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INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or preemptory 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 2016

Issue#	Rules Due Date	Date of Issue
1	December 21, 2015	January 4, 2016
2	December 28, 2015	January 8, 2016
3	January 4, 2016	January 15, 2016
4	January 11, 2016	January 22, 2016
5	January 19, 2016	January 29, 2016
6	January 25, 2016	February 5, 2016
7	February 1, 2016	February 16, 2016
8	February 8, 2016	February 19, 2016
9	February 16, 2016	February 26, 2016
10	February 22, 2016	March 4, 2016
11	February 29, 2016	March 11, 2016
12	March 7, 2016	March 18, 2016
13	March 14, 2016	March 25, 2016
14	March 21, 2016	April 1, 2016
15	March 28, 2016	April 8, 2016
16	April 4, 2016	April 15, 2016
17	April 11, 2016	April 22, 2016
18	April 18, 2016	April 29, 2016
19	April 25, 2016	May 6, 2016
20	May 2, 2016	May 13, 2016
21	May 9, 2016	May 20, 2016
22	May 16, 2016	May 27, 2016

23	May 23, 2016	June 3, 2016
24	May 31, 2016	June 10, 2016
25	June 6, 2016	June 17, 2016
26	June 13, 2016	June 24, 2016
27	June 20, 2016	July 1, 2016
28	June 27, 2016	July 8, 2016
29	July 5, 2016	July 15, 2016
30	July 11, 2016	July 22, 2016
31	July 18, 2016	July 29, 2016
32	July 25, 2016	August 5, 2016
33	August 1, 2016	August 12, 2016
34	August 8, 2016	August 19, 2016
35	August 15, 2016	August 26, 2016
36	August 22, 2016	September 2, 2016
37	August 29, 2016	September 9, 2016
38	September 6, 2016	September 16, 2016
39	September 12, 2016	September 23, 2016
40	September 19, 2016	September 30, 2016
41	September 26, 2016	October 7, 2016
42	October 3, 2016	October 14, 2016
43	October 11, 2016	October 21, 2016
44	October 17, 2016	October 28, 2016
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46	October 31, 2016	November 14, 2016
47	November 7, 2016	November 18, 2016
48	November 14, 2016	November 28, 2016
49	November 21, 2016	December 2, 2016
50	November 28, 2016	December 9, 2016
51	December 5, 2016	December 16, 2016
52	December 12, 2016	December 27, 2016
53	December 19, 2016	December 30, 2016

OFFICE OF THE COMPTROLLER

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment
- 2) Code Citation: 74 Ill. Adm. Code 330
- 3) This Part contains no Section numbers or actions as it is a joint rule with CMS. The text of the rule appears at 74 Ill. Adm. Code 900.
- 4) Statutory Authority: Authorized by the Prompt Payment Act [30 ILCS 540]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is a joint rulemaking of the Comptroller and the Department of Central Management Services. The text of the Part appears as CMS' rulemaking at 74 Ill. Adm. Code 900; 40 Ill. Reg. 06891. In 2012, Section 3-2 of the Prompt Payment Act was amended to provide that, beginning in Fiscal Year 2012, "any bill approved for payment under this Section must be paid or the payment issued to the payee within 90 days of receipt of a proper bill or invoice. If payment is not issued to the payee within this 90-day period, an interest penalty of 1.0% of any amount approved and unpaid shall be added for each month, or 0.033% (one-thirtieth of one percent) of any amount approved and unpaid for each day, after the end of this 90-day period, until final payment is made." In prior fiscal years, interest was to begin accruing after 60 days following receipt of a proper bill or invoice. The rules on prompt payment do not currently reflect that statutory change. This rule revision will clean up the rules so that they are consistent with the time period set forth in the statute. This rule revision also provides that bills submitted for services provided on or after July 1, 2015 for utility service provided by a municipal or other local government utility are not excluded from having Prompt Payment Act interest penalties applied.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No

OFFICE OF THE COMPTROLLER

NOTICE OF PROPOSED AMENDMENT

- 11) Statement of Statewide Policy Objective: These proposed amendments neither create nor expand any State mandate on units of local government, school districts or community college districts.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Alissa Camp
Illinois Office of the Comptroller
325 West Adams Street
Springfield IL 62704

217/782-6000
fax: 217/558-5123
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: State vendors
 - 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: These proposed amendments were not included on the regulatory agenda.

The text of the Proposed Amendments can be viewed at the Department of Central Management Services' Notice of Proposed Amendments on page 6891 of Volume 40, Issue 19 of the *Illinois Register*. (This Part is a joint rule of the Comptroller and the Department of Central Management Services. The text of the Part appears at 74 Ill. Adm. Code 900.)

