 25(a)(1) of the Act;~~
- 2) ~~For the next three months, the Department shall conduct a voluntary pilot program that will give all hospitals that wish to participate the opportunity to work with the reporting form and process for data covered under Section 25(a)(1) of the Act and to give the Department an opportunity to make any necessary or helpful modifications to the format and process for such reporting; and~~
- 3) ~~For the next three months, all hospitals shall be required to report staffing level data using the modified form or process developed under subsection (a)(2).~~
- b) ~~All hospitals shall be required to submit quarterly reports in accordance with this Part beginning with data from the next full calendar quarter from the date the~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

~~Department notifies hospitals that the reporting form and process have been finalized.~~

(Source: Repealed at 39 Ill. Reg. _____, effective _____)

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of Part: Administrative Complaint Procedures for Violations of Title III of HAVA
- 2) Code Citation: 26 Ill. Adm. Code 150
- 3)

| <u>Section Numbers:</u> | <u>Proposed Actions:</u> |
|-------------------------|--------------------------|
| 150.10 | Amendment |
| 150.15 | Amendment |
| 150.20 | Amendment |
| 150.30 | Amendment |
| 150.55 | Amendment |
| 150.65 | Amendment |
| 150.145 | Amendment |
- 4) Statutory Authority: Section 1A-8 (9) of the Illinois Election Code [10 ILCS 5/1 et seq] and Title IV, Section 402 of the Help America Vote Act (HAVA) (42 USC 15512)
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking extends the limitation period for filing administrative complaints alleging violations of Title III of the Help America Vote Act (HAVA) from 90 days to 180 days, adds the requirement that such complaints specify the section of Title III alleged to be violated, eliminates the requirement that such complaints naming the State Board of Elections as respondent go directly to alternative dispute resolution, and adds provisions for the State Board of Elections' General Counsel to order the addition of other necessary parties and/or the dismissal of unnecessary parties.
- 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 the rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: See number 5 above

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:
- Kenneth R. Menzel, General Counsel
Illinois State Board of Elections
2329 S MacArthur Blvd.
Springfield IL 62708
- 217/782-4141
fax: 217/782-5959
kmenzel@elections.il.gov
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: at the time the regulatory agenda was required to be filed, this rulemaking was not anticipated.

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

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

TITLE 26: ELECTIONS

CHAPTER I: STATE BOARD OF ELECTIONS

PART 150

ADMINISTRATIVE COMPLAINT PROCEDURES
FOR VIOLATIONS OF TITLE III OF HAVA

Section

| | |
|---------|---|
| 150.5 | Applicability |
| 150.10 | Definitions |
| 150.15 | Filing of a Complaint |
| 150.20 | Form of Complaint |
| 150.25 | Service of Complaint |
| 150.30 | Preliminary Review of Complaint |
| 150.35 | Documents Pertaining to Hearings |
| 150.40 | Computation of Time |
| 150.45 | Appearances |
| 150.50 | Non-Legal Assistance |
| 150.55 | Designation of Parties |
| 150.60 | Answer |
| 150.65 | Appointment and Qualifications of Hearing Examiner |
| 150.70 | Authority of Hearing Examiner |
| 150.75 | Disqualification of Hearing Examiner |
| 150.80 | Motions |
| 150.85 | Consolidation and Severance of Claims: Additional Parties |
| 150.90 | Amendments |
| 150.95 | Pre-Hearing Conferences |
| 150.98 | Notice of Hearing |
| 150.100 | Settlement Pursuant to Conference |
| 150.105 | Continuances |
| 150.110 | Failure of Party to Appear |
| 150.115 | Evidence |
| 150.120 | Official Notice |
| 150.125 | Subpoenas |
| 150.130 | Order of Proceeding, Record, Recommendation and Notice |
| 150.135 | Responsibilities of the General Counsel |
| 150.140 | Board Determination |
| 150.145 | Alternative Dispute Resolution |

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

AUTHORITY: Authorized by Title IV Section 402 of the Help America Vote Act (HAVA) (42 USC 15512) and Section 10-5 of the Illinois Administrative Procedure Act [5 ILCS 100/10-5] and Section 1A-8(9) of the Election Code [10 ILCS 5/1A-8(9)].

SOURCE: Adopted by emergency rulemaking at 28 Ill. Reg. 15840, effective November 24, 2004, for a maximum of 150 days; emergency expired April 23, 2005; new Part adopted at 29 Ill. Reg. 13711, effective August 25, 2005; amended at 39 Ill. Reg. _____, effective _____.

Section 150.10 Definitions

As used in this Part, the following terms shall have the meanings specified:

"Act" or "HAVA" means the Help America Vote Act (Public Law 107-252; 42 USC 15301) and all amendments.

"Board" means the State Board of Elections.

"Complainant" means a party initiating a proceeding under the Act by the filing of a complaint.

"Election Authority" means the county clerk in all counties that do not have a county board of election commissioners, the county board of election commissioners in those counties that have adopted the provisions of Article 6A of the Election Code and the city board of election commissioners in those cities that have adopted the provisions of Article 6 of the Election Code.

"Election Code" means the Illinois Election Code [10 ILCS 5].

"Federal Election" means any election in which candidates for federal office are scheduled to be elected or nominated. For purposes of this definition, federal offices are President and Vice President of the United States, United States Senator, Representative in the United States Congress, delegates and alternate delegates to the national nominating convention and candidates for the Presidential Preference Primary.

"Hearing" means the preliminary hearing held pursuant to Section 150.30(c).

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

"Respondent" means an Election Authority, the State Board of Elections, or any other entity subject to the provisions of Title III of HAVA against whom a complaint is filed.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 150.15 Filing of a Complaint

Any person who believes that a violation of any provision of Title III of the Act has occurred, or is occurring, or is about to occur may file a complaint with the State Board of Elections. If filed after the occurrence of the violation, the ~~The~~ complaint must be filed no later than 180 ~~90~~ days after the occurrence of the violation or 180 ~~90~~ days after the federal election in connection with which the violation occurred, whatever date is later. Any complaint filed under this Section must allege a violation, or threatened violation, of Title III of the Act and state sufficient facts as to constitute a cause of action under Title III, ~~state specifically the nature of the violation and be sufficiently grounded in fact and in law.~~ In addition, the complaint must state whether the complainant desires a hearing on the record before the State Board of Elections.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 150.20 Form of Complaint

- a) All complaints filed under this Part shall be in writing and signed and sworn to (or affirmed) by the person filing the complaint and shall be notarized. In addition, the complaint shall ~~contain the following~~:
- 1) ~~The complaint shall~~ be directed to and state the name of the respondent against whom the complaint is directed;
 - 2) ~~The complaint shall~~ state the specific provisions of Title III of the Act alleged to have been violated;
 - 3) ~~The complaint shall~~ state the time, place and nature of the alleged offense; and
 - 4) ~~The complaint shall~~ be verified, dated and signed by the complainant in substantially the following manner:

Verification

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

"I declare that this complaint (including any accompanying exhibits and statements) has been examined by me and to the best of my knowledge and belief is a true and correct complaint as required by ~~section~~Section 402 of the Help America Vote Act."

Signed and sworn to (or affirmed) by _____
Name of Complainant

before me on this _____ day of _____, 20 ____.

Signature of Notary Public

(SEAL OF NOTARY)

- b) Upon filing of a complaint, the office of the Board's General Counsel shall assign a docket number to the complaint and proceeding, and all documents thereafter filed pertaining to that particular complaint or proceeding, shall include the docket number first assigned.
- c) The complaint shall bear the address, telephone number and fax number of the complainant or of his or her attorney. The address and fax number provided by the complainant may be relied upon by all other parties for the transmission of all documents pursuant to Section 150.35.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 150.30 Preliminary Review of Complaint

- a) ~~Any complaint naming an election authority as respondent shall proceed under subsections (b) through (e). A complaint properly naming the Board as respondent shall proceed to the alternative dispute resolution procedures set out in Section 150.145, unless the complainant waives this provision and agrees to proceed under subsections (b) through (e). The waiver shall be in writing and signed by the complainant. A complaint naming both the Board and an election authority as respondents shall be separated for jurisdictional purposes with each respondent subject to the procedures set out in the first two sentences of this subsection.~~

- ab) Preliminary Review

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

- 1) Upon the filing of a complaint ~~naming an election authority as respondent or upon the filing of a complaint naming the Board as a respondent and containing a waiver as provided in subsection (a)~~, the General Counsel shall perform a preliminary review to determine whether the complaint meets the following requirements to constitute a valid complaint under the Act.
 - A) The complaint alleges a violation under Title III of the Act;
 - B) The complaint pertains to a federal election; and
 - C) The complaint states sufficient facts as to constitute a cause of action under the Act for which the Board can grant appropriate relief.
 - 2) If the General Counsel determines that the complaint meets the ~~above~~ criteria listed in subsection (a)(1) for a valid complaint under the Act, then the complaint shall proceed under subsections ~~(be)~~ and ~~(cd)~~. If the General Counsel determines that the complaint has not met the ~~listed~~above criteria for a valid complaint under the Act, the complaint shall be presented to the Board for a final determination of its status. In addition, the complainant shall be notified in writing of the General Counsel's determination of the complaint's invalidity and be given an opportunity to appear before the Board to show cause as to why the complaint should not be dismissed. The decision of the Board as to the status of the complaint shall be in the form of a final order subject to appeal under the Illinois Administrative Review Law [735 ILCS 5/Art. III], within the parameters of Sections 9-22, 10-10.01 and 17-33 of the Election Code. As an alternative to summary dismissal of the complaint, the Board may determine that the complaint alleges a violation of the Election Code and refer it for investigation to the appropriate division of the Board or to the appropriate election authority or law enforcement agency.
- be) After a determination by the General Counsel that the complaint meets the criteria set out in subsection ~~(ab)~~, and upon the written request of the complainant, the Board shall appoint a hearing examiner to conduct a ~~preliminary~~ hearing. This hearing shall be held to determine whether the complaint is sufficiently grounded in fact and law. The request must be a part of or accompany the complaint when

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

filed. Following the hearing, the hearing examiner shall make a written recommendation as to whether the complaint is sufficiently grounded in fact and law, and a copy of the recommendation shall be given to the General Counsel for his or her recommendation and to both parties to the complaint. Upon receipt of the recommendation of the hearing examiner and the General Counsel, the Board shall make a final determination as to the merits of the complaint and shall make a decision as to what, if any, action should be taken as a result of the complaint. The final determination and decision shall be in the form of a final order subject to appeal under the Illinois Administrative Review Law, within the parameters of Sections 9-22, 10-10.01 and 17-33 of the Election Code.

- cd) Should the complainant fail to request a hearing, the Board shall appoint a hearing examiner to make a recommendation based solely on the complaint, any evidence submitted with the complaint, and any response offered by the respondent as to whether the complaint is sufficiently grounded in fact and law. The hearing examiner shall allow the respondent an opportunity for a hearing to present evidence supporting any offered defense (both documentary and/or testimonial) prior to the hearing examiner submitting the recommendation to the General Counsel. The complainant shall be given notice and an opportunity to be present and participate in the hearing; however, failure of the complainant to appear at the hearing shall not factor into the hearing examiner's recommendation as to whether the complaint is sufficiently grounded in fact and law. After considering all evidence presented by the parties, the hearing examiner shall prepare a written recommendation to be given to the General Counsel for his or her recommendation and to the parties to the complaint. Upon receipt of the recommendation of the hearing examiner and the General Counsel, the Board shall make a final determination as to the merits of the complaint and shall make a decision as to what, if any, action should be taken as a result of the complaint. The final determination and decision shall be in the form of a final order subject to appeal under the Illinois Administrative Review Law, within the parameters of Sections 9-22, 10-10.01 and 17-33 of the Election Code.
- de) The proceedings of the hearing shall be recorded either by a certified court reporter or by means of an electronic recording device. Any party may provide for his or her own recording of the proceedings of the hearing utilizing a court reporter or any other recording device. Any associated costs, however, shall be borne by the party providing for the recording.

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

- ef) The Board shall render a final determination of the matters alleged in the complaint within 90 days after the filing of the complaint. The time period may be extended by a written waiver of the complainant. If the Board fails to render a final determination with respect to the complaint by the end of the 90 day period and no such waiver is provided by the complainant, ~~then~~ the Board shall order the matter to be resolved by an alternative dispute resolution mechanism described in Section 150.145.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 150.55 Designation of Parties

If a complete determination of the complaint cannot be had without the presence of other parties, the General Counsel, the hearing examiner or the Board may direct those parties ~~them~~ to be brought in. Service of process shall be as provided in Section 150.25 and any subsequent motions and other documents shall be as provided in Section 150.35. The 90 day time period for the Board to render its final decision shall be tolled from the date the General Counsel, hearing examiner or Board directs any additional party or parties to be brought in until the date of service on the last party. If the General Counsel, the hearing examiner or the Board determines that any unnecessary parties have been named by the complainant, those parties may be dismissed.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 150.65 Appointment and Qualifications of Hearing Examiner

Within 5 business days after the filing of a complaint, the General Counsel shall appoint a hearing examiner to hear the complaint who shall be a licensed attorney in the State of Illinois. If the Board is a respondent in the complaint, the General Counsel will appoint a non-staff attorney to act as the hearing examiner, who will act independently of the Board. Written notice of the appointment of the hearing examiner shall be provided to the parties within 5 business days after his or her appointment.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 150.145 Alternative Dispute Resolution

If the State Board of Elections fails to resolve the complaint within 90 days after its filing, or the parties refuse to waive the 90 day deadline, the Board shall select a person, company or association providing dispute resolution services ("the service provider") to resolve the matter. If

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

the parties object to the Board's selection, they shall be provided an opportunity to select a service provider and their selection shall then be presented to the Board. The Board shall select the service provider in consultation with the parties. If the Board and the parties fail to agree on the choice of the service provider, the names of the selections shall be placed in a container and the service provider shall be determined by lot, drawn by the Chairman of the Board. ~~If the complainant names the Board as a respondent and does not waive his or her right to alternative dispute resolution pursuant to Section 150.30 and the choice of service provider cannot be mutually agreed upon, the Board and the complainant shall select a service provider whose name shall be placed in a container and determined by lot, drawn by the complainant.~~ In all circumstances, the service provider shall have at least two years experience in providing mediation services in Illinois. Pursuant to ~~section~~Section 402(a)(I) of HAVA, the matter shall be resolved within 60 days after its referral and this time limitation shall be included in any contract for the provision of alternative dispute resolution services. Costs of the service shall be borne by the Board. The record from any hearing conducted ~~under~~within this Part shall be made available for use by the service provider to have costs of the services shifted to either party. The decision of the service provider shall be subject to judicial review. The Board may petition the service provider to have the costs of the services shifted to either party. The petition shall set forth facts warranting the shifting of costs and must show, at a minimum, that ~~the Board was not properly named as respondent,~~ a determination was made by the service provider that the complaint was completely lacking any basis in fact or law, or unreasonable delay caused by the party resulted in the matter not being resolved by the Board within the original 90-day time period.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of Part: Established Political Party and Independent Candidate Nominating Petitions
- 2) Code Citation: 26 Ill. Adm. Code 201
- 3) Section Number: 201.40 Proposed Action: Amendment
- 4) Statutory Authority: Sections 1A-8 (9), 5/7-12 and 5/8-9 and 5/10-6.2 of the Illinois Election Code [10 ILCS 5/1 et seq]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking makes provision for ballot placement lotteries for established party and independent candidate petitions filed within the last hour of the filing period, as required under PA 97-1044 and PA 98-115.
- 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 the rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: See number 5 above
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:

Kenneth R. Menzel, General Counsel
Illinois State Board of Elections
2329 S MacArthur Blvd.
Springfield IL 62708

217/782-4141

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENT

fax: 217/782-5959
kmenzel@elections.il.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: at the time the regulatory agenda was required to be filed, this rulemaking was not anticipated.

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

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENT

TITLE 26: ELECTIONS

CHAPTER I: STATE BOARD OF ELECTIONS

PART 201

ESTABLISHED POLITICAL PARTY AND
INDEPENDENT CANDIDATE NOMINATING PETITIONS

Section

| | |
|--------|--|
| 201.10 | Filing Times at the Office of the State Board of Elections |
| 201.20 | Determination of Nominating Petition's Official Time of Filing |
| 201.30 | Filing Times for Objections and Withdrawals |
| 201.40 | Simultaneous Filings for the Same Office – Lottery |

AUTHORITY: Implementing Articles 7, 8 and 10 of the Election Code [10 ILCS 5/Arts. 7, 8 and 10] and authorized by Section 1A-8(9) of the Election Code [10 ILCS 5/1A-8(9)].

SOURCE: Adopted at 2 Ill. Reg. 25, p. 70, effective July 3, 1978; amended at 5 Ill. Reg. 14140, effective December 4, 1981; codified at 6 Ill. Reg. 7213; emergency amendment at 8 Ill. Reg. 24311, effective November 29, 1984, for a maximum of 150 days; amended at 30 Ill. Reg. 6343, effective April 3, 2006; amended at 39 Ill. Reg. _____, effective _____.

Section 201.40 Simultaneous Filings for the Same Office – Lottery

Simultaneous filings of candidate nominating petitions for the same office occur only at 8:00 a.m. on the first day of filing, and in the last hour of filing on the last day of filing. The lottery system to be used by the State Board of Elections, the election authority, or the local election official to break ties resulting from ~~such~~ simultaneous filings must be approved by the State Board of Elections. The following system has been so approved:

- a) The names of all candidates who filed simultaneously for the same office shall be listed alphabetically and shall be numbered consecutively commencing with the number one, which shall be assigned to the candidate whose name is listed first on the alphabetical list; provided, however, that candidates filing a group petition for the same office shall be treated as one in the alphabetical listing using the name of the first candidate for ~~that~~such office to appear on the petitions as the name to be included in the alphabetical list. For example, if five candidates by the name of Downs, Brown, Edwards, Cook and Adams have filed simultaneously, they will be arranged alphabetically and assigned numbers as follows: Adams, one; Brown, two; Cook, three; Downs, four; and Edwards, five. However, if Cook and

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENT

Adams filed a group petition and Cook's name appeared first on the petition, then the candidates would be arranged as follows: Brown, one; Cook and Adams, two; Downs, three; and Edwards, four.

- b) All ties will be broken by a single drawing. A number shall be placed in a container representing each number assigned to each candidate and group of candidates pursuant to the alphabetical listing procedure set forth in ~~subsection paragraph (a) above~~. For example, if the largest number to be used for any office is five, then numbers one, two, three, four and five will be placed in a container. In this manner, sufficient numbers will be placed in the container to conduct a drawing for all offices at the same time.
- c) After the numbers are placed in the container they shall be drawn one at a time from the container after they have been thoroughly shaken and mixed. The candidate or group of candidates in the position on an alphabetical list corresponding to the first number drawn shall be certified ahead of the other candidates listed on the alphabetical list. The candidate or group of candidates in the position on the alphabetical list corresponding to the second number drawn will be certified second, and so forth until all numbers have been drawn. For example, ~~when~~where no group petitions were filed, if candidates Adams, Brown, Cook, Downs and Edwards filed simultaneously at 8:00 a.m. on the first day of filing, and the number three is the first drawn, then candidate Cook, who is listed in the third position on the alphabetical list, shall be certified first on the ballot. If the number one is drawn second, then candidate Adams, who is listed in the first position on the alphabetical list, shall be certified second on the ballot, ~~and so on~~. For offices ~~for which~~where group petitions were filed, using the example set forth ~~in this subsection (c) in which~~above ~~where~~ candidates Cook and Adams file a group petition for the same office, and Cook's name appears first on the petition, and number three is drawn first, then candidate Downs would be listed first. If the number two is drawn second, then candidates Cook and Adams would be certified second and third, respectively. If the number four is drawn third, then candidate Edwards would be certified fourth, ~~and so on~~. In districts with fewer names on the alphabetical list than are in the drawing, then all numbers in excess of the number of candidates or group of candidates that appear on the particular alphabetical list shall be disregarded. Thus, if five numbers are placed in the container, and only four candidates or groups of candidates are on a particular list, then the number five shall be disregarded. For example, if candidates Adams and Cook, filing separate petitions, are the only candidates listed on the alphabetical list and five numbers are chosen in the following order,

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENT

3, 5, 4, 2 and 1, then candidate Cook's name will appear in the certification prior to the name of candidate Adams. For simultaneous petitions filed in the last hour on the last day of filing, the drawing shall operate in the same manner as outlined in this Section, except that the candidate associated with the first drawn number shall be certified last on the ballot, the candidate associated with the second drawn number shall be certified second to last on the ballot, and so on until all numbers are drawn.

- d) ~~If at 5:00 p.m. on the last day for filing, two or more nominating petitions for the same office are presented, they shall be deemed filed in the order of actual receipt. Ballot position shall be assigned consecutively to these petitions with the first petition received placed upon the ballot before the second set of petitions received and so on. No nominating petitions will be accepted after 5:00 p.m.~~
- de) All candidates shall be certified in the order in which petitions have been filed with the State Board of Elections, election authority or the local election official. In cases ~~in which~~where candidates have filed simultaneously, they shall be certified (in the order determined by the lottery procedure outlined in this Section~~above~~) prior to candidates who filed for the same office who filed their petitions at a later time, except in those situations in which~~where~~ the law requires rotation on a district-by-district basis.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of Part: New Political Party Nominating Petitions
- 2) Code Citation: 26 Ill. Adm. Code 202
- 3) Section Number: 202.40 Proposed Action: Amendment
- 4) Statutory Authority: Sections 1A-8 (9) and 5/10-6.2 of the Illinois Election Code [10 ILCS 5/1 et seq]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking makes provision for ballot placement lotteries for new party petitions filed within the last hour of the filing period, as required under PA 98-115.
- 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 the rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: See number 5 above
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:

Kenneth R. Menzel, General Counsel
Illinois State Board of Elections
2329 S MacArthur Blvd.
Springfield IL 62708

217/782-4141
fax: 217/782-5959
kmenzel@elections.il.gov

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENT

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: at the time the regulatory agenda was required to be filed, this rulemaking was not anticipated.

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

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENT

TITLE 26: ELECTIONS

CHAPTER I: STATE BOARD OF ELECTIONS

PART 202

NEW POLITICAL PARTY NOMINATING PETITIONS

Section

| | |
|--------|--|
| 202.10 | Filing Times at the Office of the State Board of Elections |
| 202.20 | Determination of Nominating Petition's Official Time of Filing |
| 202.30 | Filing Times for Objections and Withdrawals |
| 202.40 | Simultaneous Filings for the Same Office – Lottery |
| 202.50 | Nominating Petitions Filed with County Clerks |

AUTHORITY: Implementing Article 10 of the Election Code [10 ILCS 5/Art. 10] and authorized by Section 1A-8(9) of the Election Code [10 ILCS 5/1A-8(9)].

SOURCE: Adopted at 2 Ill. Reg. 25, p. 70, effective July 3, 1978; amended at 5 Ill. Reg. 14144, effective December 4, 1981; codified at 6 Ill. Reg. 7214; amended at 30 Ill. Reg. 6347, effective April 3, 2006; amended at 39 Ill. Reg. _____, effective _____.

Section 202.40 Simultaneous Filings for the Same Office -- Lottery

Simultaneous filings of new political party petitions for full slates of candidates occur only at 8:00 a.m. on the first day of filing [and in the last hour of filing on the last day of filing](#). The lottery system to be used by the State Board of Elections, the election authority, or the local election official to break ties resulting from such simultaneous filings must be approved by the State Board of Elections. The following system has been so approved:

- a) New political party petitions received shall be classified according to the political subdivision to which they relate. Within each classification, petitions filed simultaneously shall be numbered consecutively commencing with the number one;
- b) All ties in new political party filings shall be broken by a single drawing. A number shall be placed in a container representing each number assigned to the new political party petitions.

For example, if five petitions are filed simultaneously, then five numbers, one, two, three, four and five shall be placed in the container;

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENT

- c) After the numbers are placed in the container, they shall be drawn one at a time from the container after being thoroughly shaken and mixed. With respect to simultaneous filings at 8:00 a.m. on the first day of filing, the~~The~~ new political party petition corresponding to the first number drawn shall be certified first and so forth until all numbers are drawn. With respect to simultaneous filings in the last hour of the last day of filing, the new political party petition corresponding to the first number drawn shall be certified last and so forth until all numbers are drawn;
- d) All new political parties shall be certified after the established political parties in the order in which petitions have been filed or with regard to simultaneous filings, in the order determined by the lottery procedure ~~hereinabove~~ outlined in this Section.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Standards of Service for Gas Utilities and Alternative Gas Suppliers
- 2) Code Citation: 83 Ill. Adm. Code 501
- 3)

| <u>Section Numbers:</u> | <u>Adopted Actions:</u> |
|-------------------------|-------------------------|
| 501.5 | New Section |
| 501.10 | New Section |
| 501.20 | New Section |
| 501.30 | New Section |
| 501.40 | New Section |
| 501.50 | New Section |
| 501.100 | New Section |
| 501.110 | New Section |
| 501.120 | New Section |
| 501.130 | New Section |
| 501.140 | New Section |
| 501.150 | New Section |
| 501.160 | New Section |
| 501.170 | New Section |
| 501.180 | New Section |
| 501.190 | New Section |
| 501.200 | New Section |
| 501.210 | New Section |
| 501.220 | New Section |
| 501.230 | New Section |
| 501.240 | New Section |
| 501.250 | New Section |
| 501.260 | New Section |
| 501.270 | New Section |
| 501.280 | New Section |
| 501.290 | New Section |
| 501.300 | New Section |
| 501.310 | New Section |
| 501.320 | New Section |
| 501.400 | New Section |
| 501.410 | New Section |
| 501.420 | New Section |
| 501.500 | New Section |
| 501.510 | New Section |

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

| | |
|---------|-------------|
| 501.520 | New Section |
| 501.530 | New Section |
| 501.540 | New Section |
| 501.600 | New Section |
| 501.610 | New Section |

- 4) Statutory Authority: Implementing and authorized by Sections 8-301, 8-302, 8-501, 9-201, 10-101, 10-107, 19-110(e)(3) and 19-115(b)(1), (b)(4) and (b)(5) of the Public Utilities Act [220 ILCS 5/8-301, 8-302, 8-501, 9-201, 10-101, 10-107, 19-110(e)(3) and 19-115(b)(1), (b)(4) and (b)(5)]
- 5) Effective Date of Rules: August 25, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these rules contain incorporations by reference? Yes
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Commission's Springfield office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: August 29, 2014; 38 Ill. Reg. 17970
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between Proposal and Final Version: The number of the Part has been changed from 500 to 501, to avoid confusion with the existing rules of Part 500, which will remain in operation until the new Part becomes effective. While the new rules are being adopted now, Section 501.5 has been added to state that the rules are scheduled to take effect on January 1, 2017, when they will replace the provisions currently found in Part 500; it is anticipated that Part 500 will be repealed in a separate, subsequent rulemaking. A number of stylistic or clarifying changes have also been made to the new rules, including the addition of a list of sources for materials incorporated by reference.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- 15) Summary and Purpose of Rulemaking: Many provisions in Part 500, Standards of Service for Gas Utilities, have existed in their present form since their last major codification, in 1965, and some of the provisions are a century old. A comprehensive and systematic review and revision of the Part was needed to take account of technological improvements that have occurred in recent years, as well as to recognize the emerging role of alternative gas suppliers in the marketplace. The new rules found in Part 501 are the result of this effort, and the title of the Part, Standards of Service for Gas Utilities and Alternative Gas Suppliers, reflects the broader scope of the new rules. Part 501 is scheduled to take effect on January 1, 2017, when it will replace the existing rules in Part 500.
- 16) Questions or requests for information about these adopted rules shall be directed to:

Brian W. Allen
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

217/558-2387

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER d: GAS UTILITIESPART 501
STANDARDS OF SERVICE FOR GAS UTILITIES AND
ALTERNATIVE GAS SUPPLIERS

SUBPART A: GENERAL

Section

| | |
|--------|---|
| 501.5 | Effectiveness of this Part |
| 501.10 | Definitions and Incorporations by Reference |
| 501.20 | Application |
| 501.30 | Exemption or Modification |
| 501.40 | Complaints |
| 501.50 | Customer Call Centers |

SUBPART B: NATURAL GAS MEASUREMENT REQUIREMENTS

Section

| | |
|---------|---|
| 501.100 | Application of Subpart B |
| 501.110 | Location and Installation of Meters |
| 501.120 | Meter and Equipment Handling Requirements |
| 501.130 | Trained Personnel |
| 501.140 | Compressibility and Supercompressibility |
| 501.150 | Fixed Factor Delivery |
| 501.160 | Testing Facilities and Equipment |
| 501.170 | Meter Accuracy Requirements |
| 501.180 | Diaphragm Meters |
| 501.190 | Rotary Meters |
| 501.200 | Turbine Meters |
| 501.210 | Orifice Meters |
| 501.220 | Multi-Path Ultrasonic Meters |
| 501.230 | Coriolis Meters |
| 501.240 | Other Meter Types |
| 501.250 | Sample Testing of Diaphragm Meters |
| 501.260 | Meter Tests Requested by the Customer |
| 501.270 | Commission Referee Tests |

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

| | |
|---------|--|
| 501.280 | Meter Tests Requested by Natural Gas Suppliers |
| 501.290 | Meter Installation Inspection |
| 501.300 | Correctors |
| 501.310 | Transmitters |
| 501.320 | Gas Chromatograph |

SUBPART C: CUSTOMER INFORMATION

| | |
|---------|---|
| Section | |
| 501.400 | Corrections and Adjustments for Measurement Error |
| 501.410 | Information to Customers |
| 501.420 | Meter Reading |

SUBPART D: GAS SERVICE STANDARDS

| | |
|---------|---------------------------|
| Section | |
| 501.500 | Pressure Regulation |
| 501.510 | Pressure Survey |
| 501.520 | Interruptions of Service |
| 501.530 | Heating Value |
| 501.540 | Good Engineering Practice |

SUBPART E: EXTENSION OF MAINS

| | |
|---------|--|
| Section | |
| 501.600 | Extension of Distribution Mains in Urban Areas |
| 501.610 | Extension of Distribution Mains in Rural Areas |

AUTHORITY: Implementing and authorized by Sections 8-301, 8-302, 8-501, 9-201, 10-101, 10-107, 19-110(e)(3) and 19-115(b)(1), (b)(4) and (b)(5) of the Public Utilities Act [220 ILCS 5/8-301, 8-302, 8-501, 9-201, 10-101, 10-107, 19-110(e)(3) and 19-115(b)(1), (b)(4) and (b)(5)].

SOURCE: Adopted at 39 Ill. Reg. 12494, effective August 25, 2015.

SUBPART A: GENERAL

Section 501.5 Effectiveness of this Part

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

The provisions of this Part shall apply beginning January 1, 2017. For the rules effective through December 31, 2016, see 83 Ill. Adm. Code 500.

Section 501.10 Definitions and Incorporations by Reference

a) Definitions

"Act" means the Public Utilities Act [220 ILCS 5].

"AGA" means the American Gas Association.

"Alternative Gas Supplier" has the same meaning as in Section 19-105 of the Act.

"ANSI" means the American National Standards Institute.

"Answer Time" means a measurement from the point the customer dialed the last digit of the natural gas public utility's or alternative gas supplier's telephone number and a natural gas public utility or alternative gas supplier representative or automated system is ready to render assistance or accept information to process calls.

"Auxiliary Equipment" means an integral device attached directly or remotely to a gas meter. The function of auxiliary equipment is to adjust gas meter usage measurements to account for changes in gas temperature or pressure.

"Bell Prover" means a cylindrical metal tank open at the top and nearly filled with liquid, in which a smaller calibrated cylindrical tank called the bell, open at the bottom and having a dome-shaped top, can be raised or lowered. As the operator raises (negative pressure) or lowers (positive pressure) the bell, the bell will displace a known volume of air.

"British Thermal Unit" or "BTU" means the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit from 58.5°F to 59.5°F under a standard pressure of 30 inches of mercury at 32°F, or 1054.804 Joules.

"Complaint" means an objection made to a natural gas public utility or alternative gas supplier, by a customer or another entity, as to its charges, facilities or service. Complaints include a customer or other entity identifying and asking a natural gas public utility or alternative gas supplier to address or resolve a problem or

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

concern and shall not include contacts that are limited to inquiry or seeking information.