OFFICE OF THE COMPTROLLER

NOTICE OF PROPOSED AMENDMENT

TITLE 74: PUBLIC FINANCE
CHAPTER II: COMPTROLLERPART 330
JOINT RULES OF THE COMPTROLLER AND
THE DEPARTMENT OF CENTRAL MANAGEMENT SERVICES:
PROMPT PAYMENT

SOURCE: Emergency rule adopted at 17 Ill. Reg. 11170, effective July 1, 1993, for a maximum of 150 days; emergency expired November 28, 1993; adopted at 18 Ill. Reg. 11521, effective July 11, 1994; amended at 24 Ill. Reg. 19123, effective December 18, 2000; amended at 25 Ill. Reg. 11358, effective August 28, 2001; emergency amendment at 26 Ill. Reg. 10981, effective July 1, 2002; amended at 26 Ill. Reg. 14678, effective September 19, 2002; amended at 31 Ill. Reg. 5836, effective March 29, 2007; emergency amendment at 34 Ill. Reg. 16593, effective October 8, 2010, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 35 Ill. Reg. 3840, effective February 16, 2011, for the remainder of the 150 days; emergency amendment at 35 Ill. Reg. 5673, effective March 18, 2011, for a maximum of 150 days; amended at 35 Ill. Reg. 13448, effective July 29, 2011; amended at 40 Ill. Reg. _____, effective _____.

(Editor's Note: This Part is a joint rule of the Comptroller and the Department of Central Management Services. The text of the Part appears at 74 Ill. Adm. Code 900.)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Number: 100.2465 Proposed Action: New Section
- 4) Statutory Authority: 35 ILCS 5/203(a)(2)(P), 203(b)(2)(Q), 203(c)(2)(P) and 203(d)(2)(M)
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking adds Section 100.2465 to 86 Ill. Adm. Code Part 100, providing guidance on the subtraction modification allowed to taxpayers who were allowed a federal income tax itemized deduction, or a federal income tax credit in lieu of a deduction, as the result of repaying an amount that had been included in taxable income in a previous year under the "claim of right" doctrine.
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
100.8010	Amendment	40 Ill. Reg. 5174; March 25, 2016
100.9400	Amendment	40 Ill. Reg. 5174; March 25, 2016
100.9320	Amendment	40 Ill. Reg. 5823; April 8, 2016
100.9410	Amendment	40 Ill. Reg. 5823; April 8, 2016
100.5060	Amendment	40 Ill. Reg. 6540; April 15, 2016
100.5100	Amendment	40 Ill. Reg. 6540; April 15, 2016
100.5130	Amendment	40 Ill. Reg. 6540; April 15, 2016
100.7035	Amendment	40 Ill. Reg. 6540; April 15, 2016
100.5020	Amendment	40 Ill. Reg. 6676; April 22, 2016
100.5215	Amendment	40 Ill. Reg. 7297; May 13, 2016

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking: Persons who wish to submit comments on this rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Brian Stocker
Staff Attorney
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield IL 62796

217/782-2844
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: This provides guidance on small businesses who are entitled to a subtraction in computing their Illinois base income for repayments of "claim of right" items included in income in a prior year, for which they claimed a credit for federal income tax purposes.
 - 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 2016

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

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

SUBPART A: TAX IMPOSED

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100.2000	Introduction
100.2050	Net Income (IITA Section 202)
100.2060	Compassionate Use of Medical Cannabis Pilot Program Act Surcharge (IITA Section 201(o))

SUBPART B: CREDITS

Section	
100.2100	Replacement Tax Investment Credit Prior to January 1, 1994 (IITA Section 201(e))
100.2101	Replacement Tax Investment Credit (IITA 201(e))
100.2110	Investment Credit; Enterprise Zone and River Edge Redevelopment Zone (IITA Section 201(f))
100.2120	Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone and River Edge Redevelopment Zone (IITA Section 201(g))
100.2130	Investment Credit; High Impact Business (IITA 201(h))
100.2140	Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150	Training Expense Credit (IITA 201(j))
100.2160	Research and Development Credit (IITA Section 201(k))
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100.2165	Education Expense Credit (IITA 201(m))
100.2170	Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2171	Angel Investment Credit (IITA 220)
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100.2185	Film Production Services Credit (IITA Section 213)
100.2190	Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2193	Student-Assistance Contributions Credit (IITA 218)
100.2195	Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196	Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
100.2197	Foreign Tax Credit (IITA Section 601(b)(3))

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 100.2198 Economic Development for a Growing Economy Credit (IITA 211)
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OCCURRING PRIOR TO DECEMBER 31, 1986

Section

- 100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Scope
- 100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) – Definitions
- 100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Current Net Operating Losses: Offsets Between Members
- 100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Carrybacks and Carryforwards
- 100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Effect of Combined Net Operating Loss in Computing Illinois Base Income
- 100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS FOR LOSSES
OCCURRING ON OR AFTER DECEMBER 31, 1986

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- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or

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- 100.2430 Addition and Subtraction Modifications for Transactions with 80-20 and Noncombination Rule Companies
- 100.2435 Addition Modification for Student-Assistance Contribution Credit (IITA Sections 203(a)(2)(D-23), (b)(2)(E-16), (c)(2)(G-15), (d)(2)(D-10))
- 100.2450 IIT Refunds (IITA Section 203(a)(2)(H), (b)(2)(F), (c)(2)(J) and (d)(2)(F))
- 100.2455 Subtraction Modification: Federally Disallowed Deductions (IITA Sections 203(a)(2)(M), 203(b)(2)(I), 203(c)(2)(L) and 203(d)(2)(J))
- 100.2465 Claim of Right Repayments (IITA Section 203(a)(2)(P), (b)(2)(Q), (c)(2)(P) and (d)(2)(M))
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100.9720	Nexus
100.9730	Investment Partnerships (IITA Section 1501(a)(11.5))
100.9750	Corporation, Subchapter S Corporation, Partnership and Trust Defined (IITA Section 1501)

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SUBPART FF: LETTER RULING PROCEDURES

Section
100.9800 Letter Ruling Procedures

SUBPART GG: MISCELLANEOUS

Section
100.9900 Tax Shelter Voluntary Compliance Program

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

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective

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June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg.

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16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 17, 2008; amended at 32 Ill. Reg. 3400, effective February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. 10170, effective June 30, 2008; amended at 32 Ill. Reg. 13223, effective July 24, 2008; amended at 32 Ill. Reg. 17492, effective October 24, 2008; amended at 33 Ill. Reg. 1195, effective December 31, 2008; amended at 33 Ill. Reg. 2306, effective January 23, 2009; amended at 33 Ill. Reg. 14168, effective September 28, 2009; amended at 33 Ill. Reg. 15044, effective October 26, 2009; amended at 34 Ill. Reg. 550, effective December 22, 2009; amended at 34 Ill. Reg. 3886, effective March 12, 2010; amended at 34 Ill. Reg. 12891, effective August 19, 2010; amended at 35 Ill. Reg. 4223, effective February 25, 2011; amended at 35 Ill. Reg. 15092, effective August 24, 2011; amended at 36 Ill. Reg. 2363, effective January 25, 2012; amended at 36 Ill. Reg. 9247, effective June 5, 2012; amended at 37 Ill. Reg. 5823, effective April 19, 2013; amended at 37 Ill. Reg. 20751, effective December 13, 2013; recodified at 38 Ill. Reg. 4527; amended at 38 Ill. Reg. 9550, effective April 21, 2014; amended at 38 Ill. Reg. 13941, effective June 19, 2014; amended at 38 Ill. Reg. 15994, effective July 9, 2014; amended at 38 Ill. Reg. 17043, effective July 23, 2014; amended at 38 Ill. Reg. 18568, effective August 20, 2014; amended at 38 Ill. Reg. 23158, effective November 21, 2014; emergency amendment at 39 Ill. Reg. 483, effective December 23, 2014, for a maximum of 150 days; amended at 39 Ill. Reg. 1768, effective January 7, 2015; amended at 39 Ill. Reg. 5057, effective March 17, 2015; amended at 39 Ill. Reg. 6884, effective April 29, 2015; amended at 39 Ill. Reg. 15594, effective November 18, 2015; amended at 40 Ill. Reg. 1848, effective January 5, 2016; amended at 40 Ill. Reg. _____, effective _____.