"Compressibility" means a gas volume correction factor calculated by using the parameters of natural gas composition, flowing gas temperature, and flowing gas pressure. The compressibility correction factor compensates for the deviation of gases from the ideal gas laws with increased pressure and with variations in temperature and gas composition. Compressibility is not to be confused with "supercompressibility", which is also defined in this Section.

"Coriolis Meter" means a gas meter that infers mass flow rate by measuring tube displacement resulting from the Coriolis effect.

"Corrector" means a device that corrects uncorrected gas meter volume according to the gas laws (Boyle's Law, Charles' Law, and Real Gas Law).

"Commission" means the Illinois Commerce Commission.

"Commission Referee Test" means the accuracy test of any gas meter made in the presence of one or more members of Commission Staff.

"Cubic Foot" means the unit of volume for purposes of measurement at a base temperature of 60°F at a base pressure of 14.73 pounds per square inch absolute.

"Custody Transfer Meter" means the meter, auxiliary equipment and tertiary equipment a utility uses to measure a customer's gas usage.

"Diaphragm Meter" means a positive displacement, bellows-type gas meter that alternately fills and empties compartments of known volume and totals the number of times the cycle occurs to determine the volume of gas passing through the meter.

"Defective Meter" means a meter whose condition is impairing service to a customer or a meter that has failed the requirements of Sections 500.170, 500.180, 500.190, 500.200, 500.210, 500.220 or 500.230.

"Flow Computer" means a device that electronically converts signals from a gas measurement system to a useful form such as flow rate.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

"Fixed Factor" means the use of a gas pressure regulator to control gas pressure within an allowable pressure band over the required flow rate range considering the variation of inlet pressures and results in the application of a pressure correction factor applied via an arithmetic application or special index to a customer's measured usage.

"Master Bell" means a primary bell prover used as a reference standard for target proof correlations and bell prover interface recertification.

"Measurement Error" means an error in the calculation of a customer's gas usage due to the inaccuracy or improper setup of a utility's meter or other equipment whose function directly or indirectly affects the utility's measurement of a customer's gas usage.

"Meter Accuracy" means the overall performance of a particular meter in relationship to a known reference or portable standard.

"Meter Soaking Room" means a room maintained at the same atmospheric conditions as the meter proving room. The purpose of a meter soaking room is to store and acclimatize meters prior to testing to ensure meter testing accuracy that is not affected by temperature variations.

"Multi-path Ultrasonic Meter" means a device that derives gas flow rate by measuring the transit times of high-frequency sound pulses. Sound pulses transit between pairs of transducers located on or in the gas pipe.

"Natural Gas Supplier" means an alternative gas supplier or any other natural gas supplier providing the natural gas commodity to a customer under a gas utility tariff or rider.

"Orifice Meter" means an inferential meter that consists of an orifice plate perpendicular to the gas flow in a pipe. When gas flows across the orifice, it creates a pressure differential. Transmitters and transducers measure the pressure differential, static pressure, and other variables to determine the flow rate. The flow rate is proportional to the square root of the differential pressure across the orifice plate.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

"Portable Standards" means instruments that utilities use in the field or the meter shop to test the accuracy of auxiliary and tertiary equipment, transmitters, and other equipment associated with correcting a meter's output.

"Proving Room" means a temperature-controlled room where the utility uses equipment to determine the accuracy of meters.

"Rated Capacity" or "Badged Capacity" means the hourly gas throughput of a meter as defined by the meter manufacturer.

"Reference Standards" means instruments that utilities use only for verifying the accuracy of portable standards, and whose accuracy is traceable back to the national standard maintained by the National Institute of Standards and Technology (NIST) or its successor.

"Rotary Meter" means a positive displacement meter that alternately fills and empties rotating compartments of known size and totals the number of times the cycle occurs to determine the volume of gas passing through the meter.

"Service Applicant" means a person who applies for residential or non-residential utility service for a location where the utility has not yet installed the meter.

"Small Commercial Customer" has the same meaning as in Section 19-105 of the Act.

"Sonic Nozzle Automatic Prover" means a device containing a parallel bank of sonic flow nozzles that it uses to determine actual gas volume passed through a gas meter in order to determine the gas meter's accuracy.

"Sub-metering" means the placement of a meter downstream of a custody transfer meter.

"Supercompressibility" means a value used in some flow equations for differential pressures (for example, orifice metering). In general, the supercompressibility factor is equal to the square root of the quotient of gas compressibility at base conditions divided by the gas compressibility at flowing conditions. Supercompressibility is not to be confused with "compressibility".

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

"Tertiary Equipment" means a device that electronically converts signals from a gas measurement system (meter or auxiliary equipment or both) to a useful form such as flow rate (for example, flow computers).

"Therm" means a unit of measurement representing a quantity of heat equivalent to 100,000 BTUs and expresses the energy content of natural gas.

"Transducer" means a sensing element capable of transforming values of physical properties such as pressure or temperature into equivalent electrical signals.

"Transmitter" means a device designed to enhance the transmission of information from a transducer to a flow computer by the addition of an electrical circuit that converts the transducer output to a standard signal in analog, digital or frequency form.

"Turbine Meter" means an inferential meter that measures gas flow by counting the revolutions of a rotor with blades, which turn in proportion to the gas flow velocity.

- b) Incorporations by Reference. The following materials are incorporated by reference as of the date stated and include no later editions or amendments.

American Gas Association, 400 North Capitol Street, NW, Washington DC 20001

AGA Report No. 3, Orifice Metering of Natural Gas – Part 2:
Specification and Installation Requirements, XQ0002 (January 1, 2000)

AGA Report No. 7, Measurement of Natural Gas by Turbine Meter,
XQ0604 (January 1, 2006)

AGA Report No. 9, Measurement of Gas by Multipath Ultrasonic Meters,
XQ0701 (April 1, 2007)

AGA Report No. 11, Measurement of Natural Gas by Coriolis Meter,
XQ1301 (February 1, 2013)

AGA Gas Measurement Manuals – Part 15: Electronic Corrector, XQ9901
(May 1999)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

AGA Gas Measurement Manuals – Part 8: Electronic Flow Computers and Transducers, Revised (1988), XQ8805 (May 1988)

American National Standards Institute and American Society for Quality
(American National Standards Institute, 25 West 43rd Street, 4th Floor, New York, New York 10036)

Sampling Procedures and Tables for Inspection by Attributes, ANSI/ASQ Z1.4-2008 (January 1, 2008)

American National Standards Institute and American Gas Association (American National Standards Institute, 25 West 43rd Street, 4th Floor, New York, New York 10036)

Diaphragm-Type Gas Displacement Meters (Under 500 Cubic Feet Per Hour Capacity), ANSI B109.1-2000, AGA XQ0008 (June 2000)

Diaphragm-Type Gas Displacement Meters (500 Cubic Feet Per Hour Capacity and Over), ANSI B109.2-2000, AGA XQ0009 (June 2000)

Rotary-Type Gas Displacement Meters, ANSI B109.3-2000, AGA XQ0010 (June 2000)

Section 501.20 Application

This Part sets forth minimum requirements and shall apply to any natural gas public utility as defined in Section 3-105 of the Act and any alternative gas supplier as defined in Section 500.10. This Part shall not apply to any natural gas cooperative or to a municipal system when operating within its service territory. A public utility shall retain a record required by this Part for the period specified in 83 Ill. Adm. Code 510 unless this Part requires a longer retention period.

Section 501.30 Exemption or Modification

A utility or alternative gas supplier may file an application requesting modification of or exemption from any Section of this Part. The Commission may grant the modification or exemption if the utility or alternative gas supplier demonstrates that the requested modification or exemption is economically and technically sound and will not compromise safety, reliability or the service obligations of the utility or alternative gas supplier. A utility or alternative gas

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

supplier shall file its requested exemption or modification pursuant to 83 Ill. Adm. Code 200 and shall set forth specific reasons and facts in its petition in support of the requested action.

Section 501.40 Complaints

- a) A utility or alternative gas supplier shall investigate each complaint received. The utility or alternative gas supplier shall acknowledge the receipt of all written complaints orally or in writing.
- b) A utility or alternative gas supplier shall document each complaint and make any records required by this Part available to Commission personnel upon request. Each record shall contain, at a minimum, the name and address of the complainant, the time of day and the date received, the nature of the complaint, the result of the investigation or analysis, when and by whom the investigation or analysis was conducted, the final disposition of the complaint, and the date of disposition.
- c) A utility shall keep records of complaints related to pressure regulation or accuracy of metering equipment or data, other than requests for meter rereads, in the following manner. A utility will keep an index or file containing all complaints for three years, separated by year. If a utility chooses to maintain an index of these complaints, the index shall contain enough information to allow access to individual records of each complaint.
- d) The provisions of this Section shall apply only to:
 - 1) Natural gas public utilities; and
 - 2) *Alternative gas suppliers serving residential or small commercial customers and only to the extent the alternative gas suppliers provide services to residential or small commercial customers.* [220 ILCS 5/19-111(a)]

Section 501.50 Customer Call Centers

- a) *A utility or alternative gas supplier shall maintain a customer call center where customers can reach a representative of the utility or alternative gas supplier and receive current information regarding their accounts. At least once every six months, a utility or alternative gas supplier shall provide written information to*

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

customers explaining how to contact the call center, which can be accomplished through a bill message either by the alternative gas supplier or a utility in utility-consolidated billing situations. The annual average answer time for calls placed to the call center shall not exceed 60 seconds when a representative or automated system is ready to render assistance and/or accept information to process calls. The annual abandon rate for calls placed to the call center shall not exceed 10%. A utility or alternative gas supplier shall maintain records of the call center's telephone answer time performance and abandoned call rate. A utility or alternative gas supplier shall keep these records for a minimum of two years and make these records available to Commission personnel upon request. If annual answer times and/or abandon rates exceed the limits established in this subsection (a), a utility or alternative gas supplier may provide the Commission or its personnel with explanatory details. At a minimum, these records shall contain the following information in monthly increments:

- 1) *Total number of calls received;*
 - 2) *Number of calls answered;*
 - 3) *Average answer time;*
 - 4) *Number of abandoned calls; and*
 - 5) *Abandoned call rate. [220 ILCS 5/19-115(b)(5)]*
- b) A utility or alternative gas supplier that uses the same call center for both gas and electric service is not required to provide separate data for gas service and electric service.
- c) A utility or alternative gas supplier that uses the same call center for gas or electric service in multiple jurisdictions is not required to provide separate data about Illinois customers unless calls of Illinois customers are routed to a separate area for handling or are identified or tracked separately.
- d) A utility or *alternative gas supplier that does not have electronic answering capability that meets the requirements of subsection (a) shall notify the Manager of the Commission's Consumer Services Division or its successor by*

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

January 1, 2017 and collaborate with *Staff to develop individualized reporting requirements for the call volume and responsiveness of the call center.* [220 ILCS 5/19-115(b)(5)]

- e) *On or before March 1 of every year, a utility or alternative gas supplier shall file a report with the Chief Clerk of the Commission for the preceding calendar year on its answer time and abandon call rate for its call center as described in subsection (a). The report shall include an explanation of what service territories are included and a description of how calls are received and routed. For combined utilities, the report shall indicate which types of utility service are included in the report. When a utility or alternative gas supplier files its report with the Commission, it shall also provide a copy of its report to the Manager of the Consumer Services Division or its successor.* [220 ILCS 5/19-115(b)(5)]
- f) The provisions of this Section shall apply only to:
 - 1) Natural gas public utilities; and
 - 2) Alternative gas suppliers serving residential or small commercial customers and only to the extent those alternative gas suppliers provide services to residential or small commercial customers.

SUBPART B: NATURAL GAS MEASUREMENT REQUIREMENTS

Section 501.100 Application of Subpart B

The purpose of this Subpart is to ensure that gas metering that could affect a customer's bill is accurate. This Subpart applies to all custody transfer meters and all meters that measure the gas usage associated with utility-owned equipment including usage by pipeline heaters, compressors, fuel gas, and storage field injections and withdrawals whose readings directly or indirectly affect a customer's gas utility bills. This Subpart does not apply to sub-metering that will not affect a customer's gas utility bills.

Section 501.110 Location and Installation of Meters

- a) A utility shall install a meter on a service applicant's premises as near as practical to the point of entrance of gas service into the service applicant's building or utilization area as mutually agreed upon by the utility and service applicant. The

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

utility shall install a meter in a readily accessible location and protect the meter from corrosion and other damage.

- b) A utility shall not install a meter indoors unless outdoor installation is not possible or would make the meter installation financially infeasible. A utility shall not install a meter in sleeping rooms, in small, unventilated areas, or in locations where the installation, reading or removal of the meter may prove difficult or hazardous. A utility shall not install meters less than three feet from any ignition source, air intake, or source of heat that might damage the meter. A utility shall not install a meter in a location where expected temperatures are likely to exist outside the range recommended by the meter manufacturer.
- c) A utility shall not install a meter in front of a residential dwelling except with the consent of the service applicant or if no other practical external location is available.
- d) A utility shall install all meters in a secured upright and level position. A utility may vary from this requirement if it installs a meter whose accuracy does not depend upon an upright and level installation. A utility shall install each meter to minimize anticipated stresses upon the connecting piping and the meter.
- e) If it is not practical for a utility to locate a meter installation in a place free of vehicular traffic hazards, the utility shall install meter protection such as guard posts or rails to protect the meter installation from damage. If the utility determines meter protection is necessary, then the utility shall inform the service applicant and include an estimate of the cost for the additional meter protection. The service applicant may install the guard posts or rails prior to the installation of the meter if the utility approves the proposed protection, or the service applicant may reimburse the utility for the cost and installation of the guard posts or rails.
- f) A utility may refuse to install a meter or to serve a service applicant if, in the utility's judgment, the metering installation is hazardous or the service applicant's installation of piping or gas burning equipment is hazardous or of such character that the utility cannot provide service in a manner consistent with the requirements of Section 8-101 of the Act. In case of refusal, the utility shall inform the service applicant in writing of the reason for refusal to render service and make the service applicant aware of the refusal to provide service within five business days after the decision to refuse service.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- g) A utility shall not install a meter without a temperature compensation device unless the utility uses a corrector or other acceptable auxiliary equipment to correct the meter's reading for temperature variation. A utility may install non-temperature compensated meters in indoor locations if the utility uses only that type and size of meter in indoor locations.
- h) Each diaphragm, rotary and turbine meter shall have a register or display on the meter or correcting device that displays consumption in a definite and known proportion to the actual energy consumption of the customer, that is plainly visible, and that a customer can read. A customer may waive this requirement in writing. This requirement shall not affect the utility's right to secure meters for safety reasons or in situations in which the meter is subject to excessive risk of damage or tampering. At the customer's request, a utility shall explain to the customer how to read the meter used for billing that customer.
- i) A utility shall avoid installing a meter or auxiliary or tertiary equipment in locations where the meter or auxiliary or tertiary equipment is in direct contact with soil or concrete unless the manufacturer designed the meter or equipment for those conditions.
- j) A utility shall have security seals installed on all meters and auxiliary and tertiary equipment or take measures to secure its equipment in order to deter unauthorized personnel from tampering with it.
- k) A utility shall secure all meter bypass valves when not in use in order to deter unauthorized personnel from tampering with them while also providing a readily apparent visual indication of tampering or other diversion activities.
- l) A utility shall secure a regulator that it uses in conjunction with fixed factor billing if it discovers tampering with the pressure setting.

Section 501.120 Meter and Equipment Handling Requirements

- a) A utility shall store all meters not in service in a secure, weather-protected environment and stack the meters in an upright position or in a manner recommended by the manufacturer. The weather-protected environment requirement does not apply to utility vehicles used to transport meters.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- b) A utility shall provide a secure means of transporting a meter prior to its installation and after its removal from service.
- c) A utility shall cap the inlet and outlet connections of a meter when the meter is not in service. Meter caps are not necessary when a meter is located within a utility's proving room or meter soaking room or after the meter has been tested and is waiting for repair.
- d) A utility shall protect all auxiliary and tertiary equipment prior to installation and after removal from service.
- e) If a utility drops or in any way damages a meter or auxiliary or tertiary equipment prior to installation, the utility shall not place that equipment into service until the utility establishes the proper operation and accuracy of the equipment.

Section 501.130 Trained Personnel

A utility shall ensure that only trained personnel install, inspect, test and adjust meters and auxiliary and tertiary equipment. A utility shall ensure that its employees and agents have received adequate training regarding their specific responsibilities.

Section 501.140 Compressibility and Supercompressibility

- a) A utility shall account for compressibility when metering gas at pressures greater than 15 pounds per square inch gauge (psig).
- b) A utility shall account for supercompressibility in the flow equation used in orifice metering.

Section 501.150 Fixed Factor Delivery

- a) A utility's regulator for fixed factor delivery shall control the delivery pressure at the outlet of the meter to $\pm 1\%$ of the absolute billing pressure (delivery pressure (psi) + atmospheric pressure) over the range of expected regulator inlet pressures and customer load requirements. For example, for a 10 psig service and assuming an atmospheric pressure of 14.4 psi, the regulator shall control the delivery pressure at the outlet of the meter between 10.244 psig and 9.756 psig.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- b) A utility may use fixed-factor delivery at delivery pressures of less than or equal to 15 psig. At pressures above 15 psig, a utility shall not use fixed factor delivery except for company-use metering that was in place on January 1, 2017.
- c) A utility shall determine fixed factors for billing by measuring the pressure at the meter outlet with a calibrated pressure instrument while the regulator is delivering a steady flow to the meter, but at a flow rate that is less than 90% of the meter's capacity at the designated fixed-factor operating pressure.
- d) Whenever a utility performs regulator or meter set maintenance that can affect the established fixed factor, the utility shall reestablish and reset the fixed factor if the reading falls outside of the allowable delivery pressure variations in subsection (a).
- e) A utility shall verify that the regulator's delivery pressure meets the requirements of subsection (a) at least every 36 months. If a utility documents conditions at the meter that prevent verification, then the utility may delay verification until those conditions cease to exist or for four months, whichever is shorter. If a utility delays verification, it shall maintain for three years documentation of the conditions that prevented verification within the required 36 months and provide the documentation to an authorized representative of the Commission when requested.
- f) A utility is not required to conduct the verification of the regulator's delivery pressure in subsection (e) for residential rate classes if those locations serve a customer at a pressure of 5.0 psi or less and the utility uses a meter with a rated capacity under 700 cubic feet per hour (at ½ inch differential) to measure the residential customer's usage.
- g) A utility is not required to conduct the verification of the regulator's delivery pressure in subsection (e) for non-residential rate classes if those locations serve a customer at a pressure of 2.0 psi or less and the utility uses a meter with a rated capacity under 700 cubic feet per hour (at ½ inch differential) to measure the non-residential customer's usage.

Section 501.160 Testing Facilities and Equipment

- a) A utility shall provide laboratories, testing shops and other equipment, facilities and personnel as may be necessary to conduct the tests required by this Subpart or

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

other orders of the Commission. A utility's laboratories, meter testing shops, and other equipment and facilities so provided shall be at all times available for inspection by authorized representatives of the Commission.

- b) If a utility selects an agent to perform meter sample testing, meter accuracy tests when a meter is removed from service, and other requirements of this Subpart, or if a utility changes its agent, or if the agent changes the location where it will conduct meter tests, the utility shall notify the Director of the Safety and Reliability Division of the Commission in writing within 60 days after the selection or change. If an agent is selected or changed, the utility shall provide the following information about the new agent:
 - 1) Name of agent;
 - 2) Name of contact for agent;
 - 3) Address and phone number of agent contact;
 - 4) Address of location where agent will conduct meter tests;
 - 5) Summary of meter types and sizes that agent will test;
 - 6) Summary of services the agent will perform for the utility; and
 - 7) Identification of what changes, if any, caused the need for the notification.
- c) A utility shall provide meter testing equipment, including a bell prover of not less than two-cubic-foot capacity. A utility shall maintain each of its active provers of all types in proper adjustment in order to determine the average accuracy of meters to within one-half of one percent. A utility shall provide suitable thermometers, pressure gauges, and temperature recorders and shall adequately control the temperature of the meter testing room, meter soaking room, and air supply used in testing meters to achieve the meter testing accuracy stated in this subsection. The temperature of the meter testing and soaking room, when in use, shall not vary by more than 4°F during regular operating hours and shall not vary by more than 6°F throughout the year.
- d) In the event a meter shop experiences temperature variances that exceed those provided in subsection (c), a utility shall immediately stop testing meters in the

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

meter shop until the utility corrects the problem and the temperature returns to the normal levels for at least four continuous hours or the utility can demonstrate that the temperature variance between the meters and testing equipment is less than or equal to 1°F.

- e) A utility that uses a transfer prover to test the accuracy of meters in the field shall verify the transfer prover's accuracy by testing a reference meter on the transfer prover at least every three months. If this testing shows a deviation of more than 0.5% in the reference meter accuracy, the utility must take all necessary repairs or actions to bring the transfer prover's testing of the reference meter to within 0.5% of the prior readings.
- f) An authorized representative of the Commission may check or establish the accuracy of all testing equipment used or intended for use in determining the accuracy of custody transfer meters, as well as the methods of operating that equipment. If a utility uses an agent to test the accuracy of its meters, the utility shall include provisions within its agreement with its agent for the authorized representatives of the Commission to conduct on-site audits of the agent's facility. An authorized representative of the Commission shall perform an audit of the utility's testing equipment and methods at least every three years. The utility shall reimburse the Commission for all expenses related to audits of meter shops used or maintained by the utility or its agents located outside of this State.
- g) A utility shall certify the accuracy of its testing equipment against National Institute of Standards and Technology traceable standards. Unless specified in this subsection (g), the maximum certification interval is 36 months.
 - 1) A utility shall certify sonic nozzle automatic provers at least every 12 months. A utility shall also conduct the following maintenance at least every 12 months on sonic nozzle automatic provers:
 - A) Inspect and clean nozzles and solenoids;
 - B) Strap and recertify a master bell during the bell interface recertification process;
 - C) Recalibrate prover sensors and instrumentation in accordance with manufacturer's specifications;

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- D) Test the function of the optical sensor; and
 - E) Perform a complete bell interface certification followed by a reference meter target proof analysis.
- 2) Utility verification checks on portable or reference equipment shall meet the following requirements:
- A) A utility shall verify the accuracy of a portable standard against a reference standard at least every 12 months. If the portable standard exhibits an error greater than 0.5%, the utility shall adjust the portable standard to read within 0.5% or replace the portable standard, or shall apply the proper correction factor.
 - B) If a utility does not operate a reference standard, the utility shall certify or replace its portable standards at least every 12 months.
 - C) A utility shall certify a reference standard at least every 36 months.
 - D) A calibration certificate, verification certificate, or card signed or initialed by the person responsible for the calibration shall accompany a portable standard and a reference standard at all times. A utility, in lieu of maintaining the certificate or card with the device, may maintain the certificate or card in a central location or database that is available to Commission Staff upon request. A certificate or card shall provide the date and results of the last calibration or verification of the instrument. A utility, after each successive issuance of certificates or cards, shall keep any superseded certificates or cards on file for at least three years.
- h) A utility that tests meters with a rated capacity of 800 cubic feet per hour or less shall use one or more reference meters to conduct equipment checks every week. A utility shall designate and label reference meters for meter shop use only, and shall not adjust reference meters in any manner once in service unless they are in need of repair. A utility shall fully document all alterations to a repaired reference meter, including before and after accuracies. A reference meter shall carry a rating of 800 cubic feet per hour or less and shall have a similar size to the meters the utility tests. Every week during periods when a utility expects to test meters, a utility shall test a reference meter on each prover that the utility uses to test meters

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

of the reference meter's size. A utility shall record reference meter test results, including temperature, when testing on a sonic nozzle automatic prover, and shall record the test results, temperature test flow times and bell pressure when testing on a bell prover. If the reference meter tests indicate an accuracy problem with any equipment, the utility shall cease using that equipment until the utility repairs the equipment.

- i) A utility shall allow meters tested within a meter testing facility to acclimate in the room containing the testing equipment or meter soaking room for at least 12 hours prior to testing. This acclimation time is not required if the utility can show that it has taken sufficient actions to bring the meter temperature and the testing equipment to within 1.0°F of each other.

Section 501.170 Meter Accuracy Requirements

- a) Prior to installing a new, adjusted, refurbished, remanufactured or repaired gas meter, a utility shall ensure that the meter's average accuracy is not more than 1.0% slow and not more than 1.0% fast. If a utility finds that a meter is more than 1.0% fast or slow, the utility shall repair or retire the meter.
- b) When a utility installs a meter, it shall verify the proper operation and settings of all auxiliary and tertiary equipment prior to activating a customer's service.
- c) If a utility determines that a meter is in service and is mechanically defective, the utility shall repair or replace the meter.
 - 1) The utility shall repair or replace the meter within 48 hours if the defective meter impedes the utility's ability to provide service to the customer, unless the utility and the customer agree upon a longer time interval not to exceed 30 days.
 - 2) If the meter does not impede the customer's service, the utility must repair or replace the meter within 60 days unless the utility and the customer agree upon a longer time interval not to exceed 120 days.
 - 3) If the meter is of sufficient size that portions of a customer's structure require modification to remove the meter, then the utility has 90 days to replace the meter unless the utility and the customer agree upon a longer time interval not to exceed 180 days.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- d) A utility shall test the accuracy of a meter, and verify the proper operation and settings of auxiliary equipment and tertiary equipment, after the utility removes the meter from service.
- e) For those metering installations where a utility transfers the auxiliary equipment and tertiary equipment from an existing meter to a replacement meter, the utility shall inspect the auxiliary equipment and tertiary equipment to verify proper operation within 60 days after the meter exchange.

Section 501.180 Diaphragm Meters

- a) A utility shall install a new diaphragm meter set and revisions to an existing diaphragm meter set in accordance with the recommendations of ANSI B109.1, XQ0008 (June 2000) for diaphragm meters with a rated capacity less than 500 cubic feet per hour and in accordance with ANSI B109.2, XQ0009 (June 2000) for diaphragm meters with a rated capacity of 500 cubic feet per hour or greater.
- b) A utility furnishing natural gas service with diaphragm meters shall ensure the use of suitable meter proving or testing equipment to determine the accuracy of the meter. The average accuracy of a diaphragm meter is determined by averaging the accuracy of the check and open flow rates.
 - 1) The open rate is 95% to 105% of the rated capacity.
 - 2) The check rate is 20% to 33% of the rated capacity.
 - 3) The maximum allowable accuracy spread between the open and check rates' accuracy is 1.0%.
- c) A utility shall conduct periodic accuracy tests on all installed diaphragm meters at least every 120 months unless the utility has provided notification to the Commission regarding its plans to conduct sample testing in accordance with Section 500.250.

Section 501.190 Rotary Meters

- a) A utility shall install all rotary meters or revisions to existing rotary meter sets in accordance with the recommendations of ANSI B109.3, XQ0010 (June 2000).

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- b) A utility furnishing gas service through a rotary meter shall verify that the meter's accuracy meets the requirements of Section 500.170(a) before placing the meter in service.
 - 1) A utility may rely on the manufacturer's factory accuracy test to demonstrate that a new rotary meter meets the Section 500.170(a) requirements only if the utility also conducts quality assurance reviews on its new rotary meters.
 - 2) A utility that conducts quality assurance reviews must group the new meters into meter lots consisting of the same size and manufactured under the same conditions. The utility must then sample test these lots in accordance with a single sample plan for normal inspection, Inspection Level II, of ANSI/ASQ Z1.4-2008 using an acceptable quality level not to exceed 1.0%.
 - 3) In the event that a meter lot fails, the utility must either return the meters to the manufacturer or test all of the meters in the lot to verify compliance with Section 500.170(a).
 - 4) A utility shall retain a record of a meter's accuracy test for the life of the meter.
- c) A utility shall differential test an in-service rotary type positive displacement meter at least every 60 months. If the meter's pressure differential for a given flow rate is more than 50% higher than the utility's initial differential test or the factory published differential curve, a utility shall return the differential to a value below the 50% limit. If the utility cannot return the meter's differential to below the 50% limit, the utility shall clean and retest the rotary meter within 7 days and, if the meter's pressure differential is still more than 50% higher than the utility's initial differential test or the factory published differential curve, the utility will replace the meter within 60 days. If the meter is of sufficient size that portions of a customer's structure require modification to remove the meter, then the utility will replace the meter within 90 days unless the utility and customer agree to a longer period, not to exceed 180 days.
- d) If a utility documents conditions at the meter that prevent the utility from obtaining a differential reading from the meter, then the utility may delay

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

verification until those conditions cease to exist or for four months, whichever is shorter. If a utility delays verification, it shall maintain for three years documentation of the conditions that prevented verification within the required 60 months and provide the documentation to an authorized representative of the Commission when requested.

- e) In lieu of the differential test requirement in subsection (c), a utility may conduct an accuracy test of a rotary meter. The average accuracy of a rotary meter is determined by averaging the accuracy of the check and open flow rates.
 - 1) The check rate is 10% to 33% of the meter's rated capacity.
 - 2) The open rate is 60% to 105% of the meter's rated capacity. The utility may substitute the proving equipment's maximum capacity for the open flow rate if the meter's required testing volume exceeds the utility's testing equipment's capacity.
- f) A utility shall maintain the most recent 10 years of inspection records, as well as the dates of all inspections of rotary meters.

Section 501.200 Turbine Meters

- a) A utility furnishing natural gas service with turbine meters shall install new turbine meters or revisions to existing meter sets in accordance with the recommendations contained in AGA Report No. 7, Measurement of Natural Gas by Turbine Meters, XQ0601 (February 2006).
- b) A utility shall accuracy test a turbine meter at least every 60 months.
 - 1) A utility shall atmospherically test the accuracy of a turbine meter at a minimum of four different flow rates of not less than 10% of meter capacity and not more than 105% of the meter capacity.
 - 2) A utility shall accuracy test turbine meters at the expected operating pressure of the meter installation using at least five flow rates of not less than 10% of meter capacity and no more than 105% of the meter capacity. A utility may install a turbine meter at a location where the operating pressure falls within the range of 50% less than or two times greater than the pressure of the meter's accuracy test. For example, a turbine meter that

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

was accuracy tested at 100 psi is acceptable for delivery pressures from 50 psi (50% of 100) through 200 psi (2 x 100).

- 3) A utility may accuracy test its turbine meters in natural gas or air. A utility that conducts accuracy tests with air shall account for the Reynolds number equivalence as set forth in AGA Report No. 7, Measurement of Natural Gas by Turbine Meters, Appendix E, XQ0601 (February 2006).
- 4) When tested at the expected delivery pressure of the in-service location, a turbine meter shall demonstrate a tested accuracy within $\pm 1.0\%$ of the accuracy shown over the manufacturer's entire published flow range.
- c) A utility furnishing natural gas service with a dual rotor turbine meter that has an external means of verifying meter accuracy may extend the accuracy test requirement to at least every 120 months if the utility can demonstrate that it verifies the accuracy of the meter at least every six months and that the meter's performance meets the manufacturer's guidelines.
- d) A utility shall spin test and, if necessary, lubricate its turbine meters at least every 12 months. If a turbine meter is not equipped with external lubrication provisions or external means of verifying the operation of the meter, a utility shall spin test the meter every six months. If the turbine meter's spin time is not equal to or greater than the minimum spin time specified by the manufacturer, the utility shall make corrections to the meter to allow the spin time to equal or exceed the manufacturer's specifications.
- e) A utility is not required to conduct a spin test of its dual rotor turbine meter if the utility furnishes natural gas service with a dual rotor turbine that has an external means of verifying rotor health, the utility can demonstrate that it verifies the health of the rotor at least every six months, and the utility can demonstrate the performance of the rotor meets the manufacturer's guidelines.
- f) A utility shall maintain the most recent five years of inspection records, as well as the dates of all inspections for the most recent 10 years, except accuracy tests. A utility shall maintain documents for each turbine meter's most recent accuracy test, the prior accuracy test, and the dates of any other accuracy test that occurred during the prior 10 years.