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF
INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

**Section 100.2465 Claim of Right Repayments (IITA Section 203(a)(2)(P), (b)(2)(Q),
(c)(2)(P) and (d)(2)(M))**

- a) In computing base income, a taxpayer may subtract from federal taxable income or adjusted gross income an amount equal to the amount of the deduction used to compute the federal income tax credit for restoration of substantial amounts held under claim of right for the taxable year pursuant to IRC section 1341 or of any itemized deduction taken from adjusted gross income in the computation of taxable income for restoration of substantial amounts held under claim of right for the taxable year. (IITA Section 203(a)(2)(P), (b)(2)(Q), (c)(2)(P) and (d)(2)(M))
- b) For federal income tax purposes, if a taxpayer is required to include a receipt in

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taxable income under the "claim of right" principle because the taxpayer had an unrestricted right to the item when received, and is subsequently required to repay the item, the taxpayer must deduct the repayment in the year of repayment, rather than exclude the receipt from income. However, IRC section 1341 allows some taxpayers to claim a credit against their federal income tax liability in the year of repayment equal to the tax attributable to the inclusion of the receipt in taxable income, in lieu of the deduction. In order to avoid taxing income received under a claim of right that is subsequently repaid, IITA Section 203(a)(2)(P), (b)(2)(Q), (c)(2)(P) and (d)(2)(M) allows a taxpayer who claimed a credit under IRC section 1341 for a taxable year to subtract an amount equal to the amount of the repayment that would otherwise have been deductible in that taxable year.

- c) In the case of an individual, the deduction allowed for repayment of claim of right income is an itemized deduction taken from adjusted gross income. Because, in the case of an individual, the computation of base income begins with the taxpayer's adjusted gross income, an individual is allowed no deduction for repayment of claim of right income unless expressly provided in IITA Section 203. (See IITA Section 203(a)(1) and (h).) In 2011, Public Act 97-0507 amended IITA Section 203(a)(2)(P) to allow individuals who had claimed an itemized deduction for repayment of claim of right income to subtract the amount of that deduction from their adjusted gross income. This amendment is not, by its terms, required to be applied prospectively only, and the subtraction will be allowed for any taxable year, subject to the statute of limitations for claims for refund.

(Source: Added at 40 Ill. Reg. _____, effective _____)

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: State Universities Civil Service System
- 2) Code Citation: 80 Ill. Adm. Code 250
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
250.119	New Section
- 4) Statutory Authority: 110 ILCS 70
- 5) A Complete Description of the Subjects and Issues Involved: The agency currently has an Emergency Rule in place regarding furloughs. Based on the lack of a state budget, employers are finding it necessary to implement a Furlough Program to assist with the reduction/lack of State funds. This new Section describes the requirements for employers and information for employees regarding the impact of a Furlough Program.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? Yes; 40 Ill. Reg. 3772; March 4, 2016
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
250.30	Amendment	40 Ill. Reg. 345; January 8, 2016
250.50	Amendment	40 Ill. Reg. 345; January 8, 2016
- 11) Statement of Statewide Policy Objective: This proposed amendment will not create or expand a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments on this proposed amendment within 45 days after the date of publication to the *Illinois Register*:

Jeff Brownfield

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

NOTICE OF PROPOSED AMENDMENT

Executive Director
State Universities Civil Service System
1717 Philo Road, Suite 24
Urbana IL 61802

217/278-3150
email: jeffb@sucss.illinois.gov

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

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

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE A: MERIT EMPLOYMENT SYSTEMS
CHAPTER VI: STATE UNIVERSITIES CIVIL SERVICE SYSTEM

PART 250

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

Section

250.5	Definitions
250.10	Purpose, Adoption, and Amendment of Rules
250.20	The State Universities Civil Service System and its Divisions
250.30	The Classification Plan
250.40	Military Service Preference, Veterans Preference
250.50	Examinations
250.60	Eligible Registers
250.70	Nonstatus Appointments
250.80	Status Appointments
250.90	Probationary Period
250.100	Reassignments and Transfers
250.110	Separations and Demotions
250.119	Furloughs
250.120	Seniority
250.130	Review Procedures
250.140	Delegation of Authority and Responsibilities
250.150	Training
250.160	Suspension of Rules

AUTHORITY: Implementing and authorized by the State Universities Civil Service Act [110 ILCS 70].

SOURCE: Rules: State Universities Civil Service System, approved January 16, 1952, effective January 1, 1952; amended at 3 Ill. Reg. 13, p. 68, effective April 1, 1979; amended at 4 Ill. Reg. 10, p. 262, effective February 25, 1980; amended at 6 Ill. Reg. 2620, effective February 22, 1982; amended at 6 Ill. Reg. 7236, effective June 3, 1982; amended at 8 Ill. Reg. 4948 and 4950, effective March 29, 1984; codified at 8 Ill. Reg. 12936; amended at 8 Ill. Reg. 24732, effective December 6, 1984; amended at 9 Ill. Reg. 17422, effective October 23, 1985; amended at 11 Ill. Reg. 8942, effective May 8, 1987; amended at 12 Ill. Reg. 3457, effective February 1, 1988; amended at 12 Ill. Reg. 17079, effective October 7, 1988; amended at 13 Ill. Reg. 7324, effective May 1, 1989; amended at 13 Ill. Reg. 19427, effective February 6, 1990; amended at 18 Ill. Reg.