Section 501.210 Orifice Meters

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- a) A utility shall install all new orifice meters in accordance with the recommendation of AGA Report No. 3, Orifice Metering of Natural Gas and Other Related Hydrocarbon Fluids, Part 2, Specification and Installation Requirements, XQ0002 (April 2000 and June 2003).
- b) A utility furnishing metered gas service through orifice meters shall provide and have available instruments capable of accurately determining the accuracy of the orifice plate diameters and instruments used to measure meter pressure and temperature to within 0.5%.
- c) At least every six months, a utility shall inspect an orifice meter's orifice plate and meter body and inspect and verify the proper operation of all transmitters used to measure pressures and temperatures.
- d) If a utility discovers that the orifice plate is deformed, damaged or bowed, the utility shall replace the plate within seven days. If the utility finds that the orifice plate is deformed, damaged or bowed on two consecutive inspections, the utility shall document the problem and conduct inspections at least every three months on the orifice plate until three consecutive inspections show no damage. If the utility cannot obtain three consecutive inspections showing no damage after 24 months, the utility shall take corrective action, such as installing a strainer upstream of the meter, to avoid continued damage to the orifice plate.
- e) A utility shall maintain five years of inspection records.

Section 501.220 Multi-Path Ultrasonic Meters

- a) A utility shall install a multi-path ultrasonic meter in accordance with the recommendations of AGA Report #9, Measurement of Gas by Multipath Ultrasonic Meters, XQ0701 (April 2007). Ultrasonic meters installed prior to April 2007 shall meet the installation recommendations of AGA Report #9, Measurement of Gas by Multipath Ultrasonic Meters, XQ9801 (June 1998), unless the meter is physically removed from service after January 1, 2017, then the meter must meet the installation recommendations of AGA Report #9, Measurement of Gas by Multipath Ultrasonic Meters, XQ0701 (April 2007).
- b) At least every three months, a utility that installs a multi-path ultrasonic meter shall verify the proper operation of the meter so that the meter meets the

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

manufacturer's tolerances using, at a minimum, all of the following inspection requirements:

- 1) Path velocities;
 - 2) Gain levels;
 - 3) Gain limits;
 - 4) Performance percentage;
 - 5) Meter output frequency range;
 - 6) Speed of sound verification; and
 - 7) Verification that the flow computer and ultrasonic meter have the correct settings for the installation, including:
 - A) Meter pulse uncorrected actual per cubic foot factor;
 - B) Internal diameter of pipe; and
 - C) Validation of flow computer operation by independent calculation of corrected volume, thermal output, and meter adjustment factors.
- c) A utility that installs a multi-path ultrasonic meter shall flow calibrate the meter at least every 120 months. A utility shall test a multi-path ultrasonic meter as a metering package so that the utility tests the flow conditioner, thermowells, and affixed meter tubes as one unit with the meter. If the utility can demonstrate that the meter meets the manufacturing tolerances set forth in subsection (b) and the utility conducts an internal inspection of the meter body at least every 120 months to ensure the meter body has not accumulated internal deposits or incurred other damage that would affect the meter's accuracy, the utility may forego the 120-month flow calibration requirement.
- d) The initial accuracy test of an ultrasonic meter shall include the metering package that consists of the ultrasonic meter, adequate upstream and downstream piping (per AGA Report #9, Measurement of Gas by Multipath Ultrasonic Meters, Section 7.2.2, XQ0701 (April 2007)), along with thermowells, sample probe, and

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

any flow conditioning to ensure that there is no material difference between the velocity profile experienced by the meter in the laboratory and the velocity profile experienced in the final installation.

- e) A utility shall maintain the most recent five years of inspection records. A utility shall also maintain documents for a multi-path ultrasonic meter's most recent accuracy test, the prior accuracy test, and the dates of any other accuracy test that occurred during the prior 10 years.

Section 501.230 Coriolis Meters

- a) A utility shall install a Coriolis meter in accordance with the recommendations of AGA Report #11, Measurement of Natural Gas by Coriolis Meter, XQ1301 (February 2013).
- b) A utility shall verify the proper operation of an installed Coriolis meter at least every 12 months by verifying that the meter meets the manufacturer's tolerances using, at a minimum, all of the following inspection requirements:
 - 1) Meter zero flow check;
 - 2) Meter sensor check; and
 - 3) Meter transmitter check.
- c) A utility shall calibrate a Coriolis meter at least every 120 months. However, if the utility can demonstrate that the meter meets the manufacturing tolerances set forth in Section 500.220(b) and the utility conducts an annual inspection of the meter body to ensure that the meter body has not incurred damage that would affect the meter's accuracy, the utility may forego the 120-month calibration requirement.
- d) When a utility removes a Coriolis meter from service, the utility shall verify the meter's existing accuracy prior to altering the operation of the meter. This verification replaces the requirements of Section 500.170(d) for Coriolis meters.
- e) A utility shall maintain the most recent five years of inspection records. A utility shall also maintain documents for each Coriolis meter's most recent accuracy test,

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

the prior accuracy test, and the dates of any other accuracy test that occurred during the prior 10 years.

Section 501.240 Other Meter Types

A utility shall use only meter types specifically identified within this Part for natural gas custody transfer.

Section 501.250 Sample Testing of Diaphragm Meters

- a) A utility may, at its option and upon giving notice to the Commission, adopt scientific sample procedures for new and in-service diaphragm meters.
- b) A utility shall develop sample testing lots for new meters that consist of meters of a single type and size that were manufactured under the same conditions and at essentially the same time. All sample testing procedures shall be in accordance with Inspection Level II of ANSI/ASQ Z1.4-2008.
- c) A utility shall establish meter sample testing lots for in-service meters that consist of meters of a similar type, size and year of installation or year of purchase. In the ninth and every subsequent year thereafter that the meters are in service, a utility shall test their accuracy in accordance with Inspection Level II of ANSI/ASQ Z1.4-2008.
- d) In order to comply with the accuracy limits of Section 500.170, a utility's sample testing plan for new meters shall provide an acceptable quality limit not to exceed 1.0% in order to assure a process average of at least 99%.
- e) A manufacturer shall test a new meter, and the resulting test record shall accompany the meter to retirement. A utility shall use the manufacturer's test as the initial test of the meter. However, if a utility tested the new meter prior to placing it into service, then the utility shall use its test as the meter's initial test.
- f) A utility's sample testing plan for meters in service shall provide an acceptable quality limit of 6.5% in order to assure a process average of at least 93.5%. A meter is deviant if the average of its check-rate and capacity-rate accuracy test results in accuracy more than 3.0% fast or 3.0% slow. A utility must complete all sample tests by the end of the calendar year in which the tests are due for completion.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- g) If a utility determines that a meter lot has failed sample testing, the utility shall remove all remaining meters in the failed lot from service within 24 months after completion of the current year's sampling.

Section 501.260 Meter Tests Requested by the Customer

- a) Upon the request of a customer, if the utility or manufacturer has not tested the meter within 12 months prior to the request, a utility furnishing metered gas service shall, without charge, test the accuracy of a meter used to measure the customer's gas consumption if either the meter's rated capacity is less than 16,000 cubic feet per hour or the meter's rated capacity is equal to or greater than 16,000 cubic feet per hour and the test can be done without removing the meter. If a customer so desires, a utility shall allow the customer or its representatives to witness the meter test, whether conducted on the customer's premises or at the utility's metering shop. The utility shall provide a written summary of the results of the meter test to the customer within five business days.
- b) A utility shall test a meter within 45 days after receiving a customer's request, unless the customer agrees to a later time. The utility shall conduct the meter test between 7 a.m. and 4 p.m. Monday through Friday, excluding holidays, unless the utility and the customer agree to a different day or time.
- c) If a customer requests a test of a meter used to measure the customer's gas consumption and the customer wishes to witness the test, but the utility's testing facility is located out of state, the utility shall provide the option of having the meter tested at an in-state testing facility, if that location is more convenient for the customer, provided that the alternative location is in good standing with the Commission. A meter shop is in good standing if a Commission representative has conducted a review of the facility for compliance with the requirements of this Part within the last 40 months and the meter shop has no outstanding non-compliance issues associated with its ability to accurately measure meter accuracy. A Commission representative shall advise, upon request by a utility, whether a meter shop is in good standing.
- d) If a customer requests an accuracy test of a meter used to measure the customer's gas consumption, but the meter has a rated capacity equal to or greater than 16,000 cubic feet per hour and the requested test requires the physical removal of the meter, then the customer shall pay to the utility the costs associated with the

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

test. A utility may not charge a customer more than \$10,000 for the test unless the utility must send the meter to a non-affiliated third party for testing and, in that case, the utility may not charge a customer more than \$25,000 for the test. In the testing costs charged to the customer, a utility may include meter removal and installation labor, costs associated with transportation of the meter to and from a meter shop, shop testing labor, transportation charges to send the meter to and from an outside testing facility, and outside testing lab fees. If a meter over-registers by more than 2%, a utility shall reimburse a customer its payment of fees associated with the meter test. A utility shall provide to its customer an itemized written statement of the cost of a requested meter test, obtain the customer's agreement to pay the stated cost, and receive payment from the customer for the requested meter test before taking any action to remove the meter or begin the requested meter test.

- e) No later than April 1 of each year, a utility shall provide a report to the Director of the Safety and Reliability Division regarding the number of customer-requested meter tests that the utility conducted in the prior calendar year. The report shall list the meter size, meter type, test results, and testing location for each meter tested.
- f) A utility shall waive the 12-month waiting period identified in subsection (a) for customer-requested meter tests if a customer makes one of the following demonstrations:
 - 1) A deviation in the customer's measured gas usage in excess of 10% occurred following the utility's installation of a different meter on the customer's service and the difference is not attributable to weather or the customer's process changes; or
 - 2) Relevant facts that point to potential accuracy problems with the meter.

Section 501.270 Commission Referee Tests

- a) Subject to the provisions of subsection (b), a customer may not request a referee test of a meter used to measure the customer's gas consumption if the utility that provides service to the customer does not have the necessary testing equipment.
- b) If a customer requests a referee test of the meter used to measure the customer's gas consumption, but the utility's testing facility is located out of state, the utility

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

shall provide the option of having the meter tested at an in-state testing facility, provided the alternative location is in good standing with the Commission and the location is capable of testing the meter. A meter shop is in good standing if a Commission representative has conducted a review of the facility for compliance with the requirements of this Part within the last 40 months and the meter shop has no outstanding non-compliance issues associated with its ability to accurately measure meter accuracy. A Commission representative shall advise, upon request of a utility, if a meter shop is in good standing.

- c) A utility shall conduct a referee test of a meter within 45 days after receiving notice from a Commission representative of a customer's request if the meter testing facility that the utility uses to conduct the test is located in-state. The utility shall conduct the meter test between 7 a.m. and 4 p.m. Monday through Friday, excluding holidays, at a date and time agreed upon by the utility, the customer and the Commission representative, unless the utility, the customer and the Commission representative agree to a different day or time.
- d) A utility shall conduct a referee test of a meter within 90 days after receiving notice from a Commission representative of a customer's request if the meter testing facility that the utility uses to conduct the test is located out of state and the customer requesting the referee test selects the out-of-state location, unless the customer agrees to a later time. The utility shall conduct the meter test between 7 a.m. and 4 p.m. Monday through Friday, excluding holidays, at a date and time agreed upon by the utility, the customer and the Commission representative, unless the utility, the customer and the Commission representative agree to a different day or time.
- e) Upon written application to the Commission by a customer and upon notice to a utility by a Commission representative, a utility under the oversight of a Commission representative shall conduct an accuracy test of a meter that was the subject of the written request, provided the customer has not requested a meter accuracy test under this Section or under Section 500.260 in the 12 months prior to the request. A customer shall make a written request for a meter test and pay a fee, as provided in this subsection, to the Commission. A utility shall inform the customer or a Commission representative, upon request, of the size and type of meter used to serve the customer. If the accuracy test indicates that the meter over-registers by more than 2.0%, the utility shall refund the fee to the customer.

SCHEDULE OF FEES

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

| <u>Rated capacities in cubic feet per hour</u> | <u>Fee</u> |
|--|------------|
| Diaphragm meters up to 650 | \$40 |
| Diaphragm meters from 651 to 1,500 | \$80 |
| Diaphragm meters in excess of 1,500 | \$120 |
| Rotary meters up to 1,500 | \$40 |
| Rotary meters from 1,501 to 12,000 | \$80 |
| Rotary meters from in excess of 12,000 | \$120 |
| Turbine meter tested in utility shop at atmospheric pressure | \$120 |
| Metering types not listed but tested in utility shop | \$120 |

- f) If a customer is required to pay the costs of a meter test under Section 500.260 because of the type or size of the meter, the customer must pay the utility the same costs under this Section, in addition to the fee to the Commission under subsection (e).
- g) Upon notice of a referee test from a Commission representative, a utility shall not disturb the meter that was the subject of the written referee test request in any manner, unless a Commission representative or the customer provides authorization. The utility shall document the authorization by recording the name of the person giving the authorization and the date and time of the authorization. The utility shall provide this authorization documentation to the Commission representative at the time of the referee test.
- h) When a utility removes a meter for purposes of a referee test, the utility or Commission representative shall deliver the meter to the utility's meter testing facility, and the utility shall secure the meter to prevent potential tampering or disturbance from in-service conditions until the referee test begins.
- i) A utility shall waive the 12-month waiting period identified in subsection (e) for Commission referee tests if a customer makes one of the following demonstrations:
- 1) A deviation in the customer's measured gas usage in excess of 10% occurred following the utility's installation of a different meter on the customer's service and the difference is not attributable to weather or the customer's process changes; or
 - 2) Relevant facts that point to potential accuracy problems with the meter.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- j) If a utility removes a meter for testing but before the testing occurs is notified by the customer that the customer plans to request a referee test of the meter, the utility shall not test the meter and shall secure the meter to prevent potential tampering or disturbance from in-service conditions until the referee test begins. If, after 60 days from when the utility removed the meter for testing, the customer has not filed a request with the Commission for a referee test, the utility shall send a notice in writing to the customer informing it of the following:
 - 1) The notice shall state that the customer has 30 days in which to complete the request for the Commission referee test.
 - 2) If the customer fails to make its request within the 30 days, the utility, at its option, may conduct the required testing of the meter.
- k) The utility is responsible for contacting the Commission to verify the status of the customer's request for a referee test prior to testing the meter.

Section 501.280 Meter Tests Requested by Natural Gas Suppliers

- a) Upon a natural gas supplier's request, provided that the utility or manufacturer has not tested the meter in question within 12 months prior to the request, a utility providing metering service shall test the meter in question within 45 days after receiving the request, unless the natural gas supplier agrees to a later time. The utility shall perform the meter test between 7 a.m. and 4 p.m. on Monday through Friday, excluding holidays, unless the utility and the natural gas supplier agree to a different day or time. The utility shall inform the customer of the natural gas supplier's request and the date and time of the test at least five business days prior to the agreed-upon test date. The utility shall perform the test in the presence of a representative of the natural gas supplier, unless the natural gas supplier waives the right to have a representative present. The utility shall allow the customer or its representative to observe the meter test. The utility shall provide a written summary of the results of the meter test to the natural gas supplier and the customer within five business days.
- b) If a utility or manufacturer has tested a meter within the last 12 months, the utility is not obligated to retest the meter in response to the latest request. Instead, the utility may offer the results of the last test in response to the latest request.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- c) If a requested meter test will not interrupt a customer's gas service, a utility may perform a meter test requested by a natural gas supplier at any time agreeable to the utility and the natural gas supplier. If a requested meter test will interrupt the customer's gas service, then a utility shall obtain permission from a customer to interrupt the customer's service to perform a requested test.
- d) A utility may require a natural gas supplier to pay up to \$10,000 (\$25,000 if performed at a non-affiliated third-party location) for the actual costs of the meter test. A utility performing a meter test at the request of a natural gas supplier shall refund the natural gas supplier's payment if the meter test shows that the meter is under-registering by more than 2.0%. A utility shall provide to a natural gas supplier an itemized written statement of the cost of a requested meter test, obtain the natural gas supplier's agreement to pay the stated cost, and receive payment from the natural gas supplier for the requested meter test before taking any action to remove the meter or begin the requested meter test.
- e) A natural gas supplier may request a meter test only for a current customer or for a prior customer if, at the time of the request, the supplier had provided gas supply to that customer within the prior three months.
- f) A natural gas supplier may request a Commission referee test of a meter under the provisions of subsection (c) and Section 500.270, and shall be responsible for the fee prescribed by Section 500.270(e) and the actual cost, not to exceed \$10,000, of the test. The utility shall inform the customer of the natural gas supplier's request and the date and time of the referee test at least five business days prior to the agreed upon test date. The utility shall perform the referee test in the presence of a representative of the natural gas supplier, unless the natural gas supplier waives the right to have a representative present. The utility shall allow the customer or its representative to observe the meter test. If the meter over-registers by more than 2.0%, the utility shall refund all fees it charged to the natural gas supplier and make any necessary meter data adjustment.
- g) A utility shall conduct a referee test of a meter within 45 days after receiving notice from a Commission representative of a natural gas supplier's request if the meter testing facility that the utility uses to conduct the test is located in-state, unless the supplier agrees to a later time. The utility shall conduct the meter test between 7 a.m. and 4 p.m. Monday through Friday, excluding holidays, unless the utility, the third party supplier, and Commission representative agree to a different day or time.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- h) A utility shall conduct a referee test of a meter within 90 days after receiving notice from a Commission representative of a natural gas supplier's request if the meter testing facility that the utility uses to conduct the test is located out of state, unless the supplier agrees to a later time. The utility shall conduct the meter test between 7 a.m. and 4 p.m. Monday through Friday, excluding holidays, unless the utility, the third party supplier, and Commission representative agree to a different day or time.

Section 501.290 Meter Installation Inspection

- a) During installation of a meter, a utility shall inspect and verify the proper mechanical condition of the meter and the suitability of the meter location. The utility shall verify that service pipes and meter connections are free of leaks.
- b) When a utility affixes or connects an auxiliary or tertiary device to a meter, the utility shall verify the proper operation of the meter and the affixed or connected device.

Section 501.300 Correctors

- a) A utility shall install all correctors in accordance with the recommendations of AGA Gas Measurement Manual, Electronic Corrector, Part No. 15 (May 1999), XQ9901.
- b) A utility that installs an electronic or mechanical corrector shall verify the proper operation of the corrector at least every 60 months.
 - 1) Verification temperatures are 32°F and 75°F/or flowing gas temperature with a tolerance of $\pm 2.5^\circ\text{F}$.
 - 2) Verification pressures are zero and flowing pressure with a tolerance of $\pm 1\%$.
- c) A utility shall maintain the most recent 10 years of inspection records.

Section 501.310 Transmitters

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- a) A utility shall install all transmitters in accordance with the recommendations of AGA Gas Measurement Manual (Revised), Electronic Flow Computers and Transducers, Part No. 8 (1988), XQ8805.
- b) A utility that installs digital and analog transmitters for use in conjunction with flow computers in custody transfer metering shall verify the proper operation of the transmitters at least every six months.
- c) A utility must verify that its transmitters maintain a tolerance of $\pm 2.5^{\circ}\text{F}$ at flowing gas temperature of the calibrated temperature span. A utility must verify that its transmitters maintain inspection pressures of zero and full-calibrated span with a tolerance of 1% of span.
- d) A utility shall maintain the most recent five years of inspection records.

Section 501.320 Gas Chromatograph

- a) A utility shall install all gas chromatographs according to the recommendations of the device's manufacturer.
- b) A utility shall set all in-service gas chromatographs to perform an automatic calibration at least once every 24 hours. If the utility is using the chromatograph to assist the measurement calculation at a utility-owned natural gas storage facility and the facility is not injecting or withdrawing natural gas, the utility may suspend the calibration of the chromatograph until the facility resumes injecting or withdrawing natural gas.
- c) A utility shall perform field verification of all in-service gas chromatographs at least every 3 months and verify that the un-normalized mole percent variance is within $\pm 1.5\%$ of the gas contained within the calibrated gas cylinder.
- d) A utility shall certify or replace the calibrated gas cylinders at least every 36 months.

SUBPART C: CUSTOMER INFORMATION

Section 501.400 Corrections and Adjustments for Measurement Error

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- a) A utility shall observe the following provisions for adjusting customer bills whenever any test made by a utility or by the Commission shows a customer's measured gas usage to have an average error of more than 2.0%.
- 1) If the utility determines that a customer's measured gas usage contains an average error of more than 2.0% fast, the utility shall determine the billing adjustment for services provided by the utility based on the actual average error percentage found, not the difference between the allowable error (i.e., 2.0%) and the error found as a result of a test. The utility shall presume that the average error existed for a period of two years prior to the date the utility removed the measurement equipment that caused the error from service. If the measurement equipment was tested while in service, the utility shall presume that the average error existed for a period of two years prior to the date of the equipment's test.
 - 2) If the utility determines a customer's measured gas usage contains an average error of more than 2.0% slow, the utility may determine a billing adjustment for services provided by the utility, in which event the billing adjustment shall be based on the actual average error percentage found, not the difference between the allowable error (i.e., 2.0%) and the error found as a result of a test. The utility shall presume that the average error existed for a period of one year prior to the date the utility removed from service the measurement equipment that caused the error for small commercial and residential customers and two years prior to the date the utility removed from service the measurement equipment that caused the error for all other customers. If the utility tested the measurement equipment while in service, the utility shall presume that the average error existed for a period of one year prior to the date of the measurement equipment's test for small commercial and residential customers and two years prior to the date of the measurement equipment's test for all other customers.
 - 3) If the utility determines that the measurement error is due to a non-registering meter, the utility may determine a billing adjustment for services provided by the utility, in which event the billing adjustment shall be based on the presumption that the non-registration existed for a period of not more than 60 days when the utility reads the meter on a monthly schedule or 90 days when the utility reads the meter on a longer schedule. A utility may consider meters equipped with automatic meter reading

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

devices as read on a monthly schedule. However, a utility may presume that the non-registration existed for a period of up to 180 days if the utility is unable to gain access to the meter within 20 business days after its initial request for access due to the customer's refusal to grant access, provided the utility offered to exchange the meter during or after the utility's normal working hours.

- 4) If a utility intends to make a billing adjustment pursuant to subsection (a)(1), (2) or (3), the utility shall notify the customer of the test results and applicable billing adjustment for the services provided by the utility, including an explanation of the billing adjustment, within 30 business days after the utility receives the test results. At the same time the utility provides notice to the customer, the utility shall provide the same notice to each alternative gas supplier serving the customer during the period over which the utility deems the average error to have occurred. The utility shall provide a billing adjustment to the customer for the services provided by the utility within 45 business days after the date of the notice to the customer.
- 5) A utility shall not determine a billing adjustment for services provided by the utility for a measurement error before the in-service date of the measurement equipment that caused the error, nor shall it provide for any correction before the date upon which the current customer first occupied the premises at which the inaccurate measurement equipment was located.
- 6) If a utility, a customer, an alternative gas supplier, or a natural gas supplier can show that the measurement equipment error has existed for a longer or shorter period than the presumed time for a billing adjustment set forth in this subsection (a), the utility shall determine the billing adjustment for the error using the longer or shorter time period, as applicable. This Section will not apply to occasions when the utility found the measurement equipment to under-register, but the utility did not meet all of the prescribed testing and maintenance requirements for the measurement equipment set forth in Subpart B.
- 7) When a utility finds that an error results from a gas meter registering gas leaking from the meter, the utility shall estimate the amount of leaked gas that the meter has registered in accordance with this subsection (a) to determine the billing adjustment.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- 8) The provisions of this subsection (a) do not apply to situations in which a utility detects tampering of the gas measurement equipment by the customer and the customer enjoyed the benefit of the tampering.
- b) If a current or previous alternative gas supplier receives a notice of meter test results and applicable billing adjustment and explanation for services provided by the utility pursuant to subsection (a), the alternative gas supplier shall determine the applicable billing adjustment for its gas supply services pursuant to the terms and conditions of its contract with the customer using the same usage adjustment applied by the utility for the applicable time period. Within 45 days after receipt of the notice from the utility, the alternative gas supplier shall submit, if applicable, its resulting billing adjustment to the utility if consolidated billing is or was provided by the utility, or to the customer if single or dual billing is or was provided by the alternative gas supplier. An alternative gas supplier may include terms and conditions in its contracts that provide for billing that is not dependent on the volume of gas consumed by the customer, but its customer contract shall not otherwise eliminate a customer's right to a billing adjustment.
- c) If an alternative gas supplier has signed a contract with a customer with billing that is not dependent on the volume of gas consumed by the customer and would require the alternative gas supplier to pay on behalf of the customer any under-collected distribution charges that result from the billing adjustment for services provided by the utility, the alternative gas supplier shall pay the charges on behalf of the customer within 45 business days after the date of the notice of test, billing adjustment, and explanation received from the utility.
- d) The applicable usage adjustments calculated pursuant to subsection (a) shall be used in determining the pool or supply requirements of the alternative gas supplier to the utility, or any adjustments to those requirements.
- e) The provisions of this Section shall apply only to:
- 1) Natural gas public utilities; and
 - 2) Alternative gas suppliers serving residential or small commercial customers and only to the extent that the alternative gas suppliers provide services to residential or small commercial customers.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

Section 501.410 Information to Customers

- a) Bills rendered to retail customers for service shall clearly show at least the following:
 - 1) The date of the meter reading, the number of days in the billing period, the energy used, the meter constant if applicable, the type of service rendered, a complete description of the service or rate classification under which the customer receives service, and the type of reading that was used in the bill calculation (such as actual, estimated or customer reading), and, for meters for which beginning and ending meter readings are used as billing determinants, the reading of the meter at the beginning and the reading of the meter at the end of the period for which the bill is rendered.
 - 2) In the event that a bill rendered to retail customers is not based on usage derived from meter readings, the bill must indicate the period of time for which the bill is rendered, the type of service rendered, and a complete description of the service or rate classification under which the customer receives service.
 - 3) Minimum content requirements listed vertically for easy readability:
 - A) The total amount of the bill.
 - B) The monthly customer charge or portion thereof.
 - C) The demand charges.
 - D) If applicable, the cost of gas detailed by the number of therms used and the price per therm for each change in the unit price. For alternative gas suppliers, only the weighted average price per therm need be provided, unless otherwise provided in the contract between the customer and the alternative gas supplier.
 - E) If applicable, the cost of gas adjustment.
 - F) Any other applicable adjustments (other charges not under categories of charges but relating to services, energy or other programs provided to customer by the utility).

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- G) State tax.
- H) Municipal tax.
- I) Optional services listed separately.
- 4) The due date of the bill.
- 5) Definitions or explanations of any abbreviations and technical words used on the bill.
- 6) The name and the toll-free telephone number of each service provider whose services to the customer appear on the bill.
- 7) The average use per day for the period over which the bill is rendered and for the comparable period one year earlier, and an indication of the difference in temperatures between the two periods. If this information is not available for a customer, the bill shall so state.
- b) A utility or alternative gas supplier, upon request by a customer, shall transmit at a minimum a statement of the actual consumption of therms by the customer at the customer's present service address for each billing period during the immediately preceding 12-month period for which that customer was receiving service.
- c) All gas utilities shall have on file with the Commission a proposed tariff under Section 9-201 of the Act that contains a bill form complying with the requirements of subsection (a). By January 1, 2017, all billings shall comply with the requirements of subsection (a).
- d) As mandated by Section 8-302 of the Act, whenever a customer for whom a gas utility provides metering service provides the utility with a written request asking the meter reader to leave a card showing the meter readings and dates, the gas utility shall have its meter reader leave a card showing these meter readings and dates.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- e) At least annually, each gas utility shall disclose to each of its customers information about the customer's service in a clear and concise manner. The disclosure shall contain the following minimum requirements:
 - 1) A description of the rates or charges for the rate classification under which the customer receives service.
 - 2) An identification and explanation of optional or experimental rates or classifications available to customers.
 - 3) An identification and explanation of all charges that are not related to costs incurred in service and the supply of energy to that customer.
- f) In addition, for customers served under the residential and commercial classifications, a utility disclosure statement shall contain the following:
 - 1) An explanation of the terms appearing on the customer's bill form.
 - 2) An example of how to calculate a bill using the customer's existing rate.
- g) Disclosure statements shall be provided by the utility:
 - 1) To each new utility customer, not later than 60 days after the date of commencement of service, through a billing insert, separate mailing or direct customer contact by a representative of the utility.
 - 2) To all affected customers in the event of a change in overall utility rate levels. The disclosure statement shall be transmitted, at a minimum, within the second complete billing cycle after the utility rates become effective following the issuance of a final order in any rate proceeding by the utility. If the disclosure is sent during a period in which proration occurs, a statement such as the following shall be incorporated in the text:

"This summary is being sent during a period in which proration occurs. Proration occurs when part of your bill is charged on old utility rates and part of your bill is charged on new utility rates. If an attempt is made to calculate your bill using this rate summary, your calculation will not yield the proper billing amount for this billing period, but will do so in subsequent months. We

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

recommend that you retain this summary for future reference in computing proper billing amounts."

- h) Each *alternative gas supplier* shall provide to all residential and small commercial *customers* (unless otherwise indicated in subsections (h)(1) through (5)) the following information:
- 1) *Accurate, timely, and itemized billing statements that describe the products and services provided to the customer and their prices and that specify the gas consumption amount and any service charges and taxes. This subsection (h)(1) does not apply to small commercial customers. [220 ILCS 5/19-115(g)(3)(A)]*
 - 2) *Billing statements that clearly and conspicuously disclose the name and contact information for the alternative gas supplier. [220 ILCS 5/19-115(g)(3)(B)]*
 - 3) In the event that a bill rendered by an alternative gas supplier is not based on usage derived from meter readings, the bill must indicate the period of time for which the bill is rendered. This subsection (h)(3) does not apply to small commercial customers.
 - 4) *An additional statement, at least annually, that adequately discloses the average monthly prices, and the terms and conditions, of the products and services sold to the customer. This subsection (h)(4) does not apply to small commercial customers. [220 ILCS 5/19-115(g)(3)(C)]*
 - 5) An alternative gas supplier may satisfy its obligation to provide an additional annual statement disclosing a customer's terms and conditions by providing a notification that describes the means by which a customer can obtain the terms and conditions of the products and services sold to the customer, such as a reference to the alternative gas supplier's website or the customer service number where or through which a copy of the applicable terms and conditions can be downloaded or requested, provided that upon customer request, a written copy of the terms and conditions of the products and services sold to the customer shall be provided by the alternative gas supplier to the customer without charge to the customer.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- i) "Retail customer", as used in this Section, means a single entity using natural gas at a single premises and that is receiving tariffed services from a gas utility, or a residential or small commercial customer receiving gas commodity service from an alternative gas supplier.
- j) The provisions of this Section shall apply only to:
 - 1) Natural gas public utilities; and
 - 2) Alternative gas suppliers serving residential or small commercial customers and only to the extent that the alternative gas suppliers provide services to residential or small commercial customers.

Section 501.420 Meter Reading

A utility shall obtain an actual meter reading within 30 days after a customer switches from the utility to an alternative gas supplier or when the customer switches from one alternative gas supplier to another, unless circumstances beyond the utility's control prevent it from obtaining the meter reading.

SUBPART D: GAS SERVICE STANDARDS

Section 501.500 Pressure Regulation

A utility shall not provide service to any customer at a pressure, as measured at the outlet of the meter used to measure the customer's gas consumption, of less than 4 inches of water column or no more than 12 inches of water column except when the customer requested a higher delivery pressure. A utility is not in violation of this Section if the pressure variations occurred because of the operations of a customer in violation of its contract or the rules of the utility or other events beyond the utility's control.

Section 501.510 Pressure Survey

- a) Each utility shall make pressure surveys, conduct hydraulic modeling, or both at such intervals and of such comprehensiveness as may be necessary to keep itself fully informed that its system provides sufficient pressure to ensure reliable service to its customers.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- b) All readings taken by charts in pressure surveys shall be preserved and filed in a systematic manner, accompanied by information showing the date and place of the survey, the instrument used, and the name of the person making the survey. A utility may make use of a supervisory control and data acquisition system, electronic recording instruments using electronic filing and dating, or both, to meet the requirements of this subsection.
- c) Each utility shall install and maintain recording pressure devices on its system as may be necessary to verify the adequacy of its system design. A utility may make use of a supervisory control and data acquisition system, electronic recording instruments using electronic filing and dating, or both, to meet the requirements of this subsection.

Section 501.520 Interruptions of Service

- a) Each utility shall make all reasonable efforts to prevent interruptions of service. When interruptions occur, the utility shall reestablish service with the shortest possible delay, consistent with general safety and public welfare. Whenever a utility must interrupt its customers' service for the purpose of working on the system, the utility shall conduct this work at a time that will cause the least inconvenience to customers, and the utility shall notify, in advance and in writing, the customers who will be affected by the interruption. Advanced notification is not required whenever a utility interrupts service for emergency work on a matter that represents an existing or probable hazard to persons or property, and requires immediate repair or continuous action until the conditions are no longer hazardous. A utility shall notify the Director of the Safety and Reliability Division and the Director of the Consumer Services Division by phone during working hours or via fax or email during non-working hours if it has interrupted service to more than 50 customers for a period of 12 hours or more.
- b) Each utility shall annually file a report with the Director of the Safety and Reliability Division by April 1 that details the prior calendar year's service interruptions that affected more than 25 customers for longer than eight hours. The utility shall include the following information in the report:
 - 1) Indicate the number of service interruptions that:
 - A) Lasted 8 or more hours, but less than 12 hours.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- B) Lasted 12 or more hours.
- 2) Dates of service interruption that exceeded 8 hours in length.
- 3) City and location of service interruptions that exceeded 8 hours in length.
- 4) Reason for service interruptions that exceeded 8 hours in length.
- c) The provisions of this Section shall not apply to customers receiving gas service on an interruptible basis.
- d) A utility shall measure a service interruption beginning at the time the utility becomes aware of the interruption and ending when the utility reestablishes service or makes a first attempt at visiting a customer's premises for the purpose of reestablishing service.

Section 501.530 Heating Value

Each utility shall exercise in good faith all reasonable best efforts to maintain a consistent heating value for the natural gas it provides to its customers. A utility shall take what actions it deems necessary to avoid daily heating value fluctuations in excess of 5% for the gas it provides to individual customers. A utility may allow the daily heating value of gas delivered to its customer to fluctuate in excess of 5% when a failure to take the gas would result in a supply shortage, or when, for the purpose of meeting the requirements of a peak load or an emergency, a utility makes use of a reserve or emergency supply, such as liquefied petroleum gas.

Section 501.540 Good Engineering Practice

A utility shall use accepted good engineering practice to plan, design, construct, operate and maintain its natural gas delivery facilities to ensure adequate, efficient, reliable, safe and least-cost service to customers.

SUBPART E: EXTENSION OF MAINS

Section 501.600 Extension of Distribution Mains in Urban Areas

- a) Urban Customer

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- 1) For the purposes of this Section, a customer shall be deemed to be an urban customer if his or her premises are located within the incorporated limits of a city, village or town, or in a territory where the conditions of service approximate the conditions of service normally found in recognized urban territory; provided, however, that a public utility may file with the Commission for its consideration maps showing the areas deemed to be urban and, when so filed and approved by order or otherwise by the Commission, those maps shall govern. A utility shall consider a customer whose premises are not located in urban territory to be a rural customer.
 - 2) The provisions of this Section shall not apply to applicants for service under tariffs allowing interruptions of service. A utility with service tariffs that allow the utility to interrupt service to a customer shall file with the Commission an extension provision or an agreement with the applicant that shall govern main extensions for service under those tariffs.
- b) Free Extensions
- 1) If a utility determines that a main extension is necessary to provide firm gas service for an applicant or group of applicants whose premises are located in urban areas within which the utility operates, the utility, upon written request for service by the applicants, shall without charge make the necessary main extension along a street, highway or other right-of-way to the nearest point adjacent to the premises of the applicants, provided the extension does not exceed 100 feet of low pressure system main or 200 feet of high pressure system main per applicant, and provided further that no free extension shall be made from existing mains on which refunds are still due from previous deposits. When refunds are still due, any further extension shall be made only upon the applicant making a deposit equal to the full estimated cost of the further extension required.
 - 2) For the purpose of this Section, high pressure system mains transport gas to the applicant's premises at a nominal pressure of two pounds or more per square inch, and low pressure system mains transport gas at a nominal pressure of less than two pounds per square inch.
- c) Extension in Excess of Free Limits

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- 1) If a utility determines that a main extension is necessary to provide firm gas service for an applicant or group of applicants in excess of the free limit specified in subsection (b), and the requested service is in an area where the utility operates, the utility shall make the extension upon agreement by the applicant or group of applicants to comply with the following provisions:
 - A) A utility may file in conjunction with its rate schedule a main extension provision that would provide the utility customer with the choice of obtaining the extension under the provision or under subsection (c)(1)(C). If a utility files a main extension provision and the Commission permits it to become effective, the applicant may, at his or her election, proceed either under the provision or under subsection (c)(1)(C).
 - B) A utility may file a main extension provision that operates in place of, and not as an alternative to, subsection (c)(1)(C), but in that case the main extension provision shall not become effective except after a showing that it is generally more favorable to applicants than are the provisions of subsection (c)(1)(C), and after specific action by the Commission, by order or otherwise, permitting the provision to become effective. If the provision becomes effective, it shall govern the making of extensions in excess of the free limits.
 - C) The utility may require the applicant or group of applicants to deposit with the utility the estimated cost of the extension in excess of the free limit specified in subsection (b), determined in the manner designated in subsection (d). The utility then shall refund an amount equal to the average estimated cost, at the time of making the deposit, of constructing in the area 100 feet of low pressure main or 200 feet of high pressure main, for each additional customer whose service shall be taken from the original extension or from any extension thereof within a period of 10 years from the making of the original extension, provided that the total amount refunded shall not exceed the original deposit.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- 2) A utility, when reaching agreement with a group of applicants, shall consider the group to be governed by the majority as applied to any specific extension to the extent this option is available.
- d) A utility shall provide the applicant with a free estimate of the cost of the requested main extension along the expected route for the main extension designated by the utility. A utility shall also provide a free estimate of the cost of an alternative route if the applicant requests an alternative route and the utility expects the cost for the alternative route to not exceed the cost from the expected route by more than 50%.
- e) A utility shall use, as the basis for determining the amount of a deposit, the distance the applicant is from the nearest available distribution main and a route that the utility would normally follow in making the extension and over which right-of-way is available.
- f) A utility may petition the Commission for an investigation and determination of the reasonableness of any main extension if circumstances indicate that the additional revenues generated as a result of the main extension would be so meager as to make it unlikely to pay a fair compensation to the utility for its investment, operation, maintenance and replacement of the extension, or that for other substantial reasons the extension is unwarranted. If, after a hearing, the Commission orders a utility to construct an extension that has been challenged on any of these grounds, the applicant or group of applicants shall reimburse the utility for the construction costs to the extent necessary to ensure that the utility earns the Commission-authorized return from the required investment.

Section 501.610 Extension of Distribution Mains in Rural Areas

- a) Rural Customer
 - 1) A utility shall consider a customer whose premises are not located in urban territory, as described in Section 500.600, as a rural customer.
 - 2) The provisions of this Section shall not apply to applicants for service under tariffs allowing interruptions of service. A utility with service tariffs that allow the utility to interrupt service to a customer shall file with the Commission an extension provision or an agreement with the applicant that shall govern main extensions for service under those tariffs.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

b) Extension Provisions

1) If a utility determines that a main extension is necessary to provide firm gas service for an applicant or group of applicants whose premises are located in rural areas within which the utility operates, the utility, upon written request for service by the applicants, shall make the necessary main extension along a street, highway or other right-of-way to the nearest point or points adjacent to the point of connection with the service piping of such applicants, upon agreement by the applicant or group of applicants to comply with the provisions of this Section.

A) A utility may file, in conjunction with its rate schedule, a main extension provision that would provide the utility customer with the choice of obtaining the extension under the provision or under subsection (b)(1)(C). If a utility files a main extension provision and the Commission permits it to become effective, the applicant may, at his or her election, proceed either under the provision or under subsection (b)(1)(C).

B) A utility may file a main extension provision that operates in place of, and not as an alternative to, subsection (b)(1)(C), but in that case the main extension provision shall not become effective except after a showing that it is generally more favorable to applicants than are the provisions of subsection (b)(1)(C) and, after specific action by the Commission by order or otherwise, permitting the provision to become effective. If the provision becomes effective, it shall govern the making of extensions.

C) Deposits for Extensions

i) The utility may require the applicant or group of applicants to deposit with the utility the estimated cost of the extension determined in the manner designated in subsection (c). Each subsequent customer to be connected within a period of 10 years from the date of making the original extension shall be required to deposit with the utility an amount equal to the sum of the estimated cost of the existing extension plus the estimated cost of any further

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

extension necessary to serve the customer, divided by the number of depositors for the entire extension. The excess of this deposit over the estimated cost of any further extension necessary to serve the customer shall be divided equally by the utility among the previous depositors for the extension and shall be refunded to them in that amount. In no case shall the amount of the refund to a customer exceed the customer's deposit, nor shall the total of deposits for any extension exceed the estimated cost of making the extension.

- ii) The foregoing provisions depend upon agreement by applicants that deposits of applicants will be equal. If an applicant or group of applicants requests a new extension to an existing main that would increase present customers' deposits, the utility shall consider the new extension as an original extension and shall not require deposits from existing customers for the requested new original extension.
 - iii) If the point of connection with the service piping of an applicant is so located that the applicant could be served by extending a separate parallel main at less cost than the amount of deposit that would be required from the applicant for connection to the existing extension, a utility will not require the applicant to deposit in excess of the estimated cost of the separate main, and the applicant shall not share in any refunds so long as the applicant's deposit remains less than that of the other depositors on the existing extension.
- 2) A utility, when reaching agreement with a group of applicants, shall consider the group to be governed by the majority as applied to any specific extension.
- c) A utility shall provide the applicant with a free estimate of the cost of the requested main extension along the expected route for the main extension designated by the utility. A utility shall also provide a free estimate of the cost of an alternative route if the applicant requests an alternative route and the utility

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

expects the cost for the alternative route to not exceed the cost from the expected route by more than 50%.

- d) A utility shall use, as the basis for determining the amount of a deposit, the distance the applicant is from the nearest available distribution main and a route that the utility would normally follow in making the extension and over which right-of-way is available.
- e) A utility may petition the Commission for an investigation and determination of the reasonableness of any main extension if circumstances indicate that the additional revenues generated as a result of the main extension would be so meager as to make it unlikely to pay a fair compensation to the utility for its investment, operation, maintenance and replacement of the extension, or that, for other substantial reasons, the extension is unwarranted. If after a hearing the Commission orders a utility to construct an extension that has been challenged on any of these grounds, the applicant or group of applicants shall reimburse the utility for the construction costs to the extent necessary to ensure that the utility earns the Commission-authorized return from the required investment.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Coordination of Benefits
- 2) Code Citation: 50 Ill. Adm. Code 2009
- 3)

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|-------------------------|-------------------------|
| <u>Section Numbers:</u> | <u>Adopted Actions:</u> |
| 2009.10 | Amendment |
| 2009.20 | Amendment |
| 2009.30 | Amendment |
| 2009.40 | Amendment |
| 2009.60 | Amendment |
| 2009.EXHIBIT A | Amendment |
- 4) Statutory Authority: Implementing and authorized by Sections 357.18, 357.19 and 367 of, and authorized by Section 401 of, the Illinois Insurance Code (215 ILCS 5/357.18, 357.19, 367 and 401)
- 5) Effective Date of Rules: September 1, 2015
- 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 principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 39 Ill. Reg. 1436; January 23, 2015
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposed and Final Version:

2009.10(b) after subsection label "b)" add "Applicability"; two lines down, add "1)" before "This Part".

Following subsection 2009.10(b)(1) add:

"2) "Plan" does not include:

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- A) Hospital indemnity coverage benefits or other fixed indemnity coverage;
- B) Accident only coverage;
- C) Specified disease or specified accident coverage;
- D) Limited benefit health coverage;
- E) School accident-type coverages that cover students for accidents only, including athletic injuries, either on a 24-hour basis or on a "to and from school" basis;
- F) Benefits provided in long-term care insurance policies for nonmedical services, for example, personal care, adult day care, homemaker services, assistance with activities of daily living, respite care and custodial care, or for contracts that pay a fixed daily benefit without regard to expenses incurred or the receipt of services;
- G) Medicare supplement policies;
- H) A state plan under Medicaid;
- I) A governmental plan, that, by law, provides benefits that are in excess of those of any private insurance plan or other nongovernmental plan; or
- J) Disability income protection coverage."

2009.10(c), 2nd line, change "January" to "September".

2009.20, definition of "Plan", delete "and". After "other non-government plan", change the period to a semicolon, and after that paragraph add:

Hospital indemnity coverage benefits or other fixed indemnity coverage;

Accident only coverage;

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

Specified disease or specified accident coverage;

Limited benefit health coverage;

School accident-type coverages that cover students for accidents only, including athletic injuries, either on a 24-hour basis or on a "to and from school" basis;

Benefits provided in long-term care insurance policies for nonmedical services, for example, personal care, adult day care, homemaker services, assistance with activities of daily living, respite care and custodial care, or for contracts that pay a fixed daily benefit without regard to expenses incurred or the receipt of services;

Medicare supplement policies;

A state plan under Medicaid;

A governmental plan, that, by law, provides benefits that are in excess of those of any private insurance plan or other nongovernmental plan; or

Disability income protection coverage.

2009.60(c), 2nd line, change "minimum" to "maximum".

2009.EXHIBIT A, Section II, renumber subsections C, D and E as D, E and F respectively. After subsection (A), add:

"B. "Plan" does not include:

- (1) Hospital indemnity coverage benefits or other fixed indemnity coverage;
- (2) Accident only coverage;
- (3) Specified disease or specified accident coverage;
- (4) Limited benefit health coverage;

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- (5) School accident-type coverages that cover students for accidents only, including athletic injuries, either on a 24-hour basis or on a "to and from school" basis;
 - (6) Benefits provided in long-term care insurance policies for nonmedical services, for example, personal care, adult day care, homemaker services, assistance with activities of daily living, respite care and custodial care, or for contracts that pay a fixed daily benefit without regard to expenses incurred or the receipt of services;
 - (7) Medicare supplement policies;
 - (8) A state plan under Medicaid;
 - (9) A governmental plan, that, by law, provides benefits that are in excess of those of any private insurance plan or other nongovernmental plan; or
 - (10) Disability income protection coverage."
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Coordination of Benefits (COB) provisions in health insurance policies apply when an enrollee is covered by more than one health insurance policy. In such instances, COB establishes a method by which two or more carriers can allocate their respective benefits, so that the total benefits paid by the policies do not exceed the expenses incurred by the insured. The need for COB provisions has recently increased in that as of January 1, 2014, the ACA requires that all individual and group health plans must guarantee issue policies to all applicants, regardless of health status or other factors. Since issuance of the policy is now guaranteed by law, there is an increased risk of fraud from filing claims under multiple policies in order to profit from the excess benefits. In Illinois, there is statutory authority for COB provisions in connection with both individual, group and for HMO accident and health insurance. (See

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

215 ILCS 5/356z.15, 356z.18, 356z.21(d), 357.18, 357.19, 368d(c)(3), 367(11)(a), and 215 ILCS 125/5-7). However, the regulation previously only pertained to group insurance. The regulation is now being changed to include COB provisions for individual policies. Exceptions have also been added for certain types of policies providing exempted benefits.

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

Cindy Colonius
Consumer Market Division
Illinois Department of Insurance
320 West Washington
Springfield IL 62767

217/782-4572

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

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF INSURANCE

SUBCHAPTER Z: ACCIDENT AND HEALTH INSURANCE

PART 2009

~~GROUP~~ COORDINATION OF BENEFITS

Section

| | |
|---------|--|
| 2009.10 | Purpose and Applicability |
| 2009.20 | Definitions |
| 2009.30 | Model COB Contract Provision |
| 2009.40 | Standards for Coordination of Benefits |
| 2009.50 | Procedure to be Followed by Secondary Plan |
| 2009.60 | Miscellaneous Provisions |

2009.EXHIBIT A Model COB Provisions

AUTHORITY: Implementing and authorized by Sections 357.18, 357.19 and 367 of, and authorized by Section 401 of, the Illinois Insurance Code [215 ILCS 5/357.18, 357.19, 367 and 401].

SOURCE: Adopted at 12 Ill. Adm. Code 17346, effective November 8, 1988; amended at 15 Ill. Adm. Code 15061, effective October 7, 1991; amended at 39 Ill. Reg. 12548, effective September 1, 2015.

Section 2009.10 Purpose and Applicability

- a) The purpose of this regulation is to:
 - 1) Permit, but not require, plans to include a coordination of benefits (COB) provision;
 - 2) Establish an order in which plans pay their claims;
 - 3) Provide the authority for the orderly transfer of information needed to pay claims promptly;
 - 4) Reduce duplication of benefits by permitting a reduction of the benefits paid by a plan when the plan, pursuant to rules established by this Part,

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

does not have to pay its benefits first;

- 5) Reduce claims payment delays; and
- 6) Make all contracts that contain a COB provision consistent with this Part.

b) Applicability

- 1) This Part shall apply to all ~~group~~ accident and health insurance policies or contracts, and group subscriber certificates or contracts issued thereunder, which are issued, delivered, amended or renewed in this State on or after November 8, 1988 (the effective date of this Part).
- 2) "Plan" does not include:
 - A) Hospital indemnity coverage benefits or other fixed indemnity coverage;
 - B) Accident only coverage;
 - C) Specified disease or specified accident coverage;
 - D) Limited benefit health coverage;
 - E) School accident-type coverages that cover students for accidents only, including athletic injuries, either on a 24-hour basis or on a "to and from school" basis;
 - F) Benefits provided in long-term care insurance policies for nonmedical services, for example, personal care, adult day care, homemaker services, assistance with activities of daily living, respite care and custodial care, or for contracts that pay a fixed daily benefit without regard to expenses incurred or the receipt of services;
 - G) Medicare supplement policies;
 - H) A state plan under Medicaid;

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- I) A governmental plan that, by law, provides benefits that are in excess of those of any private insurance plan or other nongovernmental plan; or
 - J) Disability income protection coverage.
- c) Any group policy subject to this Part ~~that~~which was issued before September 1, 2015~~the effective date of this Part~~ shall be brought into compliance with this Part by the later of:
 - 1) The next anniversary date or renewal date of the group policy; or
 - 2) The expiration of any applicable collectively bargained contract pursuant to which it was written.

(Source: Amended at 39 Ill. Reg. 12548, effective September 1, 2015)

Section 2009.20 Definitions

The following words and terms, when used in this Part, shall have the following meanings unless the context clearly indicates otherwise:

a) Allowable Expenses

~~1)~~"Allowable Expense" means the necessary, reasonable, and customary item of expense for health care when the item of expense is covered at least in part under any of the plans involved. Necessary, reasonable, and customary item of expense for health care shall be defined in the policy.

~~2)~~Notwithstanding ~~this~~the above definition, items of expense under coverages such as dental care, vision care, prescription drug or hearing aid programs may be excluded from the definition of allowable expense~~Allowable Expense~~. A plan ~~that~~which provides benefits only for any such items of expense may limit its definition of allowable expenses~~Allowable Expenses~~ to like items of expense.

~~3)~~When a plan provides benefits in the form of service, the reasonable cash value, as determined by the insurer based on the value placed on ~~that~~such service in the geographic area, ~~of each service~~ will be considered

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

as both an allowable expense~~Allowable Expense~~ and a benefit paid.

4)The difference between the cost of a private hospital room and the cost of a semi-private hospital room is not considered an allowable expense~~Allowable Expense~~ under ~~this~~~~the above~~ definition unless the patient's stay in a private hospital room is medically necessary, as determined by the physicians of record.

5)When COB is restricted in its use to specific coverage in a contract (for example, major medical or dental), "allowable expense"~~the definition of "Allowable Expense"~~ must include the corresponding expenses or services to which COB applies.

6)When benefits are reduced under a primary plan~~Primary Plan~~ because a covered person does not comply with the plan provisions, the amount of ~~the such~~ reduction shall not be considered an allowable expense~~Allowable Expense~~. Examples of ~~thesesuch~~ provisions are those related to second surgical opinions, precertification of admissions or services, and preferred provider arrangements.

A)Only benefit reductions based upon provisions similar in purpose to those described in this definition~~above~~ and ~~which are~~ contained in the primary plan~~Primary Plan~~ may be excluded from allowable expenses~~Allowable Expenses~~.

B)This provision shall not be used by a second plan~~Second Plan~~ to refuse to pay benefits because an HMO member has elected to have health care services provided by a non-HMO provider, and the HMO, pursuant to its contract, is not obligated to pay for providing those services.

~~b)Claim~~

"Claim" means ~~a~~A request that benefits of a plan be provided or paid ~~is a "claim"~~. The benefits claimed may be in the form of:

1)services~~Services~~ (including supplies);

2)payment~~Payment~~ for all or a portion of the expenses incurred;

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

~~3)a~~A combination of services and payments~~subsections (1) and (2) above;~~
or

~~4)an~~An indemnification.

~~e)Claim Determination Period~~

~~1)~~"Claim Determination Period" or "CDP" means the period of time, which must not be less than 12 consecutive months, over which allowable expenses~~Allowable Expenses~~ are compared with total benefits payable in the absence of COB, to determine whether overinsurance exists and how much a plan will pay or provide.

~~2)~~The CDP~~Claim Determination Period~~ is usually a calendar year, but a plan may use some other period of time that fits the coverage of the group contract. A person may be covered by a plan during a portion of a CDP~~Claim Determination Period~~ if that person's coverage starts or ends during the CDP~~Claim Determination Period~~.

~~3)~~As each claim is submitted, each plan is to determine its liability and pay or provide benefits based upon allowable expenses~~Allowable Expenses~~ incurred to that point in the CDP, ~~but~~Claim Determination Period. ~~But~~ that determination is subject to adjustment as later allowable expenses~~Allowable Expenses~~ are incurred in the same CDP~~Claim Determination Period~~.

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

~~d)~~"Coordination of Benefits" or "COB" means~~This is~~ a provision establishing an order in which plans pay their claims.

~~e)~~"Hospital Indemnity Benefits" means~~These are~~ benefits not related to expenses incurred. The term does not include reimbursement-type benefits even if they are designed or administered to give the insured the right to elect indemnity-type benefits at the time of claim.

~~f)Plan~~

~~1)~~"Plan" means a form of coverage with which coordination is allowed. The definition of plan in the group contract must state the types of coverage that~~which~~

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

will be considered in applying the COB provision of that contract. The right to include a type of coverage is limited by ~~the rest of~~ this definition.

~~2)~~The definition shown in the Model COB ~~provision~~Provision, attached to this Part as (see Exhibit A); is an example of what may be used. Any definition of plan in the contract that satisfies this ~~definition~~subsection may be used. (The Department will determine compliance with this ~~definition under subsection pursuant to~~ its authority ~~in under~~ Section 143 of the ~~Illinois Insurance Code (Ill. Rev. Stat. 1989, ch. 73, par. 755).~~)

~~3)~~This Part uses the term "plan-". However, a ~~group~~ contract may, instead, use "program" or some other term.

~~4)~~Plan may include:

~~A)~~Individual and group~~Group~~ insurance and group subscriber contracts;

~~B)~~Uninsured arrangements of individual, group or group-type coverage;

~~C)~~Individual and group~~Group~~ or group-type coverage through HMOs and other prepayment, group practice and individual practice plans;

~~D)~~Group-type contracts. Group-type contracts are contracts ~~that which~~ are not available to the general public and can be obtained and maintained only because of membership in or connection with a particular organization or group. Group-type contracts answering this description may be included in the definition of plan, at the option of the insurer or the service provider and the contract client, whether or not uninsured arrangements are used and regardless of how the group-type coverage is designated. Individually underwritten and issued guaranteed renewable policies would not be considered "group-type" even though purchased through payroll deduction at a premium savings to the insured since the insured would have the right to maintain or renew the policy independently of continued employment with the employer;

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

~~E)~~The amount by which individual, group or group-type hospital indemnity benefits exceed \$100 per day;

~~F)~~The medical benefits coverage in individual or group automobile contracts, in group or individual automobile "no fault" contracts, and in traditional automobile "fault" type contracts, to the extent ~~those that such~~ contracts are primary plans~~Primary Plans~~; and

~~G)~~Medicare or other governmental benefits, except as provided in this definition~~subsection (5)(G) below~~. That part of the definition of plan may be limited to the hospital, medical and surgical benefits of the governmental program.

~~5)~~"Plan" shall not include:

~~A)Individual or family insurance contracts;~~

~~B)Individual or family subscriber contracts;~~

~~C)Individual or family coverage through Health Maintenance Organizations (HMOs);~~

~~D)Individual or family coverage under other prepayment, group practice and individual practice plans;~~

~~E)Individual and group~~Group or group-type hospital indemnity benefits of \$100.~~00~~ per day or less;

~~F)~~School accident-type coverages. These contracts cover elementary and secondary school students~~grammar, high school~~ and college students for accidents only, including athletic injuries, either on a 24-hour basis or on a "to and from school" basis; ~~and~~

~~G)~~A state plan under Medicaid; ~~and shall not include a~~

A law or plan when, by law, its benefits are in excess of those of any private insurance plan or other non-government plan; ~~;~~

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

Hospital indemnity coverage benefits or other fixed indemnity coverage;

Accident only coverage;

Specified disease or specified accident coverage;

Limited benefit health coverage;

School accident-type coverages that cover students for accidents only, including athletic injuries, either on a 24-hour basis or on a "to and from school" basis;

Benefits provided in long-term care insurance policies for nonmedical services, for example, personal care, adult day care, homemaker services, assistance with activities of daily living, respite care and custodial care, or for contracts that pay a fixed daily benefit without regard to expenses incurred or the receipt of services;

Medicare supplement policies;

A state plan under Medicaid;

A governmental plan that, by law, provides benefits that are in excess of those of any private insurance plan or other nongovernmental plan; or

Disability income protection coverage.

~~g)~~Primary Plan

"A Primary Plan" means~~is~~ a plan whose benefits for a person's health care coverage must be determined without taking the existence of any other plan into consideration. There may be more than one primary plan. A plan is a primary plan~~Primary Plan~~ if either of the following conditions is true:

~~1)the~~The plan ~~either~~ has no order of benefit determination rules, or it has rules ~~that~~which differ from those permitted by this subchapter. ~~There may be more than one Primary Plan;~~ or

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

~~2)all~~All plans ~~thatwhich~~ cover the person use ~~those~~the order of benefit determination rules ~~required by this regulation~~, and, under those rules, the plan determines its benefits first.

~~h)Secondary Plan~~

"A Secondary Plan" ~~means~~is a plan ~~thatwhich~~ is not a ~~primary plan~~Primary Plan. If a person is covered by more than one ~~secondary plan~~Secondary Plan, the order of benefit determination ~~rules~~of this Part ~~decides~~decide the order in which ~~that~~ ~~person's~~their benefits are determined in relation to each other. The benefits of each ~~secondary plan~~Secondary Plan may take into consideration the benefits of the ~~primary plan~~Primary Plan or plans and the benefits of any other plan ~~thatwhich~~, under ~~this Part~~the rules of this regulation, has its benefits determined before those of that ~~secondary plan~~Secondary Plan.

~~i)"This Plan", in~~In a COB provision, ~~this term~~refers to the part of the ~~group~~ contract providing the health care benefits to which the COB provision applies and ~~thatwhich~~ may be reduced because of the benefits of other plans. Any other part of the ~~group~~ contract providing health care benefits is separate from "~~this plan~~This Plan:". A ~~group~~ contract may apply one COB provision to certain of its benefits (such as dental benefits), coordinating only with like benefits, and may apply other separate COB provisions to coordinate other benefits.

(Source: Amended at 39 Ill. Reg. 12548, effective September 1, 2015)

Section 2009.30 Model COB Contract Provision

- a) Exhibit A contains a model COB provision for use in ~~group~~ contracts. That use is subject to subsections (b) and (c) ~~below~~ and ~~the provisions of~~ Section 2009.40 ~~of this Part~~.
- b) A ~~group~~ contract's COB provision does not have to use the words and format shown at Exhibit A. Changes may be made to fit the language and style of the rest of the ~~group~~ contract or to reflect the ~~differences~~difference among plans ~~thatwhich~~ provide services, ~~which~~ pay benefits for expenses incurred, ~~and which~~ indemnify. No other substantive changes are allowed. (The Department will determine compliance with this subsection ~~(b) pursuant to its authority~~ under Section 143 of the ~~Illinois Insurance~~ Code (~~Ill. Rev. Stat. 1989, ch. 73, par. 755~~).)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- c) Prohibited Coordination and Benefit Design
- 1) A ~~group~~ contract may not reduce benefits on the basis that:
 - A) Another plan exists;
 - B) A person is or could have been covered under another plan, except with respect to Part B of Medicare; or
 - C) A person has elected an option under another plan providing a lower level of benefits than another option ~~that~~^{which} could have been elected.
 - 2) No contract may contain a provision that its benefits are "excess" or "always secondary" to any plan as defined in Section 2009.20~~this regulation, as authorized~~^{except in accord with the rules permitted by Section 2009.60}~~this regulation.~~
- d) With respect to excepted benefit policies and grandfathered health plans, "specified disease coverage" pays benefits for the diagnosis and treatment of a specifically named disease or diseases. Except for the uniform policy provision regarding other insurance with the same insurer, benefits for specified disease coverage shall be paid regardless of other coverage available through individual health insurance.

(Source: Amended at 39 Ill. Reg. 12548, effective September 1, 2015)

Section 2009.40 Standards for Coordination of Benefits

- a) General
- The general order of benefits is as follows:
- 1) The primary plan~~Primary Plan~~ must pay or provide its benefits as if the secondary plan~~Secondary Plan~~ or plans do~~Plans did~~ not exist. A plan~~Plan~~ that does not include a coordination of benefits provision may not take the benefits of another plan~~Plan~~ into account when it determines its benefits. There is one exception: a contract holder's coverage that is designed to supplement a part of a basic package of benefits may provide that the supplementary coverage ~~is~~^{shall be} excess to any other parts of the plan

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

provided by the contract holder.

- 2) A ~~secondary plan~~Secondary Plan may take the benefits of another plan into account only when, under these standards, it is ~~secondary~~Secondary to that other plan.
- 3) The benefits of the plan ~~that which~~ covers the person as an employee, member or subscriber (that is, other than as a dependent) are determined before those of the plan ~~that which~~ covers the person as a dependent; except that, if the person is also a Medicare beneficiary, Medicare is:
 - A) Secondary to the plan covering the person as a dependent; and
 - B) Primary to the plan covering the person as other than a dependent, for example a retired employee.
- b) Dependent Child/Parents not Separated or Divorced
The standards for the order of benefits for a dependent child when the parents are not separated or divorced are as follows:
 - 1) The benefits of the plan of the parent whose birthday falls earlier in a year are determined before those of the plan of the parent whose birthday falls later in that year;
 - 2) If both parents have the same birthday, the benefits of the plan ~~that which~~ covered the parent longer are determined before those of the plan ~~that which~~ covered the other parent for a shorter period of time;
 - 3) The word "birthday" refers only to month and day in a calendar year, not the year in which the person was born;
 - 4) A ~~group~~-contract ~~that which~~ includes COB and ~~that which~~ is issued or renewed, or ~~that which~~ has an anniversary date on or after January 7, 1989, ~~60 days after the effective date of this Part~~ shall include the substance of ~~the provision in~~ subsections (b)(1), (2) and (3)-~~above~~.
 - 5) If the other plan does not ~~reflect~~contain the standards ~~of described in~~ subsections (b)(1), (2) and (3)-~~above~~, but instead has a standard based upon the gender of the parent; and, if, as a result, the plans do not agree on

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

the order of benefits, the standard based upon the gender of the parent will determine the order of benefits.

c) Dependent Child/Separated or Divorced Parents

- 1) If two or more plans cover a person as a dependent child of divorced or separated parents, benefits for the child are determined in the following~~this~~ order:
- A1) First, the plan of the parent with custody of the child;
- B2) Then, the plan of the spouse of the parent with ~~the~~ custody of the child; and
- C3) Finally, the plan of the parent not having custody of the child.
- 24) If the specific terms of a court decree state that one of the parents is responsible for the health care expenses of the child, and the entity obligated to pay or provide the benefits of the plan of that parent has been informed of those terms, the benefits of that plan are determined first. The plan of the other parent shall be the secondary plan~~Secondary Plan~~. This subsection does not apply with respect to any claim determination period~~Claim Determination Period or Period~~ or plan year during which any benefits are actually paid or provided before the entity has that actual knowledge.

d) Dependent Child/Joint Custody-

If the specific terms of a court decree state that the parents shall share joint custody, without stating that one of the parents is responsible for the health care expenses of the child, the plan covering the child shall follow the order of benefit determination ~~rules~~ outlined in subsection (b) ~~above~~.

e) Young Adult/Dependent

For a dependent child who has coverage under either or both parents' plans and also has his or her own coverage as a dependent under a spouse's plan, subsection (h) applies. In the event the dependent child's coverage under the spouse's plan began on the same date as the dependent child's coverage under either or both parents' plans, the order of benefits shall be determined by applying the birthday rule of subsection (b) to the dependent child's parent or parents and the

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

dependent's spouse.

fe) Active/Inactive Employees

The benefits of a plan ~~that~~which covers a person as an employee who is neither laid off nor retired (or as that employee's dependent) are determined before those of a plan ~~that~~which covers that person as a laid-off or retired employee (or as that employee's dependent). If the other plan does not have this standard; and if, as a result, the plans do not agree on the order of benefits, this subsection (f) shall not apply~~standard is ignored.~~

gf) Continuation Coverage

- 1) If a person whose coverage is provided under a right of continuation, pursuant to federal or ~~State~~state law, also is covered under another plan, the following shall be the order of benefit determination:
 - A) First, the benefits of a plan covering the person as an employee, member or subscriber (or as that person's dependent);
 - B) Second, the benefits under the continuation coverage.
- 2) If the other plan does not contain the order of benefits determination described ~~in~~within this subsection ~~(g)(1)~~(g); and, if, as a result, the plans do not agree on the order of benefits, this subsection (g) shall not apply~~requirement shall be ignored.~~

hg) Longer/Shorter Length of Coverage

If none of the ~~other~~above standards of this Section determines the order of benefits, the benefits of the plan ~~that~~which covered an employee, member or subscriber longer are determined before those of the plan ~~that~~which covered that person for the shorter term.