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1901, effective January 21, 1994; amended at 20 Ill. Reg. 4440, effective February 29, 1996; amended at 30 Ill. Reg. 17384, effective October 23, 2006; amended at 31 Ill. Reg. 15848, effective November 13, 2007; amended at 32 Ill. Reg. 17268, effective October 16, 2008; amended at 33 Ill. Reg. 11644, effective July 22, 2009; amended at 36 Ill. Reg. 6014, effective April 6, 2012; amended at 37 Ill. Reg. 419, effective December 26, 2012; amended at 39 Ill. Reg. 13504, effective December 1, 2015; amended at 40 Ill. Reg. 3105, effective January 26, 2016; emergency amendment at 40 Ill. Reg. 3772, effective March 1, 2016, for a maximum of 150 days; amended at 40 Ill. Reg. _____, effective _____.

Section 250.119 Furloughs

This Section is applicable through September 30, 2017.

- a) Furlough. A furlough is the placement of an employee in a temporary nonduty, nonpay status for a continuous or noncontinuous period of time due only to a lack of funds. A furlough is not considered a layoff or a reduction in force action, and therefore is not subject to Section 250.110(d) regarding layoffs.
- b) Voluntary or Mandatory Furlough Program. A furlough can be either voluntary or mandatory. A voluntary or mandatory furlough program may be inclusive of all employees at a designated employer or within a division or program, regardless of employment status, source of funds or location. Except for those positions/employees who have mandated funding, such as a grant or other source, or whose absence would jeopardize the funding for a position/employee or department employees may be exempted from the furlough program. Employees in positions considered essential to the critical mission of an employer, such as those related to health and welfare or public safety, may also be excluded from participation in a furlough program. Uniform participation and selection criteria shall be developed by the employer and consistently applied. This Section shall only apply to employees who are designated within the employer's furlough program in accordance with subsections (c) through (n).
- c) Notification of Furlough Program to Employees. Once an employer plans to implement a furlough program, the employer shall notify all employees that a furlough program is being implemented. The process the employer chooses to notify employees is at the employer's discretion, but must conform to the employer's policies related to contacting an employee for official business.

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- d) Furlough Work Status. An employee who is furloughed shall not be at work, on standby or on-call, and shall not perform any work during his/her scheduled furlough time.
- e) Employee Benefits
- 1) Employees who are furloughed are not permitted to use vacation, sick leave, personal leave, "floating" holidays, or any other compensable time or similar benefit for the time during which he/she is being furloughed.
 - 2) Notwithstanding any other Section in this Part, or the fact that an employee's work hours or pay is reduced by the requirement to take a furlough, all furlough time is considered creditable time for all purposes as if the furloughed employee was in pay status, such as health insurance, life insurance, dental insurance, vision insurance, etc., if applicable, or similar benefits, except for benefits under the State Universities Retirement System or other similar retirement system, or when otherwise prohibited by statute.
 - 3) A furloughed employee shall be entitled to the same benefits to which he/she was entitled on the paid workday immediately preceding the furlough day. These benefits include, but are not limited to, continued accumulation of vacation and sick leave, holiday benefits under this Part, and benefits established by the Merit Board Policy Relating to Employee Benefits Policy as approved by the Merit Board and by the Governing Boards of the universities and agencies served by the University System.
 - 4) The benefits shall continue as if the employee was in pay status for a maximum of 30 work days.
- f) Length of a Furlough Program. A furlough program shall only be instituted for a maximum of 30 work days in any fiscal year (July 1 through June 30).
- g) Employer's Tracking of Furlough Days. In order for an employee to continue under the State of Illinois Group Insurance Program, the employer is required to appropriately track designated furlough days for each employee. Employees are only allowed 30 furlough days in any fiscal year (July 1 through June 30).

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- h) Accumulation of Seniority during a Furlough Status. An employee shall continue to accrue seniority during any and all furloughed days, not exceeding a total of 30 work days, within any fiscal year (July 1 through June 30).
- i) Furlough Order. Furloughs shall first be determined by status and then by service and seniority. Employees shall be furloughed in the following order:
- 1) Employees on temporary appointments;
 - 2) Employees on temporary upgrading assignments, unless the temporary upgrade is required due to a collective bargaining agreement or public safety or health and welfare;
 - 3) Provisional employees;
 - 4) Extra help employees, unless the appointment is required based on public safety or health and welfare;
 - 5) Newly hired employees serving an initial probationary period;
 - 6) Intern appointments;
 - 7) Status employees.
- j) Military Leave during a Furlough Program. An employee on paid military leave or other unpaid military leave shall not be scheduled for any furlough days during his/her leave and may be scheduled for furlough days upon his/her return to work, if a furlough program remains in effect.
- k) Furlough Program Stipulations. A furlough program shall not be used by an employer for the following reasons:
- 1) Permanent shutdown;
 - 2) As a substitute for permanent parttime employment; or
 - 3) As a disciplinary measure.

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- l) Collective Bargaining Agreements. Implementation of furloughs for employees covered under a collective bargaining agreement is subject to applicable State and federal labor laws and regulations. This Section is not intended to circumvent or supersede other State or federal labor laws and/or regulations that apply.
- m) Notification to the State Universities Civil Service System of a Furlough Program. An employer may institute a voluntary or mandatory furlough program upon notification to the Executive Director at least 15 calendar days prior to the implementation of any employee being furloughed. The employer shall include in the notification the following:
- 1) Whether the furlough program is for the entire employer or designated divisions or programs;
 - 2) What considerations have been contemplated or invoked for other employees, such as those listed in Section 36e of the Act;
 - 3) An explanation of the facts related to the temporary nature of the event causing the furlough program;
 - 4) The funding deficit related to the affected work areas;
 - 5) The approximate number of employees affected by the furlough program; and
 - 6) The beginning date and ending date of the furlough program.

(Source: Added at 40 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Airport Hazard Zoning
- 2) Code Citation: 92 Ill. Adm. Code 16
- 3) Section Number: 16.APPENDIX A Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [620 ILCS 25]
- 5) A Complete Description of the Subjects and Issues Involved: The purpose of this Part is to administer and enforce requirements that restrict the height of structures, equipment, and vegetation, and to regulate the use of property, on or in the vicinity of any publicly-owned airport whose owner or operator requests enforcement of airport hazard zoning by the Illinois Department of Transportation, Division of Aeronautics for any airport hazard area.

This Part applies to the airport facilities and surrounding areas that are identified and described in Section 16.Appendix A. For those airports listed in Section 16.Appendix A, any growth, construction, or maintenance of any vegetation or structure to a height 50 feet above natural ground level will be required to meet the standards of this Part.

Marshall County, Monmouth Municipal, and Lake in the Hills airports have elected to adopt this Part. Thus, at Section 16.APPENDIX A, three applicable airports are being added:

Marshall County Airport (C75)
Monmouth Municipal Airport (C66)
Lake in the Hills Airport (3CK)

In addition, applicable dates of July 2, 2015 are being inserted into to the appendix for Rantoul and Fairfield airports, as this was an oversight from the last rulemaking.

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

DEPARTMENT OF TRANSPORTATION

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- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate under the State Mandates Act.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rulemaking. Written submissions shall be filed with:

Mr. Robert Hahn
Illinois Department of Transportation
Division of Aeronautics, Airspace Specialist
1 Langhorne Bond Dr.
Springfield IL 62707

217/524-1580

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: No impact to small businesses, small municipalities and not for profit corporations.
- 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: None

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICSPART 16
AIRPORT HAZARD ZONING

Section

16.10	Purpose and Scope
16.20	Applicability
16.30	Definitions
16.35	Public Hearings
16.40	Surfaces and Height Limitations
16.50	Horizontal Surface
16.60	Conical Surface
16.70	Primary Surface
16.80	Approach Surface
16.90	Transitional Surfaces
16.100	Circling Approach Surface
16.110	Instrument Approach Obstruction Clearance Surface
16.120	Heliport/Vertiport Surfaces
16.130	Use Restrictions
16.140	Pre-Existing, Non-Conforming Uses (Grandfather Clause)
16.150	Pre-Existing, Non-Conforming Structures, Uses, or Vegetation Abandoned or Destroyed
16.160	Notice of Construction or Alteration of Any Structure
16.170	Permits
16.180	Variances
16.190	Administrative and Judicial Review
16.200	Penalties
16.210	Conflicting Regulations
16.220	Severability
16.APPENDIX A	Applicable Airports
16.ILLUSTRATION A	Airports Imaginary Surfaces
16.ILLUSTRATION B	Airports (Public- or Private-Use) Minimum Dimensional Standards
16.ILLUSTRATION C	Obstruction Standards (\leq 6 Nautical Miles)
16.ILLUSTRATION D	Obstruction Standards ($>$ 6 Nautical Miles)
16.ILLUSTRATION E	Public- or Private-Use Heliport/Vertiport Minimum Dimensional Standards

DEPARTMENT OF TRANSPORTATION

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AUTHORITY: Implementing and authorized by the Airport Zoning Act [620 ILCS 25].