- 1) To determine the length of time a person has been covered under a plan, two plans shall be treated as one if the claimant was eligible under the second within 24 hours after the first ended.
- 2) The start of a new plan does not include:
 - A) A change in the amount of scope of a plan's benefits;

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- B) A change in the entity ~~that~~which pays, provides or administers the plan's benefits; or
 - C) A change from one type of plan to another (such as, from a single employer plan to that of a multiple employer plan).
- 3) The claimant's length of time covered under a plan is measured from the claimant's first date of coverage under that plan. If that date is not readily available, the date the claimant first became a member of the group shall be used as the date from which to determine the length of time the claimant's coverage under the present plan has been in force.

(Source: Amended at 39 Ill. Reg. 12548, effective September 1, 2015)

Section 2009.60 Miscellaneous Provisions

- a) Reasonable Cash Values of Services
A ~~secondary plan that~~Secondary Plan which provides benefits in the form of services may recover the reasonable cash value of providing the services from the ~~primary plan~~Primary Plan, to the extent that benefits for the services are covered by the ~~primary plan~~Primary Plan and have not already been paid or provided by the ~~primary plan~~Primary Plan. Nothing in this ~~subsection~~provision shall be interpreted to require a plan to reimburse a covered person in cash for the value of services provided by a plan ~~that~~which provides benefits in the form of services.
- b) Excess and Other Nonconforming Provisions
 - 1) Some plans have order of benefit determination standards not consistent with this Part ~~that~~which declare that the plan's coverage is "excess" to all others; or "always secondary-". This occurs because certain plans may not be subject to insurance regulation, or because some group contracts have not yet been conformed with this Part pursuant to Section 2009.20.
 - 2) A plan with order of benefit determination standards ~~that~~which comply with this Part (~~complying plan~~Complying Plan) may coordinate its benefits with a plan ~~that~~which is "excess" or "always secondary" or ~~that~~which uses order of benefit determination standards ~~that~~which are inconsistent with those contained in this Part (~~noncomplying~~

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

~~plan~~Noncomplying Plan) on the following basis:

- A) If the ~~complying plan~~Complying Plan is the ~~primary plan~~Primary Plan, it shall pay or provide its benefits on a primary basis;
- B) If the ~~complying plan~~Complying Plan is the ~~secondary plan~~Secondary Plan, it shall, nevertheless, pay or provide its benefits first, but the amount of the benefits payable shall be determined as if the ~~complying plan~~Complying Plan were the ~~secondary plan~~Secondary Plan. In such a situation, ~~the~~such payment shall be the limit of the ~~complying plan's~~Complying Plan's liability;
- C) If the ~~noncomplying plan~~Noncomplying Plan does not provide the information needed by the ~~complying plan~~Complying Plan to determine its benefits within ~~(sixty)~~ 60 days after it is requested to do so, the ~~complying plan~~Complying Plan shall assume that the benefits of the ~~noncomplying plan~~Noncomplying Plan are identical to its own, and shall pay its benefits accordingly. However, the ~~complying plan~~Complying Plan must adjust any payments it makes based on ~~that~~such assumption whenever information becomes available as to the actual benefits of the ~~noncomplying plan~~Noncomplying Plan; and
- D) If the ~~noncomplying plan~~Noncomplying Plan reduces its benefits so that the employee, subscriber, or member receives less in benefits than he or she would have received had the ~~complying plan~~Complying Plan paid or provided its benefits as the ~~secondary plan~~Secondary Plan and the ~~noncomplying plan~~Noncomplying Plan paid or provided its benefits as the ~~primary plan~~Primary Plan, and governing state law allows the right of subrogation set forth ~~in subsection (d)~~below, ~~then~~ the ~~complying plan~~Complying Plan shall advance to or on behalf of the employee, subscriber or member an amount equal to ~~the~~such difference. However, in no event shall the ~~complying plan~~Complying Plan advance more than the ~~complying plan~~Complying Plan would have paid had it been the ~~primary plan~~Primary Plan less any amount it previously paid. In consideration of ~~the~~such advance, the ~~complying plan~~Complying Plan shall be subrogated to all rights of the employee, subscriber or

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

member against the ~~noncomplying plan~~Noncomplying Plan.
~~The~~Such advance by the ~~complying plan~~Complying Plan shall also
be without prejudice to any claim it may have against the
~~noncomplying plan~~Noncomplying Plan in the absence of ~~such~~
subrogation.

- c) Allowable Expense. ~~Terms~~A term such as "usual and customary," "usual and prevailing," "maximum allowable fee", "eligible expense", or "reasonable and customary," may be substituted for the term "necessary, reasonable and customary." Terms such as "medical care" or "dental care" may be substituted for "health care" to describe the coverages to which the COB provisions apply.
- d) Subrogation. The COB concept clearly differs from that of traditional subrogation. Provisions for one may be included in health care benefits contracts without compelling the inclusion or exclusion of the other.

(Source: Amended at 39 Ill. Reg. 12548, effective September 1, 2015)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

Section 2009.EXHIBIT A Model COB ProvisionsCOORDINATION OF THE ~~GROUP~~ CONTRACT'S BENEFITS
WITH OTHER BENEFITS

I. APPLICABILITY

- A. This Coordination of Benefits ("COB") provision applies to This Plan when an ~~enrollee~~employee or the ~~enrollee's~~employee's covered dependent has health care coverage under more than one Plan. "Plan" and "This Plan" are defined ~~in Section II~~below.
- B. If this COB provision applies, the order of benefit determination rules should be looked at first. Those rules determine whether the benefits of This Plan are determined before ~~or~~after those of another plan. The benefits of This Plan:
- (1) Shall not be reduced when, under the order of benefit determination rules, This Plan determines its benefits before another plan; but
 - (2) May be reduced when, under the order of benefits determination rules, another plan determines its benefits first. The ~~above~~reduction is described in Section IV "Effect on the Benefits of This Plan."

II. DEFINITIONS

- A. "Plan" is any of ~~the following that~~these ~~which~~ provides benefits or services for, or because of, medical or dental care or treatment:
- (1) ~~Individual or group~~Group insurance or group-type coverage, whether insured or uninsured. This includes prepayment, group practice or individual practice coverage. It also includes coverage other than school accident-type coverage.
 - (2) Coverage under a governmental plan, or coverage required or provided by law. This does not include a state plan under Medicaid (Title XIX, Grants to States for Medical Assistance

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

Programs, of the United States Social Security Act (42 ~~USC~~U.S.C.A. 301 et seq.), as amended from time to time).

Each contract or other arrangement for coverage under (1) or (2) is a separate plan. Also, if an arrangement has two parts and COB rules apply only to one of the two, each of the parts is a separate plan.

B. "Plan" does not include:

- (1) Hospital indemnity coverage benefits or other fixed indemnity coverage;
- (2) Accident only coverage;
- (3) Specified disease or specified accident coverage;
- (4) Limited benefit health coverage;
- (5) School accident-type coverages that cover students for accidents only, including athletic injuries, either on a 24-hour basis or on a "to and from school" basis;
- (6) Benefits provided in long-term care insurance policies for nonmedical services, for example, personal care, adult day care, homemaker services, assistance with activities of daily living, respite care and custodial care, or for contracts that pay a fixed daily benefit without regard to expenses incurred or the receipt of services;
- (7) Medicare supplement policies;
- (8) A state plan under Medicaid;
- (9) A governmental plan that, by law, provides benefits that are in excess of those of any private insurance plan or other nongovernmental plan; or
- (10) Disability income protection coverage.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

CB. "This Plan" is the part of the ~~group~~ contract that provides benefits for health care expenses.

DE. "Primary Plan/Secondary Plan:" The order of benefit determination rules state whether This Plan is a Primary Plan or Secondary Plan as to another plan covering the person.

When This Plan is a Primary Plan, its benefits are determined before those of the other plan and without considering the other plan's benefits.

When This Plan is a Secondary Plan, its benefits are determined after those of the other plan and may be reduced because of the other plan's benefits.

When there are more than two plans covering the person, This Plan may be a Primary Plan as to one or more other plans, and may be a Secondary Plan as to a different plan or plans.

ED. "Allowable Expense" means a necessary, reasonable and customary item of expense for health care;³ when the item of expense is covered at least in part by one or more plans covering the person for whom the claim is made.

The difference between the cost of a private hospital room and the cost of a semi-private hospital room is not considered an Allowable Expense under ~~this~~^{the above} definition unless the patient's stay in a private hospital room is medically necessary either in terms of generally accepted medical practice⁵ or as specifically defined in the plan.

When a plan provides benefits in the form of services, the reasonable cash value of each service rendered will be considered both an Allowable Expense and a benefit paid.

FE. "Claim Determination Period" means a calendar year. However, it does not include any part of a year during which a person has no coverage under This Plan, or any part of a year before the date this COB provision or a similar provision takes effect.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

III. ORDER OF BENEFIT DETERMINATION RULES

- A. General. When there is a basis for a claim under This Plan and another plan, This Plan is a Secondary Plan ~~thatwhich~~ has its benefits determined after those of the other plan, unless:
- (1) The other plan has rules coordinating its benefits with those of This Plan; and
 - (2) Both those rules and This Plan's rules (~~see Section III, in subsection (B) below~~, require that This Plan's benefits be determined before those of the other plan.
- B. Rules. This Plan determines its order of benefits using the first of the following rules ~~thatwhich~~ applies:
- (1) Non-Dependent/Dependent. The benefits of the plan ~~thatwhich~~ covers the person as an employee, member or subscriber (that is, other than as a dependent) are determined before those of the plan ~~thatwhich~~ covers the person as a dependent; except that, if the person is also a Medicare beneficiary, Medicare is:
 - (a) Secondary to the plan covering the person as a dependent; and
 - (b) Primary to the plan covering the person as other than a dependent, for example a retired employee.
 - (2) Dependent Child/Parents not Separated or Divorced. Except as stated in ~~Section III Subsection (B)(3) below~~, when This Plan and another plan cover the same child as a dependent of a different person (i.e., "parent"); called "parents:"
 - (a) The benefits of the plan of the parent whose birthday falls earlier in a year are determined before those of the plan of the parent whose birthday falls later in that year; but
 - (b) If both parents have the same birthday, the benefits of the plan ~~thatwhich~~ covered the ~~parent~~parents longer are

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

determined before those of the plan ~~that~~which covered the other parent for a shorter period of time.

However, if the other plan does not have the rule described in ~~Section III(B)Subsection (2)(a)~~Section III(B)Subsection (2)(a) ~~immediately above~~, but instead has a rule based upon the gender of the parent, and, if, as a result, the plans do not agree on the order of benefits, the rule in the other plan will determine the order of benefits.

- (3) Dependent Child/Separated or Divorced. If two or more plans cover a person as a dependent child of divorced or separated parents, benefits for the child are determined in this order:
- (a) First, the plan of the parent with custody of the child;
 - (b) Then, the plan of the spouse of the parent with ~~the~~ custody of the child; and
 - (c) Finally, the plan of the parent not having custody of the child.

However, if the specific terms of a court decree state that one of the parents is responsible for the health care expense of the child, and the entity obligated to pay or provide the benefits of the plan of that parent has actual knowledge of those terms, the benefits of that plan are determined first. The plan of the other parent shall be the ~~secondary plan~~Secondary Plan. This ~~paragraph~~ does not apply with respect to any Claim Determination Period or ~~plan~~Plan year during which any benefits are actually paid or provided before the entity has that actual knowledge.

- (4) Dependent Child/Joint Custody. If the specific terms of a court decree state that the parents shall share joint custody, without stating that one of the parents is responsible for the health care expenses of the child, the plans covering the child shall follow the order of benefit determination rules outlined in ~~Section~~Paragraph III-subsection(B)(2) ~~above~~.
- (5) Active/Inactive Employee. The benefits of a plan ~~that~~which covers

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

a person as an employee who is neither laid off nor retired (or as that employee's dependent) are determined before those of a plan ~~that which~~ covers that person as a laid-off or retired employee (or as that employee's dependent). If the other plan does not have this rule, and if, as a result, the plans do not agree on the order of benefits, this Section III(B)(5) shall not apply~~Rule (4) is ignored.~~

- (6) Continuation ~~Coverage~~coverage. If a person whose coverage is provided under a right of continuation pursuant to federal or ~~State~~state law also is covered under another plan, the following shall be the order of benefit determination:

- (a) First, the benefits of a plan covering the person as an employee, member or subscriber (or as that person's dependent);
- (b) Second, the benefits under the continuation coverage.

If the other plan does not contain the order of benefits determination described in this Section III~~within this subsection~~, and if, as a result, the plans do not agree on the order of benefits, this requirement shall be ignored.

- (7) Longer/Shorter Length of Coverage. If none of the rules in this Section III~~above rules~~ determines the order of benefits, the benefits of the plan ~~that which~~ covered an employee, member or subscriber longer are determined before those of the Plan ~~that which~~ covered that person for the shorter term.

IV. EFFECT ON THE BENEFITS OF THIS PLAN

- A. When This Section Applies. This Section IV applies when, in accordance with Section III "Order of Benefit Determination Rules," This Plan is a Secondary Plan as to one or more other plans. In that event the benefits of This Plan may be reduced under this Section IV~~section~~. ~~The~~Such other plan or plans are referred to as "the other plans" in Section IV(B)~~immediately below~~.
- B. Reduction in This~~this~~ Plan's Benefits.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

(1) The benefits of This Plan will be reduced when ~~the sum of~~:

(a)(1) The benefits that would be payable for the Allowable Expense under This Plan in the absence of this COB provision; and

(b)(2) The benefits that would be payable for the Allowable Expenses under the other plans, in the absence of provisions with a purpose like that of this COB provision, whether or not claim is made;

exceeds those Allowable Expenses in a Claim Determination Period. In that case, the benefits of This Plan will be reduced so that they and the benefits payable under the other plans do not total more than those Allowable Expenses.

(2) When the benefits of This Plan are reduced as described in Section IV(B)(1) above, each benefit is reduced in proportion. It is then charged against any applicable benefit limit of This Plan.

V. RIGHT TO RECEIVE AND RELEASE NEEDED INFORMATION

Certain facts are needed to apply these COB rules. [Insurer] has the right to decide which facts it needs. It may get needed facts from or give them to any other organization or person. [Insurer] need not tell, or get the consent of, any person to do this. Each person claiming benefits under This Plan must give [insurer] any facts it needs to pay the claim.

VI. FACILITY OF PAYMENT

A payment made under another plan may include an amount ~~that which~~ should have been paid under This Plan. If it does, [insurer] may pay that amount to the organization ~~that which~~ made ~~the that~~ payment under the other plan. That amount will then be treated as though it were a benefit paid under This Plan. [Insurer] will not have to pay that amount again. The term "payment made" includes providing benefits in the form of services, in which case "payment made" means reasonable cash value of the benefits provided in the form of services.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

VII. RIGHT OF RECOVERY

If the amount of the payments made by [insurer] is more than it should have paid under this COB provision, it may recover the excess from one or more of:

- A. The persons it has paid or for whom it has paid;
- B. Insurance companies; or
- C. Other organizations.

The "amount of the payments made" includes the reasonable cash value of any benefits provided in the form of services.

(Source: Amended at 39 Ill. Reg. 12548, effective September 1, 2015)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Health Carrier External Review
- 2) Code Citation: 50 Ill. Adm. Code 5430
- 3)

| | |
|-------------------------|-------------------------|
| <u>Section Numbers:</u> | <u>Adopted Actions:</u> |
| 5430.40 | Amendment |
| 5430.50 | Amendment |
- 4) Statutory Authority: Implementing the Health Carrier External Review Act [215 ILCS 180] and authorized by Section 50(h) of the Act [215 ILCS 180/50(h)] and Section 401 of the Illinois Insurance Code [215 ILCS 5/401]
- 5) Effective Date of Rules: September 1, 2015
- 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 principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 39 Ill. Reg. 6006; May 1, 2015
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Difference between Proposed and Final Version: None
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes 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 will update Part 5430 to require that health carrier and independent review organization reports filed with the Department pursuant to Sections 5430.40(a) and 5430.50(d) be submitted electronically.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

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

Mary Petersen, Assistant Deputy Director
Health Products Consumer Assistance Section
Illinois Department of Insurance
320 W. Washington Street 5th Floor
Springfield IL 62767

217/782-5822

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

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF INSURANCE

SUBCHAPTER kkk: HEALTH CARE SERVICE PLANS

PART 5430

HEALTH CARRIER EXTERNAL REVIEW

Section

| | |
|-----------------|---|
| 5430.10 | Purpose |
| 5430.20 | Applicability and Scope |
| 5430.30 | Definitions |
| 5430.40 | Health Carrier Obligations |
| 5430.50 | Independent Review Organization Obligations |
| 5430.60 | Registration of Independent Review Organizations |
| 5430.70 | Operational Requirements |
| 5430.80 | Examination |
| 5430.90 | Random Selection of IROs by Director |
| 5430.APPENDIX A | External Review Annual Report Form (Repealed) |
| 5430.APPENDIX B | IRO Notice of Decision Template – Non-Experimental and Investigational |
| 5430.APPENDIX C | IRO Notice of Decision Template – Experimental and Investigational |
| 5430.APPENDIX D | Independent Review Organizations – Application for Registration |
| 5430.APPENDIX E | Independent Review Organizations – Application for Reapproving Independent Review Organizations |
| 5430.APPENDIX F | Illinois or NAIC Biographical Affidavit |

AUTHORITY: Implementing the Health Carrier External Review Act [215 ILCS 180] and authorized by Section 50(h) of the Act [215 ILCS 180/50(h)] and Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

SOURCE: Adopted at 34 Ill. Reg. 10741, effective July 19, 2010; amended at 39 Ill. Reg. 4077, effective September 1, 2015; amended at 39 Ill. Reg. 12577, effective September 1, 2015.

Section 5430.40 Health Carrier Obligations

- a) Each health carrier shall maintain written records in the aggregate, by state, and for each type of health benefit plan offered by the health carrier on all requests for external review for which the health carrier received notice from the Director for

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

each calendar year. The health carrier shall submit, electronically, a report to the Director in the format specified by the Director by March 1 of each year.

- b) A health carrier must file with the Director for approval sample copies of:
- 1) All notices and forms that carriers must provide to covered persons under Sections 20, 25, 35, 40 and 42 of the Act. In addition to those statutory requirements, the following information must be included on notices sent to members in response to member appeals:
 - A) All notices and forms must prominently display the name, address, toll-free phone number, fax number and appeal email address of the carrier or administrator that handles appeals;
 - B) All notices and forms shall be specific and limited to information regarding appeals and external review procedures for the member's plan;
 - C) All notices shall state the number of levels of appeals available (no more than two levels for group and one level for individual) under the plan and will state which level of appeal is applicable to the adverse determination within the notice;
 - D) All notices shall include the date, including month, day and year, of the adverse determination and, if applicable, the date of the final adverse determination, including month, day and year;
 - E) All notices shall inform covered persons that the deadlines for filing an appeal or external review request are not postponed or delayed by health care provider appeals unless the health care provider is acting as an authorized representative for the covered person; i.e., the covered person should be filing internal appeals independently and concurrently unless the health care provider has been designated in writing as the authorized representative;
 - F) All notices shall indicate whether the adverse determination relates to a member appeal (filed by the member or authorized representative who may be the health care provider) or a provider appeal (pursuant to the provider contract) and shall explain

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

timeframes from the date of the adverse determination for the member to appeal and to file an external review regardless of the status of a provider appeal;

- G) Upon exhaustion of provider appeals, the notice (which is copied to the member) shall specify timeframes from the date of the final adverse determination for the member to file an appeal or file an external review;
- H) Upon exhaustion of internal appeals by the member, the final adverse determination notice shall clearly state that it is the final adverse determination, that all internal appeals have been exhausted, and that the member has 4 months from the date of the letter to file an external review;
- I) All notices shall include the following contact information for the Department of Insurance:

Illinois Departments of Insurance
Office of Consumer Health Insurance
External Review Unit
320 W. Washington Street
Springfield IL 62767
Toll-free Telephone: (877) 850-4740
Fax: (217) 557-8495
Email: doi.externalreview@illinois.gov
Website: <https://mc.insurance.illinois.gov/messagecenter.nsf>

- 2) Descriptions for both the required standard external review and expedited external review procedures as set forth within Section 20 of the Act.
- 3) Statements informing the covered person and any authorized representative that a standard external review request deemed to be ineligible for review by the plan or its representative may be appealed to the Director by filing a complaint with the Director. The health carrier shall use the following address and provide the following contact information when directing the covered person or authorized representative to appeal initial determinations of ineligibility for standard external review:

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

The Illinois Department of Insurance
Office of Consumer Health Insurance
External Review Unit
320 West Washington Street
Springfield IL 62767
Toll-free Telephone: (877) 527-9431
Fax: (217) 557-8495
Email: doi.externalreview@illinois.gov
Website: <https://mc.insurance.illinois.gov/messagecenter.nsf>

- 4) Statements informing the covered person and any authorized representative that an expedited external review request deemed to be ineligible for review by the plan or its representative may be appealed to the Director by filing a complaint with the Director. The health carrier shall use the following address when directing the covered person or authorized representative to appeal initial determinations of ineligibility for expedited external review:

The Illinois Department of Insurance
Office of Consumer Health Insurance
External Review Unit
320 West Washington Street
Springfield IL 62767
Toll-free Telephone: (877) 850-4740
Fax: (217) 557-8495
Email: doi.externalreview@illinois.gov
Website: <https://mc.insurance.illinois.gov/messagecenter.nsf>

- 5) Special Rules for Multi-State Plans Under the Marketplace Pursuant to the U.S. Office of Personnel Management's (OPM) Multi-State Plan Program regulation at 45 CFR 800.5023, OPM administers the External Review Process for disputed adverse benefit determinations submitted by enrollees in Multi-State Plan health insurance options.

(Source: Amended at 39 Ill. Reg. 12577, effective September 1, 2015)

Section 5430.50 Independent Review Organization Obligations

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- a) An independent review organization may not conduct external independent reviews of adverse determinations for persons subject to Section 15 of the Act unless the independent review organization has first registered with the Director. An application for registration shall be in the format set forth in Appendix D.
- b) An independent review organization must secure and maintain a current certificate of accreditation by the American Accreditation Healthcare Commission (URAC) under applicable standards for Independent Review Organizations.
- c) Each independent review organization shall provide a written notice as set forth in Appendix B and Appendix C, explaining its decision to uphold or reverse adverse or final adverse determinations to the health carrier, the covered person, and, if applicable, the covered person's authorized representative.
- d) Each independent review organization shall maintain written records in the aggregate, by state, and by health carrier on all requests for external review for which it conducted an external review during a calendar year and submit, [electronically](#), a report in the format specified by the Director by March 1 of each year. The independent review organization shall retain the written records required under the Act for at least three years.

(Source: Amended at 39 Ill. Reg. 12577, effective September 1, 2015)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Rules Governing the Reporting of Reye's Syndrome
- 2) Code Citation: 77 Ill. Adm. Code 663
- 3)

| <u>Section Numbers:</u> | <u>Adopted Actions:</u> |
|-------------------------|-------------------------|
| 663.5 | Repealed |
| 663.10 | Repealed |
| 663.20 | Repealed |
| 663.30 | Repealed |
| 663.40 | Repealed |
| 663.50 | Repealed |
| 663.60 | Repealed |
| 663.70 | Repealed |
| 663.80 | Repealed |
| 663.90 | Repealed |
| 663.100 | Repealed |
- 4) Statutory Authority: Reye's Syndrome Reporting Act [410 ILCS 245]
- 5) Effective Date of Repealer: August 26, 2015
- 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 repealer, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposed Repealer published in the *Illinois Register*: February 13, 2015; 39 Ill. Reg. 2245
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED REPEALER

- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Repealer: The Department is repealing Part 663 and incorporating the reporting provisions for Reyes's Syndrome into the Control of Communicable Diseases Code (77 Ill. Adm. Code 690).
- 16) Information and questions regarding this adopted repealer shall be directed to:

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

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Control of Communicable Diseases Code
- 2) Code Citation: 77 Ill. Adm. Code 690
- 3) Section Number: 690.295 Adopted Action: Amendment
- 4) Statutory Authority: Communicable Disease Report Act [745 ILCS 45]
- 5) Effective Date of Rule: August 26, 2015
- 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 rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposed published in the *Illinois Register*: February 13, 2015; 39 Ill. Reg. 2251
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposed and Final Version: None. No changes were made in response to public comment or to comments from JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes 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 adds the reporting of Reye's Syndrome to the reporting requirements of Control of Communicable Diseases Code. Repealing the Rules Governing The reporting of Reye's Syndrome and incorporating Reye's Syndrome into the Control of Communicable Disease Code's (77 Ill. Adm. Code 690) list of unusual diseases will establish concordance between reporting, confidentiality

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

and research requirements for Reye Syndrome and other reportable communicable diseases and conditions in Illinois.

- 16) Information and questions regarding this adopted rule shall be directed to:

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

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

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER k: COMMUNICABLE DISEASE CONTROL AND IMMUNIZATIONS

PART 690

CONTROL OF COMMUNICABLE DISEASES CODE

SUBPART A: GENERAL PROVISIONS

Section

- 690.10 Definitions
- 690.20 Incorporated and Referenced Materials
- 690.30 General Procedures for the Control of Communicable Diseases

SUBPART B: REPORTABLE DISEASES AND CONDITIONS

Section

- 690.100 Diseases and Conditions
- 690.110 Diseases Repealed from This Part

SUBPART C: REPORTING

Section

- 690.200 Reporting

SUBPART D: DETAILED PROCEDURES FOR THE CONTROL OF
COMMUNICABLE DISEASES

Section

- 690.290 Acquired Immunodeficiency Syndrome (AIDS) (Repealed)
- 690.295 Any Unusual Case of a Disease or Condition Caused by an Infectious Agent Not Listed in this Part that is of Urgent Public Health Significance (Reportable by telephone immediately (within three hours))
- 690.300 Amebiasis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days) (Repealed)
- 690.310 Animal Bites (Reportable by mail or telephone as soon as possible, within 7 days) (Repealed)
- 690.320 Anthrax (Reportable by telephone immediately, within three hours, upon initial clinical suspicion of the disease)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

- 690.322 Arboviral Infections (Including, but Not Limited to, Chikungunya Fever, California Encephalitis, St. Louis Encephalitis, Dengue Fever and West Nile Virus) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.325 Blastomycosis (Reportable by telephone as soon as possible, within 7 days) (Repealed)
- 690.327 Botulism, Foodborne, Intestinal Botulism (Formerly Infant), Wound, or Other (Reportable by telephone immediately, within three hours upon initial clinical suspicion of the disease for foodborne botulism or within 24 hours by telephone or facsimile for other types)
- 690.330 Brucellosis (Reportable by telephone as soon as possible (within 24 hours), unless suspect bioterrorist event or part of an outbreak, then reportable immediately (within three hours) by telephone)
- 690.335 Campylobacteriosis (Reportable by mail, telephone, facsimile or electronically, within 7 days) (Repealed)
- 690.340 Chancroid (Repealed)
- 690.350 Chickenpox (Varicella) (Reportable by telephone, facsimile or electronically, within 24 hours)
- 690.360 Cholera (Toxigenic *Vibrio cholerae* O1 or O139) (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.362 Creutzfeldt-Jakob Disease (CJD) (All Laboratory Confirmed Cases) (Reportable by mail, telephone, facsimile or electronically within Seven days after confirmation of the disease)
- 690.365 Cryptosporidiosis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.368 Cyclosporiasis (Reportable by mail, telephone, facsimile or electronically, within seven days)
- 690.370 Diarrhea of the Newborn (Reportable by telephone as soon as possible, within 24 hours) (Repealed)
- 690.380 Diphtheria (Reportable by telephone immediately, within three hours, upon initial clinical suspicion or laboratory test order)
- 690.385 Ehrlichiosis, Human Granulocytotropic anaplasmosis (HGA) (See Tickborne Disease)
- 690.386 Ehrlichiosis, Human Monocytotropic (HME) (See Tickborne Disease)
- 690.390 Encephalitis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days) (Repealed)
- 690.400 Escherichia coli Infections (*E. coli* O157:H7 and Other Shiga Toxin Producing *E. coli*, Enterotoxigenic *E. coli*, Enteropathogenic *E. coli* and Enteroinvasive *E. coli*) (Reportable by telephone or facsimile as soon as possible, within 24 hours)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

- 690.410 Foodborne or Waterborne Illness (Reportable by telephone or facsimile as soon as possible, within 24 hours) (Repealed)
- 690.420 Giardiasis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days) (Repealed)
- 690.430 Gonorrhea (Repealed)
- 690.440 Granuloma Inguinale (Repealed)
- 690.441 Haemophilus Influenzae, Meningitis and Other Invasive Disease (Reportable by telephone or facsimile, within 24 hours)
- 690.442 Hantavirus Pulmonary Syndrome (Reportable by telephone as soon as possible, within 24 hours)
- 690.444 Hemolytic Uremic Syndrome, Post-diarrheal (Reportable by telephone or facsimile, within 24 hours)
- 690.450 Hepatitis A (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.451 Hepatitis B and Hepatitis D (Reportable by mail, telephone, facsimile or electronically, within seven days)
- 690.452 Hepatitis C, Acute Infection and Non-acute Confirmed Infection (Reportable by mail, telephone, facsimile or electronically, within seven days)
- 690.453 Hepatitis, Viral, Other (Reportable by mail, telephone, facsimile or electronically, within 7 days) (Repealed)
- 690.460 Histoplasmosis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.465 Influenza, Death (in persons less than 18 years of age) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days)
- 690.468 Influenza (Laboratory Confirmed (Including Rapid Diagnostic Testing)) Intensive Care Unit Admissions (Reportable by telephone or facsimile or electronically as soon as possible, within 24 hours)
- 690.469 Influenza A, Variant Virus (Reportable by telephone immediately, within three hours upon initial clinical suspicion or laboratory test order)
- 690.470 Intestinal Worms (Reportable by mail or telephone as soon as possible, within 7 days) (Repealed)
- 690.475 Legionellosis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.480 Leprosy (Hansen's Disease) (Infectious and Non-infectious Cases are Reportable) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.490 Leptospirosis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.495 Listeriosis (When Both Mother and Newborn are Positive, Report Mother Only)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