SOURCE: Adopted at 28 Ill. Reg. 2421, effective January 26, 2004; amended at 29 Ill. Reg. 12529, effective July 27, 2005; amended at 30 Ill. Reg. 14117, effective August 10, 2006; amended at 31 Ill. Reg. 3191, effective February 9, 2007; amended at 32 Ill. Reg. 7806, effective May 1, 2008; amended at 33 Ill. Reg. 5474, effective March 30, 2009; amended at 33 Ill. Reg. 17371, effective December 8, 2009; amended at 35 Ill. Reg. 4393, effective February 23, 2011; amended at 39 Ill. Reg. 10064, effective July 2, 2015; amended at 40 Ill. Reg. _____, effective _____.

Section 16.APPENDIX A Applicable Airports

Airport	City	County	ARP Latitude	ARP Longitude	Fed Std.	State Std.	Applicable Date
SPI	Springfield	Sangamon	39-50.64	89-40.66	X		Jan. 26, 2004
MLI	Moline	Rock Island	41-26.91	90-30.45	X		July 29, 2005
SQI	Sterling-Rock Falls	Whiteside	41-44.57	89-40.58	X		July 29, 2005
SLO	Salem	Marion	38-38.57	88-57.85	X		July 29, 2005
H96	Benton	Franklin	38-00.41	88-56.07	X		Sept. 15, 2006
CIR	Cairo	Alexander	37-03.87	89-13.18	X		Sept. 15, 2006
CTK	Canton	Fulton	40-34.15	90-04.49	X		Sept. 15, 2006
DEC	Decatur	Macon	39-50.08	88-51.94	X		Sept. 15, 2006
DKB	DeKalb	DeKalb	41-56.02	88-42.34	X		Sept. 15, 2006
GBG	Galesburg	Knox	40-56.28	90-25.87	X		Sept. 15, 2006
HSB	Harrisburg	Saline	37-48.69	88-32.95	X		Sept. 15, 2006
IJX	Jacksonville	Morgan	39-46.48	90-14.30	X		Sept. 15, 2006
JOT	Joliet	Will	41-31.08	88-10.52	X		Sept. 15, 2006
EZI	Kewanee	Henry	41-12.31	89-57.83	X		Sept. 15, 2006
IGQ	Lansing	Cook	41-32.09	87-31.77	X		Sept. 15, 2006
MWA	Marion	Williamson	37-45.30	89-00.67	X		Sept. 15, 2006
MTO	Mattoon	Coles	39-28.68	88-16.75	X		Sept. 15, 2006
PRG	Paris	Edgar	39-42.01	87-40.17	X		Sept. 15, 2006
3MY	Peoria	Peoria	40-47.72	89-36.80	X		Sept. 15, 2006
PIA	Peoria	Peoria	40-39.86	89-41.60	X		Sept. 15, 2006