- (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.500 Lymphogranuloma Venereum (Lymphogranuloma Inguinale Lymphopathia Venereum) (Repealed)
- 690.505 Lyme Disease (See Tickborne Disease)
- 690.510 Malaria (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.520 Measles (Reportable by telephone as soon as possible, within 24 hours)
- 690.530 Meningitis, Aseptic (Including Arboviral Infections) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days) (Repealed)
- 690.540 Meningococemia (Reportable by telephone as soon as possible) (Repealed)
- 690.550 Mumps (Reportable by telephone, facsimile or electronically as soon as possible, within 24 hours)
- 690.555 Neisseria meningitidis, Meningitis and Invasive Disease (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.560 Ophthalmia Neonatorum (Gonococcal) (Reportable by mail or telephone as soon as possible, within 7 days) (Repealed)
- 690.565 Outbreaks of Public Health Significance (Including, but Not Limited to, Foodborne or Waterborne Outbreaks) (Reportable by telephone or electronically as soon as possible, within 24 hours)
- 690.570 Plague (Reportable by telephone immediately, within three hours upon initial clinical suspicion of the disease)
- 690.580 Poliomyelitis (Reportable by telephone immediately, within three hours) upon initial clinical suspicion of the disease)
- 690.590 Psittacosis (Ornithosis) Due to Chlamydia psittaci (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.595 Q-fever Due to Coxiella burnetii (Reportable by telephone as soon as possible, within 24 Hours, unless suspect bioterrorist event or part of an outbreak, then reportable immediately (within three hours) by telephone)
- 690.600 Rabies, Human (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.601 Rabies, Potential Human Exposure and Animal Rabies (Reportable by telephone or facsimile, within 24 hours)
- 690.610 Rocky Mountain Spotted Fever (See Tickborne Disease)
- 690.620 Rubella (German Measles) (Including Congenital Rubella Syndrome) (Reportable by telephone, facsimile or electronically as soon as possible, within 24 hours)
- 690.630 Salmonellosis (Other than Typhoid Fever) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

- 690.635 Severe Acute Respiratory Syndrome (SARS) (Reportable by telephone immediately (within 3 hours) upon initial clinical suspicion of the disease)
- 690.640 Shigellosis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.650 Smallpox (Reportable by telephone immediately, within three hours upon initial clinical suspicion of the disease)
- 690.655 Smallpox vaccination, complications of (Reportable by telephone or electronically as soon as possible, within 24 hours)
- 690.658 Staphylococcus aureus, Methicillin Resistant (MRSA) Infection, Clusters of Two or More Laboratory Confirmed Cases Occurring in Community Settings (Including, but Not Limited to, Schools, Correctional Facilities, Day Care and Sports Teams) (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.660 Staphylococcus aureus, Methicillin Resistant (MRSA), Any Occurrence in an Infant Less Than 61 Days of Age (Reportable by telephone or facsimile or electronically as soon as possible, within 24 hours)
- 690.661 Staphylococcus aureus Infections with Intermediate (Minimum inhibitory concentration (MIC) between 4 and 8) (VISA) or High Level Resistance to Vancomycin (MIC greater than or equal to 16) (VRSA) (Reportable by telephone or facsimile, within 24 hours)
- 690.670 Streptococcal Infections, Group A, Invasive Disease (Including Streptococcal Toxic Shock Syndrome and Necrotizing fasciitis) (Reportable by telephone or facsimile, within 24 hours)
- 690.675 Streptococcal Infections, Group B, Invasive Disease, of the Newborn (birth to 3 months) (Reportable by mail, telephone, facsimile or electronically, within 7 days) (Repealed)
- 690.678 Streptococcus pneumoniae, Invasive Disease in Children Less than 5 Years (Including Antibiotic Susceptibility Test Results) (Reportable by mail, telephone, facsimile or electronically, within 7 days)
- 690.680 Syphilis (Repealed)
- 690.690 Tetanus (Reportable by mail, telephone, facsimile or electronically, within 7 days)
- 690.695 Toxic Shock Syndrome due to Staphylococcus aureus Infection (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days)
- 690.698 Tickborne Disease (Includes Babesiosis, Ehrlichiosis, Anaplasmosis, Lyme Disease and Spotted Fever Rickettsiosis) (Reportable by mail, telephone, facsimile or electronically, within seven days)
- 690.700 Trachoma (Repealed)
- 690.710 Trichinosis (Trichinellosis) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

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| 690.720 | Tuberculosis (Repealed) |
| 690.725 | Tularemia (Reportable by telephone as soon as possible, within 24 hours, unless suspect bioterrorist event or part of an outbreak, then reportable immediately (within three hours)) |
| 690.730 | Typhoid Fever (Reportable by telephone or facsimile as soon as possible, within 24 hours) |
| 690.740 | Typhus (Reportable by telephone or facsimile as soon as possible, within 24 hours) |
| 690.745 | Vibriosis (Other than Toxigenic Vibrio cholera O1 or O139) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days) |
| 690.750 | Pertussis (Whooping Cough) (Reportable by telephone as soon as possible, within 24 hours) |
| 690.752 | Yersiniosis (Reportable by mail, telephone, facsimile or electronically, within seven days) |
| 690.800 | Any Suspected Bioterrorist Threat or Event (Reportable by telephone immediately, within 3 hours upon initial clinical suspicion of the disease) |

SUBPART E: DEFINITIONS

| | |
|---------|----------------------------------|
| Section | |
| 690.900 | Definition of Terms (Renumbered) |

SUBPART F: GENERAL PROCEDURES

| | |
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| Section | |
| 690.1000 | General Procedures for the Control of Communicable Diseases (Renumbered) |
| 690.1010 | Incorporated and Referenced Materials (Renumbered) |

SUBPART G: SEXUALLY TRANSMITTED DISEASES

| | |
|----------|---|
| Section | |
| 690.1100 | The Control of Sexually Transmitted Diseases (Repealed) |

SUBPART H: PROCEDURES FOR WHEN DEATH OCCURS FROM
COMMUNICABLE DISEASES

| | |
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| Section | |
| 690.1200 | Death of a Person Who Had a Known or Suspected Communicable Disease |
| 690.1210 | Funerals (Repealed) |

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

SUBPART I: ISOLATION, QUARANTINE, AND CLOSURE

Section

| | |
|----------|--|
| 690.1300 | General Purpose |
| 690.1305 | Department of Public Health Authority |
| 690.1310 | Local Health Authority |
| 690.1315 | Responsibilities and Duties of the Certified Local Health Department |
| 690.1320 | Responsibilities and Duties of Health Care Providers |
| 690.1325 | Conditions and Principles for Isolation and Quarantine |
| 690.1330 | Order and Procedure for Isolation, Quarantine and Closure |
| 690.1335 | Isolation or Quarantine Premises |
| 690.1340 | Enforcement |
| 690.1345 | Relief from Isolation, Quarantine, or Closure |
| 690.1350 | Consolidation |
| 690.1355 | Access to Medical or Health Information |
| 690.1360 | Right to Counsel |
| 690.1365 | Service of Isolation, Quarantine, or Closure Order |
| 690.1370 | Documentation |
| 690.1375 | Voluntary Isolation, Quarantine, or Closure |
| 690.1380 | Physical Examination, Testing and Collection of Laboratory Specimens |
| 690.1385 | Vaccinations, Medications, or Other Treatments |
| 690.1390 | Observation and Monitoring |
| 690.1400 | Transportation of Persons Subject to Public Health or Court Order |
| 690.1405 | Information Sharing |
| 690.1410 | Amendment and Termination of Orders |
| 690.1415 | Penalties |

SUBPART J: REGISTRIES

Section

| | |
|----------|--|
| 690.1500 | Extensively Drug-Resistant Organism Registry |
| 690.1510 | Entities Required to Submit Information |
| 690.1520 | Information Required to be Reported |
| 690.1530 | Methods of Reporting XDRO Registry Information |
| 690.1540 | Availability of Information |

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| 690.EXHIBIT A | Typhoid Fever Agreement (Repealed) |
|---------------|------------------------------------|

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

AUTHORITY: Implementing the Communicable Disease Report Act [745 ILCS 45] and implementing and authorized by the Department of Public Health Act [20 ILCS 2305].

SOURCE: Amended July 1, 1977; emergency amendment at 3 Ill. Reg. 14, p. 7, effective March 21, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 52, p. 131, effective December 7, 1979; emergency amendment at 4 Ill. Reg. 21, p. 97, effective May 14, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 38, p. 183, effective September 9, 1980; amended at 7 Ill. Reg. 16183, effective November 23, 1983; codified at 8 Ill. Reg. 14273; amended at 8 Ill. Reg. 24135, effective November 29, 1984; emergency amendment at 9 Ill. Reg. 6331, effective April 18, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9124, effective June 3, 1985; amended at 9 Ill. Reg. 11643, effective July 19, 1985; amended at 10 Ill. Reg. 10730, effective June 3, 1986; amended at 11 Ill. Reg. 7677, effective July 1, 1987; amended at 12 Ill. Reg. 10045, effective May 27, 1988; amended at 15 Ill. Reg. 11679, effective August 15, 1991; amended at 18 Ill. Reg. 10158, effective July 15, 1994; amended at 23 Ill. Reg. 10849, effective August 20, 1999; amended at 25 Ill. Reg. 3937, effective April 1, 2001; amended at 26 Ill. Reg. 10701, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 592, effective January 2, 2003, for a maximum of 150 days; emergency expired May 31, 2003; amended at 27 Ill. Reg. 10294, effective June 30, 2003; amended at 30 Ill. Reg. 14565, effective August 23, 2006; amended at 32 Ill. Reg. 3777, effective March 3, 2008; amended at 37 Ill. Reg. 12063, effective July 15, 2013; recodified at 38 Ill. Reg. 5408; amended at 38 Ill. Reg. 5533, effective February 11, 2014; emergency amendment at 38 Ill. Reg. 21954, effective November 5, 2014, for a maximum of 150 days; amended at 39 Ill. Reg. 4116, effective March 9, 2015; amended at 39 Ill. Reg. 11063, effective July 24, 2015; amended at 39 Ill. Reg. 12586, effective August 26, 2015.

**SUBPART D: DETAILED PROCEDURES FOR THE
CONTROL OF COMMUNICABLE DISEASES**

Section 690.295 Any Unusual Case of a Disease or Condition Caused by an Infectious Agent Not Listed in this Part that is of Urgent Public Health Significance (Reportable by telephone immediately (within three hours))

- a) **Control of Case**
Cases shall be evaluated to determine the need for isolation in a health care setting or at the person's residence. The isolation precautions followed shall be based on the most likely pathogen.
- b) **Control of Contacts**
Contacts shall be evaluated to determine the need for quarantine.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

- c) Persons who identify a single case of a rare or significant infectious disease shall report the case to the local health authority. This may include, but is not limited to, a case of cowpox, [Reye's syndrome](#), glanders, amoebic meningoencephalitis, orf, monkeypox, hemorrhagic fever viruses, infection from a laboratory-acquired recombinant organism, or any disease non-indigenous to the United States.
- d) The local health authority shall implement appropriate control measures.
- e) **Laboratory Reporting**
Laboratories shall report to the local health authority any disease of public health significance that may indicate a public health hazard.

(Source: Amended at 39 Ill. Reg. 12586, effective August 26, 2015)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3)

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|-------------------------|-------------------------|
| <u>Section Numbers:</u> | <u>Adopted Actions:</u> |
| 130.120 | Amendment |
| 130.605 | Amendment |
| 130.2055 | Amendment |
| 130.2125 | Amendment |
- 4) Statutory Authority: 35 ILCS 120/12; 20 ILCS 2505/2505-795
- 5) Effective Date of Rules: August 26, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 39 Ill. Reg. 252 – January 2, 2015
39 Ill. Reg. 7221 – May 22, 2015
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposed and Final Version: The only changes made were the ones agreed upon with JCAR, which included the suggestion that we amend Section 130.120 to include the exemption for taxpayers engaged in centralized purchasing activities who temporarily store purchased property in Illinois (which was part of a previous rulemaking that extended the sunset date to the exemption found in 86 Ill. Adm. 150.310, published in Ill. Reg. 11085; August 7, 2015). Otherwise, only grammatical and technical changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 14) Are there any rulemakings pending on this Part? Yes
- | <u>Section Numbers:</u> | <u>Proposed Actions:</u> | <u>Illinois Register Citation:</u> |
|-------------------------|--------------------------|-------------------------------------|
| 130.1946 | New Section | 39 Ill. Reg. 9126; July 10, 2015 |
| 130.1947 | New Section | 39 Ill. Reg. 9126; July 10, 2015 |
| 130.1948 | New Section | 39 Ill. Reg. 9126; July 10, 2015 |
| 130.1949 | New Section | 39 Ill. Reg. 9126; July 10, 2015 |
| 130.1950 | Amendment | 39 Ill. Reg. 9126; July 10, 2015 |
| 130.1951 | Amendment | 39 Ill. Reg. 9126; July 10, 2015 |
| 130.1952 | Amendment | 39 Ill. Reg. 9126; July 10, 2015 |
| 130.1953 | Amendment | 39 Ill. Reg. 9126; July 10, 2015 |
| 130.1954 | Amendment | 39 Ill. Reg. 9126; July 10, 2015 |
| 130.1955 | Amendment | 39 Ill. Reg. 9126; July 10, 2015 |
| 130.1956 | New Section | 39 Ill. Reg. 9126; July 10, 2015 |
| 130.410 | Amendment | 39 Ill. Reg. 11865; August 28, 2015 |
| 130.415 | Amendment | 39 Ill. Reg. 11865; August 28, 2015 |

- 15) Summary and Purpose of Rulemaking: 130.120: This rulemaking extends the sunset date until June 30, 2016, for the exemption for taxpayers engaged in centralized purchasing activities who temporarily store purchased property in Illinois.

130.605: This rulemaking incorporates the change made in PA 96-1035, which amended the Illinois Vehicle Code (625 ILCS 5/3-603) to provide that a nonresident purchaser of a motor vehicle could operate the vehicle in Illinois without registration from the place of sale to the place of destination outside of the State for up to 30 days. This rulemaking provides that tax is not due if the purchaser certifies that it will not use the vehicle in Illinois for more than 30 days. With the amendment, this regulation will be consistent with the changes imposed by PA 96-1035.

130.2055: This rulemaking adds the new language enacted by PA 98-422. This rulemaking provides that beginning July 1, 2013, any local governments in Illinois or any agency or instrumentality of any such governmental body does not incur Retailers' Occupation Tax when it engages in the selling of fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight that is engaged in foreign trade or is engaged in trade between the United States and any of its possession and that transports at least one individual or package for hire from the city of origination to the city of final destination on the same aircraft, without regard to a change in the flight number of that aircraft.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

130.2125: This rulemaking amends the Department's regulation governing "Trading Stamps, Discount Coupons, Automobile Rebates and Dealer Incentives" to clarify the tax liability of both retailers and purchasers utilizing coupons. The rule adds prefatory language explaining the statutory basis under both the Retailers' Occupation Tax and Use Tax Acts for determining the taxation of coupons, as well as citations to several court cases that have clarified the application of these statutes. In 2004, the Illinois Appellate Court for the Second District issued an important decision interpreting the meaning of "gross receipts" applied to payments received by auto dealers from a third party (manufacturer) upon the purchase of an automobile by an employee under a manufacturer employee new vehicle purchase program. See, *Ogden Chrysler Plymouth, Inc., v. Bower*, 348 Ill.App.3d 944 (2004). In response to *Ogden*, the Department amended its rules to specifically address incentive programs used by the automobile industry. Since that time, however, a number of issues have arisen regarding taxation of coupons, discounts and other types of incentive programs offered by other types of retailers. These amendments provide additional guidance to a larger segment of retailers. In addition, the rules delete a provision in subsection (b)(2)(A) describing coupon manufacturer transactions which has been the source of confusion for taxpayers.

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

Debra M. Boggess
Associate Counsel
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

217/782-2844

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 130

RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section

- 130.101 Character and Rate of Tax
- 130.105 Responsibility of Trustees, Receivers, Executors or Administrators
- 130.110 Occasional Sales
- 130.111 Sale of Used Motor Vehicles, Aircraft, or Watercraft by Leasing or Rental Business
- 130.115 Habitual Sales
- 130.120 Nontaxable Transactions

SUBPART B: SALE AT RETAIL

Section

- 130.201 The Test of a Sale at Retail
- 130.205 Sales for Transfer Incident to Service
- 130.210 Sales of Tangible Personal Property to Purchasers for Resale
- 130.215 Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
- 130.220 Sales to Lessors of Tangible Personal Property
- 130.225 Drop Shipments

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section

- 130.305 Farm Machinery and Equipment
- 130.310 Food, Soft Drinks and Candy
- 130.311 Drugs, Medicines, Medical Appliances and Grooming and Hygiene Products
- 130.315 Fuel Sold for Use in Vessels on Rivers Bordering Illinois
- 130.320 Gasohol, Majority Blended Ethanol, Biodiesel Blends, and 100% Biodiesel
- 130.321 Fuel Used by Air Common Carriers in Flights Engaged in Foreign Trade or Engaged in Trade Between the United States and any of its Possessions
- 130.325 Graphic Arts Machinery and Equipment Exemption
- 130.330 Manufacturing Machinery and Equipment
- 130.331 Manufacturer's Purchase Credit

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

| | |
|---------|---|
| 130.332 | Automatic Vending Machines |
| 130.335 | Pollution Control Facilities and Low Sulfur Dioxide Emission Coal-Fueled Devices |
| 130.340 | Rolling Stock |
| 130.341 | Commercial Distribution Fee Sales Tax Exemption |
| 130.345 | Oil Field Exploration, Drilling and Production Equipment |
| 130.350 | Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment |
| 130.351 | Aggregate Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment |

SUBPART D: GROSS RECEIPTS

| | |
|---------|--|
| Section | |
| 130.401 | Meaning of Gross Receipts |
| 130.405 | How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser |
| 130.410 | Cost of Doing Business Not Deductible |
| 130.415 | Transportation and Delivery Charges |
| 130.420 | Finance or Interest Charges – Penalties – Discounts |
| 130.425 | Traded-In Property |
| 130.430 | Deposit or Prepayment on Purchase Price |
| 130.435 | State and Local Taxes Other Than Retailers' Occupation Tax |
| 130.440 | Penalties |
| 130.445 | Federal Taxes |
| 130.450 | Installation, Alteration and Special Service Charges |
| 130.455 | Motor Vehicle Leasing and Trade-In Allowances |

SUBPART E: RETURNS

| | |
|---------|--|
| Section | |
| 130.501 | Monthly Tax Returns – When Due – Contents |
| 130.502 | Quarterly Tax Returns |
| 130.505 | Returns and How to Prepare |
| 130.510 | Annual Tax Returns |
| 130.515 | First Return |
| 130.520 | Final Returns When Business is Discontinued |
| 130.525 | Who May Sign Returns |
| 130.530 | Returns Covering More Than One Location Under Same Registration – Separate Returns for Separately Registered Locations |

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

| | |
|---------|---|
| 130.535 | Payment of the Tax, Including Quarter Monthly Payments in Certain Instances |
| 130.540 | Returns on a Transaction by Transaction Basis |
| 130.545 | Registrants Must File a Return for Every Return Period |
| 130.550 | Filing of Returns for Retailers by Suppliers Under Certain Circumstances |
| 130.551 | Prepayment of Retailers' Occupation Tax on Motor Fuel |
| 130.552 | Alcoholic Liquor Reporting |
| 130.555 | Vending Machine Information Returns |
| 130.560 | Verification of Returns |

SUBPART F: INTERSTATE COMMERCE

| | |
|---------|---|
| Section | |
| 130.601 | Preliminary Comments (Repealed) |
| 130.605 | Sales of Property Originating in Illinois; Questions of Interstate Commerce |
| 130.610 | Sales of Property Originating in Other States (Repealed) |

SUBPART G: CERTIFICATE OF REGISTRATION

| | |
|---------|---|
| Section | |
| 130.701 | General Information on Obtaining a Certificate of Registration |
| 130.705 | Procedure in Disputed Cases Involving Financial Responsibility Requirements |
| 130.710 | Procedure When Security Must be Forfeited |
| 130.715 | Sub-Certificates of Registration |
| 130.720 | Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances |
| 130.725 | Display |
| 130.730 | Replacement of Certificate |
| 130.735 | Certificate Not Transferable |
| 130.740 | Certificate Required For Mobile Vending Units |
| 130.745 | Revocation of Certificate |

SUBPART H: BOOKS AND RECORDS

| | |
|---------|---|
| Section | |
| 130.801 | General Requirements |
| 130.805 | What Records Constitute Minimum Requirement |
| 130.810 | Records Required to Support Deductions |
| 130.815 | Preservation and Retention of Records |
| 130.820 | Preservation of Books During Pendency of Assessment Proceedings |

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

130.825 Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

SUBPART I: PENALTIES AND INTEREST

Section
130.901 Civil Penalties
130.905 Interest
130.910 Criminal Penalties

SUBPART J: BINDING OPINIONS

Section
130.1001 When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Section
130.1101 Definition of Federal Area
130.1105 When Deliveries on Federal Areas Are Taxable
130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section
130.1201 General Information
130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section
130.1301 When Lessee of Premises Must File Return for Leased Department
130.1305 When Lessor of Premises Should File Return for Business Operated on Leased Premises
130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART N: SALES FOR RESALE

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Section

- 130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale
- 130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale
- 130.1410 Requirements for Certificates of Resale (Repealed)
- 130.1415 Resale Number – When Required and How Obtained
- 130.1420 Blanket Certificate of Resale (Repealed)

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section

- 130.1501 Claims for Credit – Limitations – Procedure
- 130.1505 Disposition of Credit Memoranda by Holders Thereof
- 130.1510 Refunds
- 130.1515 Interest

SUBPART P: PROCEDURE TO BE FOLLOWED UPON
SELLING OUT OR DISCONTINUING BUSINESS

Section

- 130.1601 When Returns are Required After a Business is Discontinued
- 130.1605 When Returns Are Not Required After Discontinuation of a Business
- 130.1610 Cross Reference to Bulk Sales Regulation

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section

- 130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

Section

- 130.1801 When Powers of Attorney May be Given
- 130.1805 Filing of Power of Attorney With Department
- 130.1810 Filing of Papers by Agent Under Power of Attorney

SUBPART S: SPECIFIC APPLICATIONS

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Section

| | |
|----------|---|
| 130.1901 | Addition Agents to Plating Baths |
| 130.1905 | Agricultural Producers |
| 130.1910 | Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles |
| 130.1915 | Auctioneers and Agents |
| 130.1920 | Barbers and Beauty Shop Operators |
| 130.1925 | Blacksmiths |
| 130.1930 | Chiropodists, Osteopaths and Chiropractors |
| 130.1934 | Community Water Supply |
| 130.1935 | Computer Software |
| 130.1940 | Construction Contractors and Real Estate Developers |
| 130.1945 | Co-operative Associations |
| 130.1950 | Dentists |
| 130.1951 | Enterprise Zones |
| 130.1952 | Sales of Building Materials to a High Impact Business |
| 130.1953 | Sales of Building Materials to be Incorporated into a Redevelopment Project Area within an Intermodal Terminal Facility Area |
| 130.1954 | River Edge Redevelopment Zones |
| 130.1955 | Farm Chemicals |
| 130.1960 | Finance Companies and Other Lending Agencies – Installment Contracts – Bad Debts |
| 130.1965 | Florists and Nurserymen |
| 130.1970 | Hatcheries |
| 130.1971 | Sellers of Pets and the Like |
| 130.1975 | Operators of Games of Chance and Their Suppliers |
| 130.1980 | Optometrists and Opticians |
| 130.1985 | Pawnbrokers |
| 130.1990 | Peddlers, Hawkers and Itinerant Vendors |
| 130.1995 | Personalizing Tangible Personal Property |
| 130.2000 | Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers |
| 130.2004 | Sales to Nonprofit Arts or Cultural Organizations |
| 130.2005 | Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons |
| 130.2006 | Sales by Teacher-Sponsored Student Organizations |
| 130.2007 | Exemption Identification Numbers |
| 130.2008 | Sales by Nonprofit Service Enterprises |
| 130.2009 | Personal Property Purchased Through Certain Fundraising Events for the Benefit |

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

| | |
|----------|---|
| | of Certain Schools |
| 130.2010 | Persons Who Rent or Lease the Use of Tangible Personal Property to Others |
| 130.2011 | Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals |
| 130.2012 | Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies |
| 130.2013 | Persons in the Business of Both Renting and Selling Tangible Personal Property – Tax Liabilities, Credit |
| 130.2015 | Persons Who Repair or Otherwise Service Tangible Personal Property |
| 130.2020 | Physicians and Surgeons |
| 130.2025 | Picture-Framers |
| 130.2030 | Public Amusement Places |
| 130.2035 | Registered Pharmacists and Druggists |
| 130.2040 | Retailers of Clothing |
| 130.2045 | Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like |
| 130.2050 | Sales and Gifts By Employers to Employees |
| 130.2055 | Sales by Governmental Bodies |
| 130.2060 | Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products |
| 130.2065 | Sales of Automobiles for Use In Demonstration (Repealed) |
| 130.2070 | Sales of Containers, Wrapping and Packing Materials and Related Products |
| 130.2075 | Sales To Construction Contractors, Real Estate Developers and Speculative Builders |
| 130.2076 | Sales to Purchasers Performing Contracts with Governmental Bodies |
| 130.2080 | Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel |
| 130.2085 | Sales to or by Banks, Savings and Loan Associations and Credit Unions |
| 130.2090 | Sales to Railroad Companies |
| 130.2095 | Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles |
| 130.2100 | Sellers of Feeds and Breeding Livestock |
| 130.2101 | Sellers of Floor Coverings |
| 130.2105 | Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers; Transfer of Data Downloaded Electronically |
| 130.2110 | Sellers of Seeds and Fertilizer |
| 130.2115 | Sellers of Machinery, Tools and Special Order Items |
| 130.2120 | Suppliers of Persons Engaged in Service Occupations and Professions |
| 130.2125 | Trading Stamps , Discount Coupons, <u>Gift Situations, Trading Stamps</u> , Automobile Rebates and Dealer Incentives |
| 130.2130 | Undertakers and Funeral Directors |
| 130.2135 | Vending Machines |
| 130.2140 | Vendors of Curtains, Slip Covers and Other Similar Items Made to Order |
| 130.2145 | Vendors of Meals |

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

| | |
|----------|--|
| 130.2150 | Vendors of Memorial Stones and Monuments |
| 130.2155 | Tax Liability of Sign Vendors |
| 130.2156 | Vendors of Steam |
| 130.2160 | Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc. |
| 130.2165 | Veterinarians |
| 130.2170 | Warehousemen |

SUBPART T: DIRECT PAYMENT PROGRAM

Section

| | |
|--------------------|--|
| 130.2500 | Direct Payment Program |
| 130.2505 | Qualifying Transactions, Non-transferability of Permit |
| 130.2510 | Permit Holder's Payment of Tax |
| 130.2515 | Application for Permit |
| 130.2520 | Qualification Process and Requirements |
| 130.2525 | Application Review |
| 130.2530 | Recordkeeping Requirements |
| 130.2535 | Revocation and Withdrawal |
| 130.ILLUSTRATION A | Examples of Tax Exemption Cards |
| 130.ILLUSTRATION B | Example of Notice of Revocation of Certificate of Registration |
| 130.ILLUSTRATION C | Food Flow Chart |

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264,

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15, 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196, effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003, for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26, 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621, effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007; amended at 31 Ill. Reg. 14091, effective September 21, 2007; amended at 32 Ill. Reg. 4226, effective March 6, 2008; emergency amendment at 32 Ill. Reg. 8785, effective May 29, 2008, for a maximum of 150 days; emergency expired October 25, 2008; amended at 32 Ill. Reg. 10207, effective June 24, 2008; amended at 32 Ill. Reg. 17228, effective October 15, 2008; amended at 32 Ill. Reg. 17519, effective October 24, 2008; amended at 32 Ill. Reg. 19128, effective December 1, 2008; amended at 33 Ill. Reg. 1762, effective January 13, 2009; amended at 33 Ill. Reg. 2345, effective January 23, 2009; amended at 33 Ill. Reg. 3999, effective February 23, 2009; amended at 33 Ill. Reg. 15781, effective October 27, 2009; amended at 33 Ill. Reg. 16711, effective November 20, 2009; amended at 34 Ill. Reg. 9405, effective June 23, 2010; amended at 34 Ill. Reg. 12935, effective August 19, 2010; amended at 35 Ill. Reg. 2169, effective January 24, 2011; amended at 36 Ill. Reg. 6662, effective April 12, 2012; amended at 38 Ill. Reg. 12909, effective June 9, 2014; amended at 38 Ill. Reg. 17060, effective July 25, 2014; amended at 38 Ill. Reg. 17421, effective July 31, 2014; amended at 38 Ill. Reg. 17756, effective August 6, 2014; amended at 38 Ill. Reg. 19998, effective October 1, 2014; amended at 39 Ill. Reg. 1793, effective January 12, 2015; amended at 39 Ill. Reg. 12597, effective August 26, 2015.

SUBPART A: NATURE OF TAX

Section 130.120 Nontaxable Transactions

The tax does not apply to receipts from sales:

- a) of intangible personal property, such as shares of stocks, bonds, evidences of interest in property, corporate or other franchises and evidences of debt;

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- b) of real property, such as lands and buildings that are permanently attached to the land;
- c) of tangible personal property for purposes of resale in any form as tangible personal property, provided that the purchaser (except in the case of an out-of-State purchaser who will always resell and deliver the property to his customers outside Illinois) has an active registration number or active resale number from the Department and gives the number to the vendor in connection with certifying to the vendor that the sale to the purchaser is nontaxable on the ground of being a sale for resale (see Subparts B and N of this Part);
- d) of personal services, where rendered as such (see various rules relating to particular service occupations); however, for information concerning the tax on persons engaged in the business of making sales of service, see the Regulations pertaining to the Service Occupation Tax Act (86 Ill. Adm. Code 140);
- e) that are within the protection of the Commerce Clause of the Constitution of the United States (see Subpart F of this Part);
- f) that are isolated or occasional (see Section 130.110 of this Subpart);
- g) of newspapers and magazines (see Section 130.2105 of this Part);
- h) that are made to any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, or any not-for-profit corporation, society, association, foundation, institution or organization that has no compensated officers or employees and that is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this subsection only if the limited liability company is organized and operated exclusively for educational purposes (see Section 130.2005 of this Part);
- i) that are made to any governmental body (see Section 130.2080 of this Part);
- j) through June 30, 2003, of pollution control facilities (see Section 130.335 of this Part);

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- k) *of fuel consumed or used in the operation of ships, barges or vessels that are used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering on this State if the fuel is delivered by the seller to the purchaser's barge, ship or vessel while it is afloat upon that bordering river [35 ILCS 120/2-5(24)] (see Section 130.315 of this Part);*
- l) of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce (see Section 130.340 of this Part);
- m) except as otherwise provided in Section 130.605(b)(1)(C), of a motor vehicle in this State to a nonresident even though the motor vehicle is delivered to the nonresident in this State, if the motor vehicle is not to be titled in this State, and if a drive-away permit is issued to the motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code [625 ILCS 5/3-603], or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his home state (see Section 130.605);
- n) until December 31, 2001, of merchandise in bulk when sold from a vending machine for 1¢; on and after January 1, 2002, the exemption applies to merchandise in bulk when sold from a vending machine for 50¢ or less (see 35 ILCS 120/1 and Section 130.2135 of this Part);
- o) of food and beverages by a person who is the recipient of a grant or contract under Title VII of the Older Americans Act of 1965 (42 USC 3021) and serves meals to participants in the Federal Nutrition Program for the Elderly in return for contributions established in amount by the individual participant pursuant to a schedule of suggested fees as provided for in the Federal Act;
- p) of farm chemicals (see Section 130.1955 of this Part);
- q) of manufacturing machinery and equipment that qualifies for exemption under provisions of Section 130.330 of this Part;
- r) of services included in gross receipts for purposes of the Retailers' Occupation Tax and that are designated mandatory service charges by vendors of meals to the extent that the proceeds of the service charge are in fact turned over to the employees who would normally have received tips had the service charge policy not been introduced. Service charges that are used to fund or pay wages, labor

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

costs, employee benefits or employer costs of doing business are taxable gross receipts;

- s) *of any petroleum product, if the seller is prohibited by federal law from charging tax to the purchaser [35 ILCS 120/2-5(16)].*
 - 1) For example, federal law prohibits sellers from charging tax to Amtrak when it purchases petroleum products. However, federal law does not relieve the seller of Retailers' Occupation Tax liability in these transactions. For that reason, the exemption set out in this subsection is necessary to relieve the seller of Retailers' Occupation Tax liability when making sales of petroleum products to Amtrak.
 - 2) The nontaxable transaction set out above is also applicable to local Retailers' Occupation Taxes imposed by municipalities, counties, the Regional Transportation Authority and Metro East Mass Transit District;
- t) *of farm machinery and equipment, both new and used including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture, or state or federal agricultural programs, including individual replacement parts for the machinery and equipment and including machinery and equipment purchased for lease [35 ILCS 120/2-5(2)] (see Section 130.305);*
- u) *through June 30, 2003, of distillation machinery and equipment, sold as a unit or kit, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as a motor fuel or as a component of motor fuel for personal use of the user and not subject to sale or resale [35 ILCS 120/2-5(3)];*
- v) *through June 30, 2003, and beginning again on September 1, 2004 through August 30, 2014, of graphic arts machinery and equipment, including repair and replacement parts [35 ILCS 120/2-5(4)] (see Section 130.325);*
- w) *through August 31, 2007, and beginning again on January 11, 2008:*
 - 1) *any motor vehicle of the first division that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act; or*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 2) *a motor vehicle of the second division that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act, and which:*
 - A) *is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat;*
 - B) *is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code; or*
 - C) *beginning on January 1, 2014, has a Gross Vehicle Weight Rating, as defined in Section 1-124.5 of the Illinois Vehicle Code, of 8,000 pounds or less [35 ILCS 120/2-5(5)];*
- x) *of personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois [35 ILCS 120/2-5(6)] (see Section 130.2006);*
- y) *through June 30, 2003, of that portion of the selling price of a passenger car, the sale of which is subject to the replacement vehicle tax of the Illinois Vehicle Code [625 ILCS 5/3-2001] [35 ILCS 120/2-5(7)];*
- z) *of personal property sold to an Illinois county fair association for use in conducting, operating or promoting the county fair [35 ILCS 120/2-5(8)];*
- aa) *of personal property sold to any not-for-profit arts or cultural organization that establishes that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code (26 USCA 501) and that is organized and operated for the presentation or support of arts or cultural programming, activities, or services. On and after July 1, 2001, the qualifying organizations listed in this subsection (aa) must also be organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

media arts organizations [35 ILCS 120/2-5(9)] (see Section 130.2004 of this Part);

- bb) *of personal property sold by a corporation, society, association, foundation, institution or organization that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise [35 ILCS 120/2-5(10)] (see Section 130.2008);*
- cc) *of legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America or the government of any foreign country and bullion [35 ILCS 120/2-5(18)], unless the items are transferred as jewelry and therefore subject to tax;*
- dd) *through June 30, 2003, of oil field exploration, drilling and production equipment [35 ILCS 120/2-5(19)] (see Section 130.345);*
- ee) *of photoprocessing machinery and equipment, including repair and replacement parts [35 ILCS 120/2-5(20)] (see Section 130.2000);*
- ff) *beginning July 1, 2003, of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Motor Vehicle Code. The Department, however, will not approve any claims or refunds on or after August 16, 2013, for taxes due or paid during the period beginning July 1, 2003 through August 16, 2013. This exemption will terminate by operation of the sunset provisions of Section 2-70 of the Retailers' Occupation Tax Act on August 16, 2018 [35 ILCS 120/2-5(21)] (see Section 130.350);*
- gg) *until June 30, 2013, of fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers. Beginning July 1, 2013, fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight that is engaged in foreign trade or is engaged in trade between the United States and any of its possessions and that*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

transports at least one individual or package for hire from the city of origination to the city of final destination on the same aircraft, without regard to a change in the flight number of that aircraft. This exemption will terminate by operation of the sunset provisions of Section 2-70 of the Retailers' Occupation Tax Act on August 16, 2018 [35 ILCS 120/2-5(22)] (see Section 130.321);

- hh) *of semen used for artificial insemination of livestock for direct agricultural production. [35 ILCS 120/2-5(26)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and date of signing and a statement that the semen purchased will be used for artificial insemination of livestock for direct agricultural production. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;*
- ii) *beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, of personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area. [35 ILCS 120/2-5(30)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and the date of signing, a description of the items being purchased for donation, a statement that the property purchased will be donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area, and that entity's sales tax exemption identification number. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;*
- jj) *beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, of personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks,*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster. [35 ILCS 120/2-5(31)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and date of signing, a description of the items being purchased, and a statement that the property purchased is for use in the performance of infrastructure repairs initiated on facilities located in the declared disaster area within six months after the disaster in this State resulting from a State or federally declared disaster area in Illinois or bordering Illinois. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;

- kk) *of a transaction in which the purchase order is received by a florist who is located outside Illinois, but who has a florist located in Illinois deliver the property to the purchaser or the purchaser's donee in Illinois [35 ILCS 120/2-5(23)];*
- ll) *of horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This exemption applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 for taxes paid during the period beginning May 30, 2000 and ending January 1, 2008 [35 ILCS 120/2-5(27)];*
- mm) *effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001, of computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act [35 ILCS 120/2-5(36)] (see Section 130.2011 of this Part);*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- nn) *effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001, of personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act [35 ILCS 120/2-5(37)] (see Section 130.2012 of this Part);*
- oo) *of tangible personal property sold to a common carrier by rail or motor that receives the physical possession of the property in Illinois and that transports the property, or shares with another common carrier in the transportation of the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois [35 ILCS 120/2-5(17)];*
- pp) *beginning July 1, 2003, of aggregate exploration, mining, off highway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code. The Department, however, will not approve any claims or refunds on or after August 16, 2013, for taxes due or paid during the period beginning July 1, 2003 through August 16, 2013. This exemption will terminate by operation of the sunset provisions of Section 2-70 of the Retailers' Occupation Tax Act on August 16, 2018 [35 ILCS 120/7] (see Section 130.351);*
- qq) Game Birds
 - 1) beginning July 1, 1999 through August 15, 2011, of game or game birds purchased at:
 - A) a game breeding and hunting preserve area licensed by the Department of Natural Resources (see Section 3.27 of the Wildlife Code [520 ILCS 5/3.27]);
 - B) an exotic game hunting area licensed by the Department of Natural Resources (see Section 3.34 of the Wildlife Code [520 ILCS 5/3.34]); or
 - C) a hunting enclosure approved through rules adopted by the Department of Natural Resources;

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 2) beginning August 16, 2011, of *game or game birds purchased at a "game breeding and hunting preserve area" as that term is used in the Wildlife Code*;
- rr) *beginning January 1, 2000, of personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This subsection (rr) does not apply to fundraising events:*
- 1) *for the benefit of private home instruction; or*
 - 2) *for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity [35 ILCS 120/2-5(34)];*
- ss) *of machinery or equipment used in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act. "High impact service facility" means a facility used primarily for the sorting, handling and redistribution of mail, freight, cargo, or other parcels received from agents or employees of the handler or shipper for processing at a common location and redistribution to other employees or agents for delivery to an ultimate destination on an item-by-item basis, and which:*
- 1) *will make an investment in a business enterprise project of \$100,000,000 or more;*
 - 2) *will cause the creation of at least 750 to 1,000 jobs or more in an enterprise zone established pursuant to the Illinois Enterprise Zone Act; and*
 - 3) *is certified by the Department of Commerce and Economic Opportunity as contractually obligated to meet the requirements specified in subsection (11)(1) and (2) within the time period as specified by the certification. The certificate of eligibility for exemption shall be presented by the business enterprise to its supplier when making the initial purchase of machinery*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

and equipment for which an exemption is granted by Section 1j of the Act, together with a certification by the business enterprise that such machinery and equipment is exempt from taxation under Section 1j of the Act and by indicating the exempt status of each subsequent purchase on the face of the purchase order [35 ILCS 120/1i];

- tt) *through December 31, 2002, of jet fuel and petroleum products sold to and used in the conduct of its business of sorting, handling and redistribution of mail, freight, cargo or other parcels in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act, provided that the business enterprise has waived its right to a tax exemption of the charges imposed under Section 9-222.1 of the Public Utilities Act [35 ILCS 120/1j.1]. High impact service facilities qualifying under the Act and seeking the exemption under Section 1j.1 shall be ineligible for the exemptions of taxes imposed under Section 9-222.1 of the Public Utilities Act. High impact service facilities qualifying under the Act and seeking the exemption under Section 9-222.1 of the Public Utilities Act shall be ineligible for the exemptions of taxes as described in Section 1j.1 of the Act. [35 ILCS 120/1j.2] The certification of eligibility for exemption shall be presented by the business enterprise to its supplier when making the purchase of jet fuel and petroleum products for which an exemption is granted by Section 1j.1 of the Act, together with a certification by the business enterprise that such jet fuel and petroleum product is exempt from taxation under Section 1j.1 of the Act, and by indicating the exempt status of each subsequent purchase on the face of the purchase order [35 ILCS 120/1i];*
- uu) *through August 20, 2004, of a motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical,*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

industrial, business, or commercial occupation. [35 ILCS 120/2-5(33)]

Exemption certifications must be executed by the purchaser. The certificate must include: the seller's name and address; the purchaser's name and address; the purchaser's registration number with the Department, if applicable; the purchaser's signature and date of signing; a description of the motor vehicle that is being purchased for immediate donation to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes (see Section 130.2005); the donee's sales tax exemption identification number; and a statement that the motor vehicle is being purchased for immediate donation to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;

- vv) *beginning August 23, 2001 and through June 30, 2016, of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act or, beginning July 1, 2010 through January 1, 2012, a licensed facility as defined in the MR/DD Community Care Act, or beginning January 1, 2012, a licensed facility as defined in the ID/DD Community Care Act, or beginning June 28, 2011, a licensed facility as defined in the Specialized Mental Health Rehabilitation Act [35 ILCS 120/2-5(35-5)];*
- ww) *beginning on January 1, 2000 through December 31, 2001, of new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, of machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts from the use of the commercial, coin-operated amusement and vending machines [35 ILCS 120/2-5(35)] (See Section 130.332 of this Part.);*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- xx) *beginning July 1, 2007, of an aircraft, as that term is defined in Section 3 of the Illinois Aeronautics Act, if all of the following conditions are met:*
- 1) *the aircraft leaves this State within 15 days after the later of either the final billing for the sale of the aircraft or the approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection, as required by 14 CFR 91.407;*
 - 2) *the aircraft is not based or registered in this State after the sale of the aircraft; and*
 - 3) *the seller retains documents as required by the Department. [35 ILCS 120/2-5(25-7)] (See Section 130.605);*
- yy) *effective October 11, 2007, of tangible personal property sold to a public-facilities corporation, as described in 65 ILCS 5/11-65-10, for purposes of constructing or furnishing a municipal convention hall. If, before October 11, 2007, a municipality has incorporated a public-facilities corporation and the public-facilities corporation complies with the requirements set forth in Section 11-65-10, then this exemption applies to that public-facilities corporation. [65 ILCS 5/11-65-10, 15 and 25 and 35 ILCS 120/2-5(41)];*
- zz) *beginning January 1, 2008, of tangible personal property used in the construction or maintenance of certain community water supplies [35 ILCS 120/2-5(39)];*
- aaa) Aircraft Maintenance
- 1) *beginning January 1, 2010, of materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution,*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

latex gloves, and protective films. This exemption applies only to those organizations that hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, have a Class IV Rating, and conduct operations in accordance with 14 CFR 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger ~~air service~~^{air service} pursuant to authority issued under 14 CFR 121 or 129 of the Federal Aviation Regulations [35 ILCS 120/2-5(40)];

- 2) *beginning August 23, 2013, of qualifying tangible personal property to persons who modify, refurbish, complete, repair, replace, or maintain aircraft and who hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, have a Class IV Rating, and conduct operations in accordance with 14 CFR 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger ~~air service~~^{air service} pursuant to authority issued under 14 CFR 121 or 129 of the Federal Aviation Regulations [35 ILCS 120/2-5(40)];*

bbb) *effective July 12, 2006, of building materials to be incorporated into real estate within a River Edge Redevelopment Zone in accordance with the River Edge Redevelopment Zone Act by remodeling, rehabilitating, or new construction may deduct receipts from those sales when calculating the tax imposed by the Act [35 ILCS 120/2-54] (See Section 130.1954.);*

ccc) *of electricity delivered to customers by wire; natural or artificial gas that is delivered to customers through pipes, pipelines, or mains; and water that is delivered to customers through pipes, pipelines, or mains. These provisions are declaratory of existing law as to the meaning and scope of the Retailers' Occupation Tax Act [35 ILCS 120/2].*

ddd) *effective on January 1, 2002 through June 30, 2016, tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or for the purpose of being processed, fabricated, or manufactured into,*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. [35 ILCS 120/2-5(38)] (See 86 Ill. Adm. Code 150.310.)

(Source: Amended at 39 Ill. Reg. 12597, effective August 26, 2015)

SUBPART F: INTERSTATE COMMERCE

Section 130.605 Sales of Property Originating in Illinois; Questions of Interstate Commerce

- a) Where tangible personal property is located in this State at the time of its sale (or is subsequently produced in Illinois), and then delivered in Illinois to the purchaser, the seller is taxable if the sale is at retail.
 - 1) The sale is not deemed to be in interstate commerce if the purchaser or his representative receives the physical possession of the property in this State.
 - 2) This is so notwithstanding the fact that the purchaser may, after receiving physical possession of the property in this State, transport or send the property out of the State for use outside the State or for use in the conduct of interstate commerce.
 - 3) The place at which the contract of sale or contract to sell is negotiated and executed and the place at which title to the property passes to the purchaser are immaterial. The place at which the purchaser resides is also immaterial. It likewise makes no difference that the purchaser is a carrier when that happens to be the case.
- b) There are three exceptions to the rule that the sale is not deemed to be a sale in interstate commerce if the purchaser or his representative receives physical possession of the property in Illinois.
 - 1) Except as otherwise provided in subsection (b)(1)(C), the tax is not imposed upon the sale of a motor vehicle in this State *even though the motor vehicle is delivered in this State*, if all of the following conditions are met: *the motor vehicle is sold to a nonresident; the motor vehicle is not to be titled in this State; and either a drive-away permit for purposes*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

of transporting the motor vehicle to a destination outside of Illinois is issued to the motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code [625 ILCS 5/3-603], or the nonresident purchaser has non-Illinois vehicle registration plates to transfer to the motor vehicle upon transporting the vehicle outside of Illinois. The issuance of the drive-away permit or having the out-of-state registration plates to be transferred is prima facie evidence that the motor vehicle will not be titled in this State. [35 ILCS 120/2-5(25)]

- A) Documentation of nonresidency. The exemption under subsection (b)(1) is available only to nonresidents. A vehicle purchased by an Illinois resident is not eligible for the exemption (even if the purchaser is only a part-time Illinois resident or has dual residency in both Illinois and another state, and, in the case of more than one purchaser, even if only one of the purchasers is an Illinois resident). Effective July 1, 2008, if a retailer claims the exemption under subsection (b)(1), the retailer must keep evidence that the purchaser is not a resident of Illinois, along with the records related to the sale (e.g., in the deal jacket).
- i) When the purchaser is a natural person, the best evidence of nonresidence is a non-Illinois driver's license. Retention of a copy of the purchaser's permanent non-Illinois driver's license in the records related to the sale is prima facie evidence that the purchaser is a nonresident eligible for the exemption under this subsection (b)(1). In addition, the retailer must also obtain and keep in the records related to the sale a certification from the purchaser in substantially the following form:
- "I, (purchaser), under applicable penalties, including penalties for perjury and fraud, state that I am not an Illinois resident. I understand that if I am a resident of Illinois or use the motor vehicle in Illinois for ~~30 or more~~ than 30 days in a calendar year, I am also liable for tax, penalty and interest on this purchase."
- ii) When the purchaser is a natural person, failure to keep a copy of the purchaser's non-Illinois driver's license or the

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

presence of a copy of the purchaser's Illinois driver's license in the records related to the sale creates a rebuttable presumption that the purchaser is an Illinois resident ineligible for the exemption under this subsection (b)(1). To rebut this presumption, the retailer must keep evidence of the nonresidency of the purchaser in the records related to the sale, such as a voter registration card listing a non-Illinois address, a copy of a purchase contract or lease agreement for a new residence outside of Illinois, a copy of a tax return from another state that declares residency in that other state, a credit report listing the primary address as out-of-state, property tax records claiming a homestead exemption for an out-of-state residence, or any other documentation that clearly shows that the purchaser is not an Illinois resident. In addition, the retailer must also obtain and keep in the records related to the sale a certification from the purchaser in substantially the following form:

"I, (purchaser), under applicable penalties, including penalties for perjury and fraud, state that I am not an Illinois resident. I understand that if I am a resident of Illinois or use the motor vehicle in Illinois for ~~30 or more~~ than 30 days in a calendar year, I am also liable for tax, penalty and interest on this purchase."

- iii) When the purchaser is not a natural person (e.g., corporation, partnership, limited liability company, trust, etc.), then the purchaser shall be deemed a resident of the state or foreign country under whose laws the purchaser was incorporated, created or organized, as well as the state or foreign country of the purchaser's commercial domicile, if different. When the purchaser is a grantor trust or other entity that claims it has no state or foreign country of incorporation, creation, organization and commercial domicile, then the purchaser's state or foreign country of residence shall be deemed to be the place of residency of the principal user of the vehicle and a copy of the user's non-Illinois driver's license or other evidence of non-

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Illinois residency must be kept by the retailer in the records related to the sale. When the purchaser is not a natural person, the retailer must obtain and keep in the records related to the sale a certificate from the purchaser that states substantially the following:

"(Purchaser) states, under applicable penalties, including penalties for perjury and fraud, that it is a (corporation, partnership, LLC, trust, etc.), incorporated, organized or created under the laws of (state or foreign country) and has its commercial domicile in (state or foreign country), or alternatively that it has no state or foreign country of incorporation, creation, organization and commercial domicile, but the principal user's state or foreign country of residence is (state). The undersigned has authority to sign this certification on behalf of the purchaser, and understands that in doing so, if the purchaser is a resident of Illinois or uses the motor vehicle in Illinois for ~~30 or~~ more than 30 days in a calendar year, it will be liable for tax, penalty and interest on this purchase."

- iv) If the retailer meets the requirements of subsection (b)(1)(A)(i), (ii) or (iii) to document the exemption, then, absent fraud, the Department shall pursue any claim that the exemption does not apply solely against the vehicle purchaser. If, however, the retailer does not meet the requirements of subsection (b)(1)(A)(i), (ii) or (iii) to document the exemption, then the exemption claimed by the retailer shall be disallowed subject to further review by the Department.
- B) When the motor vehicle is purchased for lease and delivery to a lessee, the provisions of subsection (b)(1) shall apply to the lessee as if the lessee is the purchaser of the motor vehicle.
- C) The exemption under this subsection (b)(1) does not apply if the state in which the motor vehicle will be titled does not allow a reciprocal exemption for a motor vehicle sold and delivered in that state to an Illinois resident but titled in Illinois. The tax collected

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

under the Retailers' Occupation Tax Act on the sale of a motor vehicle in this State to a resident of another state that does not allow a reciprocal exemption shall be imposed at a rate equal to the state's rate of tax on taxable property in the state in which the purchaser is a resident, except that the tax shall not exceed the tax that would otherwise be imposed under the Retailers' Occupation Tax Act. (See 35 ILCS 120/2-5(25-5).)

- D) For purposes of this subsection (b)(1), the term "motor vehicle" does not include (list not exhaustive):
- i) "watercraft" or "personal watercraft" as defined in the Boat Registration and Safety Act [625 ILCS 45] or any boat equipped with an inboard motor, regardless of whether the watercraft, personal watercraft or boat is sold individually or included with the sale of a trailer. If the watercraft, personal watercraft or boat is included with the sale of a trailer, the trailer may be an exempt "motor vehicle" under this subsection (b)(1), but the watercraft, personal watercraft or boat is not an exempt motor vehicle and tax is still owed on it. If the two items are sold together for one non-itemized price, and the trailer is exempt under this subsection (b)(1), only the gross receipts representing the selling price of the trailer are exempt. Please note that Section 130.540 requires separate transaction returns to be filed with the Department for each item of property sold by the retailer that is required to be titled or registered with an agency of Illinois government;
 - ii) "all-terrain vehicles" as defined in Section 1-101.8 of the Illinois Vehicle Code;
 - iii) "motorcycles", as defined in Section 1-147 of the Illinois Vehicle Code, that are not eligible for vehicle registration because they are not properly manufactured or equipped for general highway use;
 - iv) "motor driven cycles", as defined in Section 1-145.001 of the Illinois Vehicle Code, that are not eligible for vehicle

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

registration because they are not properly manufactured or equipped for general highway use;

- v) "off-highway motorcycles" as defined in Section 1-153.1 of the Illinois Vehicle Code; or
 - vi) "snowmobiles" as defined in Section 1-2.15 of the Snowmobile Registration and Safety Act [625 ILCS 40/1-2.15].
- 2) *Beginning July 1, 2007, the Retailers' Occupation Tax is not imposed on the sale of an aircraft, as that term is defined in Section 3 of the Illinois Aeronautics Act [620 ILCS 5/3], if all of the following three conditions are met:*
- A) *the aircraft leaves this State within 15 days after the later of either the issuance of the final billing for the sale of the aircraft, or the authorized approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection, as required by 14 CFR 91.407;*
 - B) *the aircraft is not based or registered in this State after the sale of the aircraft; and*
 - C) *the seller retains in his or her books and records and provides to the Department a signed and dated certification from the purchaser, on a form prescribed by the Department, certifying that the requirements of this subsection (b)(2) are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require. [35 ILCS 120/2-5(25-7)] (See Section 130.120.)*
 - D) For purposes of this subsection (b)(2):
 - i) *"Based in this State" means hangared, stored, or otherwise used, excluding post-sale customizations, for 10 or more*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

days in each 12-month period immediately following the date of the sale of the aircraft.

- ii) *"Registered in this State" means an aircraft registered with the Department of Transportation, Aeronautics Division, or titled or registered with the Federal Aviation Administration to an address located in this State. [35 ILCS 120/2-5(25-7)]*
- 3) The seller does not incur Retailers' Occupation Tax liability with respect to the proceeds from the sale of an item of tangible personal property to a common carrier by rail or motor that receives physical possession of property in Illinois and that transports the property, or shares with another common carrier in transporting the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois. [35 ILCS 120/2-5(17)] The exception for sales to common carriers by rail or motor, which is described in subsection (b)(3), is also applicable to local occupation taxes administered by the Department.
- c) The tax does not extend to gross receipts from sales in which the seller is obligated, under the terms of his or her agreement with the purchaser, to make physical delivery of the goods from a point in this State to a point outside this State, not to be returned to a point within this State, provided that the delivery is actually made.
- d) Nor does the tax apply to gross receipts from sales in which the seller, by carrier (when the carrier is not also the purchaser) or by mail, under the terms of his or her agreement with the purchaser, delivers the goods from a point in this State to a point outside this State not to be returned to a point within this State. The fact that the purchaser actually arranges for the common carrier or pays the carrier that effects delivery does not destroy the exemption. However, it is critical that the seller is shown as the consignor or shipper on the bill of lading. If the purchaser is shown as either the consignor or the shipper, the exemption will not apply.
- e) Sales of the type described in subsections (c) and (d) are deemed to be within the protection of the Commerce Clause of the Constitution of the United States.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- f) To establish that the gross receipts from any given sale are exempt because the tangible personal property is delivered by the seller from a point within this State to a point outside this State under the terms of an agreement with the purchaser, the seller will be required to retain in his or her records, to support deductions taken on his or her tax returns proof that satisfies the Department that there was an agreement and a bona fide delivery outside this State of the property that is sold. The most acceptable proof of this fact will be:
- 1) If shipped by common carrier, a waybill or bill of lading requiring delivery outside this State;
 - 2) if sent by mail, an authorized receipt from the United States Post Office department for articles sent by registered mail, parcel post, ordinary mail or otherwise, showing the name of the addressee, the point outside Illinois to which the property is mailed and the date of the mailing; if the receipt does not comply with these requirements, other supporting evidence will be required;
 - 3) if sent by seller's own transportation equipment, a trip sheet signed by the person making delivery for the seller and showing the name, address and signature of the person to whom the goods were delivered outside this State; or, in lieu thereof, an affidavit signed by the purchaser or his or her representative, showing the name and address of the seller, the name and address of the purchaser and the time and place of the delivery outside Illinois by the seller; together with other supporting data as required by Section 130.810 of this Part and by Section 7 of the Act.
- g) Retailers who ship property to freight forwarders who take possession of the property in Illinois and ship the property to foreign countries, not to be returned to the United States, are making exempt sales in foreign commerce and do not incur Retailers' Occupation Tax liability on the gross receipts from those sales. However, there is no exemption for property delivered in Illinois to foreign vessels. If foreign vessels purchase items of tangible personal property from Illinois retailers and have those items delivered to the vessels in an Illinois port, the sale is made in Illinois, the purchaser takes possession of the items in Illinois, and therefore, the sale is taxable.

(Source: Amended at 39 Ill. Reg. 12597, effective August 26, 2015)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

SUBPART S: SPECIFIC APPLICATIONS

Section 130.2055 Sales by Governmental Bodies

- a) Sales by the State of Illinois and by Local Governments in Illinois
Effective August 1, 1961, the State of Illinois or any local governments in Illinois, or any agency or instrumentality of any such governmental body, incurs Retailers' Occupation Tax liability when it engages in the selling of tangible personal property at retail to the public other than in the performance of a governmental function. This includes the selling of fuel to users by airport authorities or other governmental bodies, except that, until June 30, 2013, it does not include the proceeds from the sale of fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage, in the conduct of its business or as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers. Beginning July 1, 2013, it does not include fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier, for a flight that is engaged in foreign trade or is engaged in trade between the United States and any of its possessions and that transports at least one individual or package for hire from the city of origination to the city of final destination on the same aircraft, without regard to a change in the flight number of that aircraft (see 86 Ill. Adm. Code 130.321). [35 ILCS 120/2-5(22)] Also included is the operation of public stands by park districts or other governmental bodies, etc., but does not include the furnishing of utility services to the public, and does not include sales that may be made by such a governmental body to the public involving the performance of a governmental function (such as the sale of motor vehicle license plates by the State of Illinois).
- b) Sales by the United States Government and by Foreign Governments
Since a state may not place the legal incidence of its taxes directly on the United States Government or on a foreign government, sales by the United States Government and foreign governments, or any agency or instrumentality of any such government, are not subject to the Retailers' Occupation Tax even though such sales may be made in Illinois. For example, sales by the United States Postal Service are not subject to Retailers' Occupation Tax.

(Source: Amended at 39 Ill. Reg. 12597, effective August 26, 2015)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

**Section 130.2125 ~~Trading Stamps~~, Discount Coupons, Gift Situations, Trading Stamps,
Automobile Rebates and Dealer Incentives**a) Application of Tax1) Application of Retailers' Occupation Tax

A retailer incurs Retailers' Occupation Tax on its gross receipts from sales, which is defined as the total selling price of a sale. Under Section 1 of the Retailers' Occupation Tax, selling price means the consideration for a sale valued in money, whether received in money or otherwise, including cash, credits, property, other than as provided in the statutory definition, and services. [35 ILCS 120/1] The source of the consideration received by a retailer is immaterial in determining the gross receipts subject to tax. (See Ogden Chrysler Plymouth, Inc. v. Bower, 348 Ill.App.3d 944 (2004).) In holding that the payments made by DaimlerChrysler Motor Corporation to an auto dealer as part of a purchase of an automobile by an employee under an employee vehicle purchase program were includable in gross receipts, the court stated that the definitions of gross receipts and selling price "do not limit gross receipts or consideration to that received only from the purchaser". See also Keystone Chevrolet Co. v. Kirk, 69 Ill.2d 483 (1978).) Consequently, if a retailer allows a purchaser a discount from the selling price on the basis of a discount coupon, the retailer's gross receipts subject to tax depends upon whether the retailer receives any reimbursement for the amount of the discount. (See subsection (b).)

2) Application of Complementary Use Tax

Use Tax is generally imposed on the selling price of tangible personal property purchased at retail. Since the Retailers' Occupation Tax Act and the Use Tax work together in a complementary manner (see 86 Ill. Adm. Code 150.130), Section 2 of the Use Tax Act contains the same definition of "selling price" as that found in Section 1 of the Retailers' Occupation Tax Act (i.e., selling price means the consideration for a sale valued in money, whether received in money or otherwise, including cash, credits, property, other than as provided in Section 2 of the Use Tax Act, and services [35 ILCS 105/2]). Whether discount coupons utilized by a purchaser for the purchase of tangible personal property constitute consideration for a sale depends upon whether the retailer receives any

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

reimbursement for the amount of the discount. (See subsection (b).) If the retailer receives full or partial reimbursement for the amount of the discount, as explained in subsection (b), the amount of the discount that is reimbursed is considered to be part of the selling price of the sale. The purchaser incurs tax on the entire selling price, including the amount of the discount paid to the retailer by the issuer of the coupon.

a) ~~Trading Stamps~~

~~Persons who engage in the business of transferring tangible personal property upon the redemption of trading stamps shall be deemed to be engaged in the business of selling tangible personal property at retail and shall be liable for and shall pay the tax imposed by the Retailers' Occupation Tax Act on the basis of the retail value of the property transferred upon redemption of stamps. When merchandise is paid for partly in cash and partly by surrendering a trading stamp valued at a specific amount, the total amount (including the value of surrendered trading stamp) is subject to Retailers' Occupation Tax.~~

b) Discount Coupons

1) Where the retailer receives no coupon reimbursement:

If a retailer allows a purchaser a discount from the selling price on the basis of a discount coupon for which the retailer receives no reimbursement from any source, the amount of the discount is not subject to Retailers' Occupation Tax liability. Only the receipts actually received by the retailer from the purchaser, other than the value of the coupon, are subject to the tax. For example, if a retailer sells an item for \$10 and the purchaser provides the retailer with a \$1 in-store coupon for which the retailer receives no reimbursement from the manufacturer of the item or any other source, the retailer's gross receipts of \$9 are subject to Retailer's Occupation Tax.

2) Where the retailer receives full or partial coupon reimbursement:

A) If a retailer allows a purchaser a discount from the selling price on the basis of a discount coupon for which the retailer will receive full or partial reimbursement (from a manufacturer, distributor or other source), the retailer incurs Retailers' Occupation Tax liability on the receipts received from the purchaser and the amount of any coupon reimbursement. For example, if a retailer sells an item for

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

\$15 and the purchaser provides the retailer with a \$5 manufacturer's coupon for which the retailer receives full reimbursement from the manufacturer of the item, the retailer's gross receipts of \$15 are subject to Retailers' Occupation Tax. The purchaser incurs tax on the \$15 selling price of the item, which includes the \$10 paid by the purchaser and the \$5 reimbursement paid to the retailer by the manufacturer of the item. ~~Technically, the coupon issuer (the manufacturer in this example) owes the corresponding Use Tax on the value of the coupon. However, in many cases, the coupon issuer incorporates language into the coupon that requires the bearer (the purchaser in this example) to assume this Use Tax liability.~~

- B) However, payments received by the retailer (from a manufacturer, distributor or other source) for handling charges or administrative expenses in processing coupons are not subject to the tax if those payments are clearly distinguished from coupon value reimbursement. In addition, if the retailer receives a discount from a manufacturer, distributor or other source when purchasing tangible personal property for resale, and, pursuant to a contract with that manufacturer, distributor or other source, the retailer issues discount coupons applicable to the sale of property, the coupons shall not be deemed to be reimbursed by the manufacturer, distributor or other source.

c) Gift Situations

- 1) Where a retailer, manufacturer, distributor, or other person, issues a coupon that entitles the bearer to obtain an item of tangible personal property free of any charge whatever and not conditioned on the purchase of other property, the furnishing of the tangible personal property does not constitute a sale under the Retailers' Occupation Tax Act and the retailer does not incur Retailers' Occupation Tax liability with respect to the transfer. However, the retailer, manufacturer or distributor, or other person, issuing a coupon, as donor, incurs Use Tax liability on his cost price of all tangible personal property actually transferred as a result of the coupon. (See Subpart C of the Use Tax Regulations (86 Ill. Adm. Code 150).)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 2) If a bearer (customer) presents a retailer with a coupon issued by the retailer that entitles the bearer to a free item and the coupon is not conditioned on a purchase, the retailer incurs Use Tax based upon its cost price of the item given away. However, if a bearer (customer) presents a retailer with a coupon issued by the manufacturer that entitles the bearer to a free item and the coupon is not conditioned on a purchase by the customer, the manufacturer incurs Use Tax based upon its cost price of the item given away. However, in many cases, the manufacturer incorporates language into the coupon that requires the bearer (customer) to assume this Use Tax liability.

- d) Trading Stamps
Persons who engage in the business of transferring tangible personal property upon the redemption of trading stamps shall be deemed to be engaged in the business of selling tangible personal property at retail and shall be liable for and shall pay the tax imposed by the Retailers' Occupation Tax Act on the basis of the retail value of the property transferred upon redemption of stamps. When merchandise is paid for partly in cash and partly by surrendering a trading stamp valued at a specific amount, the total amount (including the value of the surrendered trading stamp) is subject to Retailers' Occupation Tax.

- ed) Automobile Rebates

- 1) If an automobile dealer accepts a manufacturer's rebate provided by a customer as part of the payment for the retail sale of an automobile or other type of vehicle, the amount of the reimbursement or payment paid by the manufacturer to the dealer is part of the taxable gross receipts received by the dealer for the sale of that automobile or other type of vehicle.

- 2) Automobile Rebate Examples:

EXAMPLE 1 (taxable – customer applies rebate amount to purchase price): An automobile manufacturer offers a \$1,000 rebate to purchasers of certain automobiles at or near the end of a model year. The dealer sells one of the qualifying vehicles to a customer for \$30,000. The customer has the option of receiving the payment from the manufacturer for the rebate or assigning the rebate to the purchase price of the vehicle. The customer chooses to apply the \$1,000 rebate amount to the purchase price

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

of the vehicle. Since the dealer will receive a payment from the manufacturer of \$1,000 and \$29,000 from the customer, the taxable gross receipts received by the dealer for this sale are \$30,000.

EXAMPLE 2 (not taxable – customer does not apply rebate amount to purchase price): An automobile manufacturer offers a \$1,000 rebate to purchasers of certain automobiles at or near the end of a model year. The dealer sells one of the qualifying vehicles to a customer for \$30,000. The customer has the option of receiving the payment from the manufacturer for the rebate or assigning the rebate to the purchase price of the vehicle. The customer does not choose to apply the \$1,000 rebate amount to the purchase price of the vehicle and instead chooses to keep the amount of the rebate. Since the dealer will receive \$30,000 from the customer and no payment from the manufacturer, the taxable gross receipts received by the dealer for this sale are \$30,000.

fe) Automobile Dealer Incentives

- 1) This subsection (fe) is effective for sales made on and after July 1, 2008. The taxation of automobile dealer incentives will depend upon whether the dealer receives a payment from a source other than the purchaser that is conditioned upon the retail sale of an automobile. If an automobile dealer receives a payment as an incentive for the retail sale of an automobile, the amount of that reimbursement or payment is part of the taxable gross receipts received by the dealer for the sale of that automobile. If a dealer receives payment in exchange for the purchase of an automobile from a supplier or manufacturer, and that payment is not conditioned upon the sale of that automobile to a retail consumer, the amount of that payment is not part of the taxable gross receipts received by the dealer for the retail sale of that automobile. The determination of taxability under the provisions of this subsection (fe)(1) is not dependent on whether the retailer is required to lower the selling price of the vehicle as a condition for receiving the incentive payment. Notwithstanding the provisions of this subsection (fe)(1), the payment is not part of the taxable gross receipts from a retail sale if, at the time of the retail sale, the payment is contingent on the dealer making or having made any additional retail sales. In addition, a dealer incentive or bonus contingent on the dealer meeting certain manufacturer required marketing standards, facility standards, or sales and service department satisfaction goals is not part of the taxable

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

gross receipts from a retail sale of vehicles sold by that dealer, even if the incentive or bonus is calculated using the gross receipts, Manufacturer's Suggested Retail Price (MSRP), or a flat amount per vehicle.

2) Automobile Dealer Incentive Examples:

EXAMPLE 1 (taxable incentive payments – payment conditioned on the retail sale): An automobile manufacturer offers a dealer incentive (sometimes referred to as "dealer cash") of \$1,000 for each of a specific type of automobile sold to a retail customer during the month of March. An automobile dealer sells that type of a vehicle to a retail customer for \$38,000 during the month of March. The retail sale of that vehicle qualifies the dealer for the manufacturer's dealer incentive payment of \$1,000 for the retail sale of that vehicle. The purchaser pays the dealer \$38,000 and the dealer receives \$1,000 from the manufacturer. Since the \$1,000 payment is conditioned only upon the sale of that vehicle and is not conditioned upon the sale of any other vehicle or vehicles, the taxable gross receipts received by the dealer for this sale are \$39,000.

EXAMPLE 2 (nontaxable incentive payments – payment conditioned on the retail sale, but only after a certain number of sales have been made): An automobile manufacturer offers a dealer incentive payment (sometimes referred to as "dealer cash") of \$1,000 for each of a specific type of automobile sold to a retail customer in the month of March, but only if the dealer sells at least 15 of that type of vehicle during that month. An automobile dealer sells that type of vehicle to a retail customer for \$38,000 on March 25. The dealer had sold 14 of that type of vehicle earlier that month and the sale on March 25 qualified the dealer for the \$1,000 manufacturer payment on that sale and each of the 14 previous sales. The gross receipts from the sale on March 25 are \$38,000 and the \$1,000 manufacturer's payment is not part of the dealer's gross receipts from that sale. In addition, the \$14,000 payment to the dealer for the sales of the previous 14 vehicles was contingent upon the sale of other vehicles and is not part of the gross receipts from the sales of those vehicles. If the dealer sold a vehicle on March 26 and qualified for another \$1,000 manufacturer payment for that sale, the \$1,000 manufacturer payment would not be part of the dealer's gross receipts from that sale.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

EXAMPLE 3 (non-taxable dealer hold-backs – payment not conditioned on the retail sale): A manufacturer provides dealer hold-back payments to its automobile dealers of 3% of the invoice price of each vehicle purchased from that manufacturer. The dealer hold-back payments are paid to the dealer on a quarterly basis regardless of whether that dealer has sold at retail one or more of the vehicles it had purchased that quarter. The dealer purchases a vehicle from the manufacturer at the beginning of the month for an invoice price of \$39,000 and then sells that vehicle 10 days later at retail for \$40,000. The manufacturer of that vehicle pays an amount to the dealer of \$1,170 (3% of the invoice price of \$39,000) at the end of the quarter as a dealer hold-back for that vehicle. Since the \$1,170 hold-back payment to the dealer from the manufacturer is conditioned only on the purchase of the vehicle from the manufacturer (not on the subsequent retail sale of the vehicle), the taxable gross receipts received by the dealer for this sale are only \$40,000.

EXAMPLE 4 (non-taxable – payment not conditioned on the retail sale): An automobile dealer normally offers a specific type of vehicle for retail sale for \$40,000. The manufacturer of that vehicle agreed to pay an incentive to the dealer of \$3,000 for each of that type of vehicle that the dealer purchased for resale from the manufacturer during a specified promotional period. After purchasing the vehicle during the qualifying period, the dealer offered the vehicle for sale at a reduced or discounted price of \$37,000. A retail purchaser agrees to purchase the vehicle for \$37,000. Since the \$3,000 incentive provided to the dealer from the manufacturer is conditioned only on the dealer's purchase of the vehicle from the manufacturer (not on the subsequent retail sale of the vehicle), the taxable gross receipts received by the dealer for this sale are \$37,000.

EXAMPLE 5 (non-taxable performance bonus payments): An automobile manufacturer establishes a performance bonus program for automobile dealers who obtain a certain customer service index (CSI) score that demonstrates a substantial degree of satisfaction from their sales and service customers. Upon meeting the requirement, the automobile dealer will receive an incentive payment from the manufacturer calculated as 2% of the MSRP of the vehicles sold by that dealer during the incentive period. Because the bonus is contingent on the dealer meeting certain customer satisfaction goals as indicated by the CSI score, the

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

manufacturer's performance bonus would not be part of the gross receipts received by that dealer for the sales of those vehicles.

EXAMPLE 6 (non-taxable marketing or facility incentive payments): An automobile manufacturer creates an incentive program for automobile dealers who meet certain marketing standards or facility standards designed to increase sales and brand loyalty. Upon meeting the standards, the automobile dealer will receive an incentive payment from the manufacturer calculated as a flat amount of \$500 per vehicle sold by the dealer during the incentive period. Because the incentive is contingent on the dealer meeting certain marketing or facility standards set by the manufacturer, the \$500 incentive payments would not be part of the gross receipts received by that dealer for the sales of those vehicles.

(Source: Amended at 39 Ill. Reg. 12597, effective August 26, 2015)

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: State Toll Highway Rules
- 2) Code Citation: 92 Ill. Adm. Code 2520
- 3)

| | |
|-------------------------|-------------------------|
| <u>Section Numbers:</u> | <u>Adopted Actions:</u> |
| 2520.410 | Amendment |
| 2520.420 | Amendment |
- 4) Statutory Authority: 605 ILCS 10/10, 625 ILCS 5/11-601, 625 ILCS 5/11-603
- 5) Effective Date of Rules: August 28, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 39 Ill. Reg. 7598; May 29, 2015
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Difference between Proposed and Final Version: The Second Notice changes included speed limit increases on two additional Illinois Toll Highway segments, on the north end of I-94 and the other on the south end of I-55.
- 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 rule increases speed limits on various sections of the Illinois Toll Highway. The changes were allowed for and prompted by changes in the law (PA 98-1126 and PA 98-1128).

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

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

Robert T. Lane
Senior Assistant Attorney General
2700 Ogden Avenue
Downers Grove IL 60515

603/241-6800 x 1530
fax: 630/271-7559

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

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION

CHAPTER IV: ILLINOIS STATE TOLL HIGHWAY AUTHORITY

PART 2520

STATE TOLL HIGHWAY RULES

SUBPART A: AUTHORITY AND DEFINITIONS

Section

| | |
|----------|----------------------|
| 2520.100 | Authority |
| 2520.110 | Authority Rulemaking |
| 2520.120 | Related Statutes |
| 2520.130 | Definitions |

SUBPART B: GENERAL TRAFFIC RULES AND REGULATIONS

Section

| | |
|----------|--|
| 2520.200 | Illinois Vehicle Code |
| 2520.203 | Use of Tollway Prohibited or Restricted |
| 2520.206 | Vehicles Excepted from Provisions of Section 2520.203 |
| 2520.209 | Transportation of Hazardous Materials |
| 2520.212 | Special Usage Toll |
| 2520.215 | Loading or Unloading of Vehicles |
| 2520.218 | Full Stop at All Toll Plazas |
| 2520.221 | Entering and Leaving the Tollway |
| 2520.224 | "U" Turns, Etc. |
| 2520.227 | Backing Up of Vehicles |
| 2520.230 | Parking, Standing or Stopping |
| 2520.233 | Relocating of Vehicles |
| 2520.236 | Pushing or Towing of Vehicles |
| 2520.239 | Stopping or Halting Vehicles by the Authority |
| 2520.242 | Destruction of Authority Property |
| 2520.245 | Picnics |
| 2520.248 | Aircraft |
| 2520.251 | Sale of Goods and Services |
| 2520.254 | Solicitation of Rides |
| 2520.257 | Loitering or Interfering with Traffic |
| 2520.260 | Approaching/Departing a Toll Plaza |
| 2520.263 | Compliance with Orders or Directions of State Troopers, Etc. |

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

| | |
|----------|--|
| 2520.266 | Duty Upon Striking Fixtures, Structures or Other Property on Tollway |
| 2520.269 | Payment of Tolls |
| 2520.272 | I-Pass Registration |
| 2520.275 | Prohibited and Restricted Lanes |
| 2520.278 | Traffic Control Devices |
| 2520.281 | Penalty for Violation |

SUBPART C: TRESPASS

| | |
|----------|--|
| Section | |
| 2520.300 | Authority |
| 2520.310 | Restriction of Vehicles Using the Tollway |
| 2520.320 | Restriction on Nature of Use of Tollway |
| 2520.340 | Persons and Vehicles Excepted from the Requirements of Subpart C |
| 2520.350 | Penalties |

SUBPART D: SPEED RESTRICTIONS

| | |
|----------|---|
| Section | |
| 2520.410 | Maximum Speed Limits for Passenger Cars |
| 2520.420 | Maximum Speed Limits for Trucks, Buses, Passenger Cars Towing Trailers, House Trailers and Campers |
| 2520.430 | Maximum Speed Limits for Designated I-Pass Lanes, Service Areas, Parking Areas, Access Roads and Ramps, and Barrier Toll Plaza Approaches |
| 2520.440 | Road Hazards and Construction Zones |
| 2520.450 | Special Road Conditions |
| 2520.460 | Minimum Speed Limits |

SUBPART E: FINES AND PENALTIES

| | |
|----------|--|
| Section | |
| 2520.510 | Violations |
| 2520.520 | Littering – Penalty |
| 2520.530 | Spurious or Counterfeit Tickets, Coupons or Tokens – Penalty |
| 2520.540 | Toll Collection Devices – Penalty for Breaking |
| 2520.550 | I-PASS Customer – Penalties |

SUBPART F: TOLL VIOLATIONS – ADMINISTRATIVE ADJUDICATION SYSTEM

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

Section

| | |
|----------|---|
| 2520.700 | Authority |
| 2520.705 | Notice of Violation to Respondent |
| 2520.710 | Effective Date of Notices |
| 2520.715 | Establishment of the Toll-Free Telephone Number |
| 2520.720 | Timely Request for Hearing |
| 2520.725 | Hearing Officers – Appointment, Disqualification, Powers and Duties |
| 2520.730 | Discovery |
| 2520.735 | Continuance |
| 2520.740 | Hearings Format |
| 2520.745 | Failure to Respond to Notice of Violation – Default |
| 2520.750 | Penalties |
| 2520.755 | Liability of Lessor |
| 2520.760 | Liability of Registered Owner |
| 2520.765 | Enforcement of Final Order |
| 2520.770 | Judicial Review |

SUBPART G: EMPLOYMENT

2520.800 Tollway Employees

2520.APPENDIX A Rules and Regulations for Overweight and Overdimension Vehicles and Loads

AUTHORITY: Implementing and authorized by the Toll Highway Act [605 ILCS 10].

SOURCE: Filed January 3, 1973; effective February 1, 1973; codified at 8 Ill. Reg. 19884; Part repealed, new Part adopted at 17 Ill. Reg. 8539, effective May 27, 1993; amended at 20 Ill. Reg. 10200, effective July 12, 1996; emergency amendment at 24 Ill. Reg. 2737, effective February 4, 2000, for a maximum of 150 days; emergency expired July 2, 2000; emergency amendment at 24 Ill. Reg. 4234, effective February 29, 2000, for a maximum of 150 days; emergency expired July 27, 2000; amended at 24 Ill. Reg. 16078, effective October 11, 2000; emergency amendment at 26 Ill. Reg. 16325, effective October 31, 2002, for a maximum of 150 days ; amended at 27 Ill. Reg. 6325, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 18238, effective November 6, 2003, for a maximum of 150 days; emergency expired April 5, 2004; emergency amendment at 28 Ill. Reg. 1780, effective January 14, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 6911, effective April 23, 2004; emergency amendment at 28 Ill. Reg. 7688, effective May 24, 2004, for a maximum of 150 days; emergency expired October 20, 2004; amended at 28 Ill. Reg. 14530, effective October 25, 2004; old Part repealed at 30 Ill. Reg.

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

11261 and new Part adopted at 30 Ill. Reg. 11264, effective June 9, 2006; amended at 35 Ill. Reg. 535, effective December 27, 2010; emergency amendment at 38 Ill. Reg. 2433, effective January 7, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 4037, effective January 27, 2014; amended at 38 Ill. Reg. 11369, effective May 9, 2014; amended at 38 Ill. Reg. 19780, effective September 25, 2014; amended at 39 Ill. Reg. _____, effective _____.

SUBPART D: SPEED RESTRICTIONS

Section 2520.410 Maximum Speed Limits for Passenger Cars

The following shall be the maximum speed limits for passenger cars (includes motorcycles) on the Tollway, except as provided by Sections 2520.430 and 2520.440:

- a) Tri-State Tollway (I-94 ~~and I-294~~~~portion north of Stearns School Rd.~~):

~~70 miles per hour north of I-94 M.P.7.5 (Stearns School Road).~~

~~65 miles per hour between I-94 M.P.7.5 (Stearns School Road) and I-94 M.P.24.2 (Deerfield Road).~~

~~60 miles per hour between I-94 M.P.24.2 (Deerfield Road) and M.P.25.2 (Lake-Cook Road).~~

~~60 miles per hour between I-294 M.P.52.7 (Lake-Cook Road) and M.P. 42.2 (Touhy Avenue).~~

~~60 miles per hour between I-294 M.P.23.1 (I-55) and M.P.7.6 (I-57).~~

~~55 miles per hour on the remainder of I-294.~~~~55 miles per hour south of M.P.7.0~~

~~65 miles per hour north of M.P.7.0~~

~~Tri-State Tollway (I-294 portion in its entirety):~~

~~55 miles per hour, M.P.0.0 to M.P.52.0~~

- b) Jane Addams Memorial~~Northwest~~ Tollway (I-90):

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

55 miles per hour east of M.P. 51.827.2 (west of Randall Road).

65 miles per hour between west of M.P. 51.827.2 (west of Randall Road) and M.P. 17.4 to M.P. 17.4 (west of the I-39 Interchange).

70 miles per hour west of M.P. 17.4 (west of the I-39 Interchange).

c) Ronald Reagan Memorial Highway (I-88):

6055 miles per hour between the Eisenhower Expressway I-290 M.P. 140.4 (I-290/Eisenhower Expressway) and M.P. 17.1145.0 (Illinois Route 31 east of Orchard Rd. M.P. 114.4).

65 miles per hour between west of M.P. 117.1145.0 (Illinois Route 31 east of Orchard Road M.P. 114.4) and to M.P. 109.0 (west of Illinois Route Rte. 47).

70 miles per hour west of M.P. 109.0 (west of Illinois Route Rte. 47).

d) Veterans Memorial North-South Tollway (I-355):

6055 miles per hour between M.P. 12.0 (I-55) and M.P. 29.8 (Army Trail Road) north of I-55 (M.P. 12.0)

65 miles per hour south of M.P. 12.0 (I-55) I-55 (M.P. 12.0)

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 2520.420 Maximum Speed Limits for Trucks, Buses, Passenger Cars Towing Trailers, House Trailers and Campers

a) The following shall be the maximum speed limits for trucks and passenger cars towing trailers, house trailers and campers on the Tollway, except as provided by Sections 2520.430 and 2520.440:

1) Tri-State Tollway (I-94 and I-294):

60 miles per hour north of I-94 M.P. 25.2 (Lake-Cook Road).

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

60 miles per hour between I-294 M.P.52.7 (Lake-Cook Road) and M.P.42.2 (Touhy Avenue).

60 miles per hour between I-294 M.P.23.1 (I-55) and M.P.7.6 (I-57).

55 miles per hour on the remainder of I-294.

2) Jane Addams Memorial Tollway (I-90):

55 miles per hour east of M.P.51.8 (west of Randall Road).

60 miles per hour between M.P.51.8 (west of Randall Road) to M.P. 31.2 (McHenry County Line).

65 miles per hour between M.P.31.2 (McHenry County Line) and MP.17.4 (west of the I-39 Interchange).

70 miles per hour west of M.P.17.4 (west of the I-39 Interchange).

3) Reagan Memorial Highway (I-88):

60 miles per hour between M.P.140.4 (I-290/Eisenhower Expressway) and M.P.101.0 (Kane/DeKalb County Line).

70 miles per hour west of M.P.101.0 (Kane/DeKalb County Line).

4) Veterans Memorial Tollway (I-355):

60 miles per hour between M.P.0.0 (I-80) and M.P.29.8 (Army Trail Road).

b) The following shall be the maximum speed limits for buses on the Tollway, except as provided by Sections 2520.430 and 2520.440:

1) Tri-State Tollway (I-94 and I-294):

65 miles per hour north of I-94 M.P.24.2 (Deerfield Road).

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

60 miles per hour between I-94 M.P.24.2 (Deerfield Road) and M.P.25.2 (Lake-Cook Road).

60 miles per hour between I-294 M.P.52.7 (Lake-Cook Road) and M.P.42.2 (Touhy Avenue).

60 miles per hour between I-294 M.P. 23.1 (I-55) and M.P.7.6 (I-57).

55 miles per hour on the remainder of I-294.

2) Jane Addams Memorial Tollway (I-90):

55 miles per hour east of M.P.51.8 (west of Randall Road).

65 miles per hour between M.P.51.8 (west of Randall Road) to M.P.17.4 (west of the I-39 Interchange).

70 miles per hour west of M.P.17.4 (west of the I-39 Interchange).

3) Reagan Memorial Highway (I-88):

60 miles per hour between M.P.140.4 (I-290/Eisenhower Expressway) and M.P.117.1 (Illinois Route 31).

65 miles per hour between M.P.117.1 (Illinois Route 31) and M.P.101.0 (Kane/DeKalb County Line).

70 miles per hour west of M.P.101.0 (Kane/DeKalb County Line).

4) Veterans Memorial Tollway (I-355):

60 miles per hour between M.P.12.0 (I-55) and M.P.29.8 (Army Trail Road).

65 miles per hour between M.P.0.0 (I-80) and M.P.12.0 (I-55).

~~The maximum speed for trucks, buses, and passenger cars towing trailers, house trailers and campers is generally 55 miles per hour, but 70 miles per hour west of Kane County (M.P.101.0)~~

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

~~on I-88 and west of McHenry County (M.P. 47.7) on I-90, except as provided by Sections 2520.430 and 2520.440.~~

(Source: Amended at 39 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF CORRECTION TO NOTICE ONLY

- 1) Heading of the Part: Surplus Line Business Requirements
- 2) Code Citation: 50 Ill. Adm. Code 2801
- 3) The Notice of Proposed Amendments being corrected appeared at: 39 Ill. Reg. 11852; August 28, 2015
- 4) The information being corrected is as follows: Section Numbers 2801.30 and 2801.40 in item 3 of the Notice were filed and published in error as 2081.30 and 2081.40. The corrected version follows.
- 3)

| Section Numbers: | Proposed Actions: |
|---------------------|-------------------|
| 2801.10 | Amendment |
| 2801.30 | Amendment |
| 2801.40 | Amendment |
| 2801.50 | Amendment |
| 2801.60 | Amendment |
| 2801.70 | Amendment |
| 2801.80 | Amendment |
| 2801.90 | Amendment |
| 2801.100 | Amendment |
| 2801.110 | Amendment |
| 2801.120 | Amendment |
| 2801.130 | Amendment |
| 2801.140 | Amendment |
| 2801.ILLUSTRATION A | Amendment |

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3)

| | |
|-------------------------|--------------------------|
| <u>Section Numbers:</u> | <u>Proposed Actions:</u> |
| 140.492 | Amendment |
| 140.493 | Amendment |
- 4) Date Notice of Proposed published in the *Illinois Register*: July 24, 2015; 39 Ill. Reg. 10332
- 5) Reason for the Withdrawal: The Department is withdrawing the proposed amendments to allow sufficient time to review the concerns voiced by the regulated public.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

MICHAEL A. BILANDIC BUILDING
ROOM 600C
CHICAGO, ILLINOIS
SEPTEMBER 16, 2015
11:00 A.M.

NOTICE: *It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:*

*Joint Committee on Administrative Rules
700 Stratton Office Building
Springfield, Illinois 62706*

RULEMAKINGS SCHEDULED FOR JCAR REVIEW

The following rulemakings are scheduled for review at this meeting. JCAR staff may be proposing action with respect to some of these rulemakings. JCAR members may have questions concerning, and may initiate action with respect to, any item scheduled for JCAR review and any other issues within the Committee's purview.

PROPOSED RULEMAKINGSEducation

23-1-15-07413 LB

1. Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1)
 - First Notice Published: 39 Ill. Reg. 7413 – 5/29/15
 - Expiration of Second Notice – 10/3/15

23-25-15-07475 LB

2. Educator Licensure (23 Ill. Adm. Code 25)
 - First Notice Published: 39 Ill. Reg. 7475 – 5/29/15
 - Expiration of Second Notice – 10/3/15

23-26-15-07586 LB

3. Standards for Endorsements in Early Childhood Education and in Elementary Education (23 Ill. Adm. Code 26)
 - First Notice Published: 39 Ill. Reg. 7586 – 5/29/15

-Expiration of Second Notice – 10/3/15

23-210-15-06022 LB

4. Illinois Hope and Opportunity Pathways through Education Program (23 Ill. Adm. Code 210)

-First Notice Published: 39 Ill. Reg. 6022 – 5/1/15

-Expiration of Second Notice – 10/3/15

23-232-15-06028 LB

5. Summer Bridges Program (23 Ill. Adm. Code 232)

-First Notice Published: 39 Ill. Reg. 6028 – 5/1/15

-Expiration of Second Notice – 10/3/15

23-240-15-06035 LB

6. Alternative Learning Opportunities Program (23 Ill. Adm. Code 240)

-First Notice Published: 39 Ill. Reg. 6035 – 5/1/15

-Expiration of Second Notice – 10/3/15

23-405-15-07592 LB

7. Payments to Certain Facilities under Section 14-7.05 of the School Code (23 Ill. Adm. Code 405)

-First Notice Published: 39 Ill. Reg. 7592 – 5/29/15

-Expiration of Second Notice – 10/3/15

Human Rights

56-2525-15-09112 ES

8. Joint Rules of the Department of Labor and Department of Human Rights: Rules on Investigation of Equal Pay Cases (56 Ill. Adm. Code 2525)

-First Notice Published: 39 Ill. Reg. 9112 – 7/10/15

-Expiration of Second Notice – 10/9/15

Human Services

59-132-15-07763 EMS

9. Medicaid Community Mental Health Services Program (59 Ill. Adm. Code 132)

-First Notice Published: 39 Ill. Reg. 7763 – 6/5/15

-Expiration of Second Notice – 9/16/15

89-500-15-06153 EMS

10. Early Intervention Program (89 Ill. Adm. Code 500)

-First Notice Published: 39 Ill. Reg. 6153 – 5/8/15

-Expiration of Second Notice – 9/25/15

Labor

56-325-15-09115 LB

11. Joint Rules of the Department of Labor and Department of Human Rights: Rules on Investigation of Equal Pay Cases (56 Ill. Adm. Code 325)
 - First Notice Published: 39 Ill. Reg. 9115 – 7/10/15
 - Expiration of Second Notice – 10/9/15

Racing Board

11-306-15-07215 LB

12. Trifecta (11 Ill. Adm. Code 306)
 - First Notice Published: 39 Ill. Reg. 7215 – 5/22/15
 - Expiration of Second Notice – 10/3/15

11-311-15-07217 LB

13. Superfecta (11 Ill. Adm. Code 311)
 - First Notice Published: 39 Ill. Reg. 7217 – 5/22/15
 - Expiration of Second Notice – 10/3/15

11-324-15-07219 LB

14. Pentafecta (11 Ill. Adm. Code 324)
 - First Notice Published: 39 Ill. Reg. 7219 – 5/22/15
 - Expiration of Second Notice – 10/3/15

11-1318-15-07408 LB

15. Racing Rules (11 Ill. Adm. Code 1318)
 - First Notice Published: 39 Ill. Reg. 7408 – 5/29/15
 - Expiration of Second Notice – 10/3/15

Revenue

86-130-15-09126 ES

16. Retailers' Occupation Tax (86 Ill. Adm. Code 130)
 - First Notice Published: 39 Ill. Reg. 9126 – 7/10/15
 - Expiration of Second Notice – 10/10/15

86-420-15-08879 ES

17. Liquor Control Act (86 Ill. Adm. Code 420)
 - First Notice Published: 39 Ill. Reg. 8879 – 7/6/15
 - Expiration of Second Notice – 10/10/15

86-440-15-08897 ES

18. Cigarette Tax Act (86 Ill. Adm. Code 440)
-First Notice Published: 39 Ill. Reg. 8897 – 7/6/15
-Expiration of Second Notice – 10/10/15

86-500-15-08742 ES

19. Motor Fuel Tax (86 Ill. Adm. Code 500)
-First Notice Published: 39 Ill. Reg. 8742 – 6/26/15
-Expiration of Second Notice – 10/10/15

Secretary of State

80-420-15-06853 LB

20. Department of Personnel (80 Ill. Adm. Code 420)
-First Notice Published: 39 Ill. Reg. 6853 – 5/15/15
-Expiration of Second Notice – 9/26/15

92-1000-15-06869 LB

21. General Rules, Definitions (92 Ill. Adm. Code 1000)
-First Notice Published: 39 Ill. Reg. 6869 – 5/15/15
-Expiration of Second Notice – 9/26/15

Teachers' Retirement System

80-1650-15-08243 MR

22. The Administration and Operation of the Teachers' Retirement System (80 Ill. Adm. Code 1650)
-First Notice Published: 39 Ill. Reg. 8243 – 6/12/15
-Expiration of Second Notice – 9/25/15

EMERGENCY RULEMAKINGS

State Board of Education

23-1-15-12369E LB

23. Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1)
-First Notice Published: 39 Ill. Reg. 12369 – 9/4/15

23-100-15-12398E LB

24. Requirements for Accounting, Budgeting, Financial Reporting, and Auditing (23 Ill. Adm. Code 100)
-First Notice Published: 39 Ill. Reg. 12398 – 9/4/15

PEREMPTORY RULEMAKINGCentral Management Services

80-310-15-12004P EMS

25. Pay Plan (80 Ill. Adm. Code 310)

-First Notice Published: 39 Ill. Reg. 12004 – 8/28/15

EXEMPT RULEMAKINGPollution Control Board

35-310-15-05762X JE

26. Pretreatment Programs (35 Ill. Adm. Code 310)

-First Notice Published: 39 Ill. Reg. 5762 – 4/24/15

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of August 25, 2015 through August 31, 2015. Rulemakings are scheduled for review at the Committee's September 16, 2015 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

| <u>Second Notice Expires</u> | <u>Agency and Rule</u> | <u>Start of First Notice</u> | <u>JCAR Meeting</u> |
|--------------------------------------|---|--------------------------------------|-------------------------|
| 10/9/15 | <u>Department of Labor</u> , Joint Rules of the Department of Labor and Department of Human Rights: Rules on Investigation of Equal Pay Cases (56 Ill. Adm. Code 325) | 7/10/15 39 Ill. Reg. 9115 | 9/16/15 |
| 10/9/15 | <u>Department of Human Rights</u> , Joint Rules of the Department of Labor and Department of Human Rights: Rules on Investigation of Equal Pay Cases (56 Ill. Adm. Code 2525) | 7/10/15 39 Ill. Reg. 9112 | 9/16/15 |
| 10/10/15 | <u>Department of Revenue</u> , Cigarette Tax Act (86 Ill. Adm. Code 440) | 7/6/15 39 Ill. Reg. 8897 | 9/16/15 |
| 10/10/15 | <u>Department of Revenue</u> , Liquor Control Act (86 Ill. Adm. Code 420) | 7/6/15 39 Ill. Reg. 8879 | 9/16/15 |
| 10/10/15 | <u>Department of Revenue</u> , Retailers' Occupation Tax (86 Ill. Adm. Code 130) | 7/10/15 39 Ill. Reg. 9126 | 9/16/15 |
| 10/10/15 | <u>Department of Revenue</u> , Motor Fuel Tax (86 Ill. Adm. Code 500) | 6/26/15 39 Ill. Reg. 8742 | 9/16/15 |

ILLINOIS ADMINISTRATIVE CODE

Issue Index - With Effective Dates

Rules acted upon in Volume 39, Issue 37 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

| | | |
|----------|-------|-------|
| 71 - 600 | | 12425 |
| 77 - 255 | | 12460 |
| 26 - 150 | | 12475 |
| 26 - 201 | | 12485 |
| 26 - 202 | | 12490 |
| 89 - 140 | | 12650 |

ADOPTED RULES

| | | |
|-----------|-----------------|-------|
| 83 - 501 | 8/25/2015 | 12494 |
| 50 - 2009 | 9/1/2015 | 12548 |
| 50 - 5430 | 9/1/2015 | 12577 |
| 77 - 663 | 8/26/2015 | 12584 |
| 77 - 690 | 8/26/2015 | 12586 |
| 86 - 130 | 8/26/2015 | 12597 |
| 92 - 2520 | 8/28/2015 | 12640 |

NOTICE OF CORRECTIONS

| | | |
|-----------|-------|-------|
| 50 - 2801 | | 12649 |
|-----------|-------|-------|

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