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

VYS	Peru	LaSalle	41-21.11	89-09.19	X	Sept. 15, 2006
LOT	Romeoville	Will	41-36.44	88-05.77	X	Sept. 15, 2006
DPA	West Chicago	DuPage	41-54.47	88-14.92	X	Sept. 15, 2006
K06	Beardstown	Cass	39-58.40	90-24.22	X	Feb. 28, 2007
OLY	Olney	Richland	38-43.31	88-10.59	X	Feb. 28, 2007
LWV	Lawrenceville	Lawrence	38-45.86	87-36.33	X	Feb. 28, 2007
CUL	Carmi	White	38-05.38	88-07.38	X	Feb. 28, 2007
C73	Dixon	Lee	41-50.02	89-26.77	X	Feb. 28, 2007
ORD	Chicago	Cook	41-58.72	87-54.29	X	Feb. 28, 2007
TAZ	Taylorville	Christian	39-31.95	89-19.84	X	May 1, 2008
BLV	Belleville/ Mascoutah	St. Clair	38-32.71	89-50.11	X	May 1, 2008
AAA	Lincoln	Logan	40-09.52	89-20.10	X	May 1, 2008
VLA	Vandalia	Fayette	38-59.49	89-09.97	X	May 1, 2008
UGN	Waukegan	Lake	42-25.33	87-52.07	X	May 1, 2008
MDH	Carbondale	Jackson	37-46.69	89-15.12	X	May 1, 2008
CPS	Cahokia/Sauget	St. Clair	38-34.24	90-09.37	X	May 1, 2008
MQB	Macomb	McDonough	40-31.21	90-39.14	X	May 1, 2008
PWK	Wheeling/ Prospect Heights	Cook	42-06.85	87-54.09	X	May 1, 2008
9I0	Havana	Mason	40-13.32	90-01.37	X	May 1, 2008
C09	Morris	Grundy	41-25.53	88-25.12	X	May 1, 2008
1H2	Effingham	Effingham	39-04.23	88-32.01	X	May 1, 2008
CMI	Champaign/Savoy	Champaign	40-02.36	88-16.68	X	May 1, 2008
I63	Mt. Sterling	Brown	39-59.25	90-48.25	X	May 1, 2008
RSV	Robinson	Crawford	39-00.96	87-38.99	X	May 1, 2008
ALN	East Alton/Bethalto	Madison	38-53.42	90-02.76	X	May 1, 2009
PNT	Pontiac	Livingston	40-55.47	88-37.44	X	May 1, 2009
AJG	Mt. Carmel/ St. Francisville	Lawrence	38-36.39	87-43.60	X	May 1, 2009
RPJ	Rochelle	Ogle	41-53.58	89-04.70	X	May 1, 2009
1H8	Casey	Clark	39-18.15	88-00.24	X	May 1, 2009
MVN	Mt. Vernon	Jefferson	38-19.40	88-51.51	X	May 1, 2009
ARR	Aurora/	Kane	41-46.32	88-28.54	X	May 1, 2009

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	Sugar Grove					
2H0	Shelbyville	Shelby	39-24.63	88-50.73	X	May 1, 2009
IKK	Kankakee	Kankakee	41-04.28	87-50.78	X	May 1, 2009
FOA	Flora	Clay	38-39.90	88-27.18	X	May 1, 2009
UIN	Quincy	Adams	39-56.58	91-11.67	X	May 1, 2009
GRE	Greenville	Bond	38-50.17	89-22.70	X	Jan. 1, 2010
M30	Metropolis	Massac	37-11.15	88-45.04	X	Jan. 1, 2010
DNV	Danville	Vermilion	40-11.98	87-35.73	X	Jan. 1, 2010
RFD	Rockford	Winnebago	42-11.72	89-05.83	X	Jan. 1, 2010
1C5	Bolingbrook	Will	41-41.76	88-07.75	X	Jan. 1, 2010
PPQ	Pittsfield	Pike	39-38.33	90-46.71	X	Jan. 1, 2010
SAR	Sparta	Randolph	38-08.94	89-41.92	X	Jan. 1, 2010
	Pinckneyville-					
PJY	DuQuoin	Perry	37-58.67	89-21.63	X	Mar. 1, 2011
FEP	Freeport	Stephenson	42-14.77	89-34.92	X	Mar. 1, 2011
ENL	Centralia	Marion	38-30.91	89-05.47	X	Mar. 1, 2011
SFY	Savanna	Carroll	42-02.75	90-06.48	X	Mar. 1, 2011
C15	Pekin	Tazewell	40-29.29	89-40.55	X	Mar. 1, 2011
BMI	Bloomington	McLean	40-28.63	88-54.96	X	Mar. 1, 2011
3LF	Litchfield	Montgomery	39-09.75	89-40.48	X	Mar. 1, 2011
TIP	Rantoul	Champaign	40-17.61	88-08.54	X	July 2, 2015
FWC	Fairfield	Wayne	39-22.72	89-24.76	X	July 2, 2015
C75	Lacon	Marshall	41-01.13	89-23.15	X	
C66	Monmouth	Warren	40-55.78	90-37.87	X	
3CK	Lake in the Hills	McHenry	42-12.41	88-19.38	X	

(Source: Amended at 40 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Marshall County Airport Hazard Zoning Regulations
- 2) Code Citation: 92 Ill. Adm. Code 64
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
64.10	Repealed
64.20	Repealed
64.30	Repealed
64.40	Repealed
64.50	Repealed
64.60	Repealed
64.70	Repealed
64.80	Repealed
64.90	Repealed
64.100	Repealed
64.110	Repealed
64.120	Repealed
64.130	Repealed
64.140	Repealed
64.150	Repealed
64.160	Repealed
- 4) Statutory Authority: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being repealed because Marshall County Airport is being added to applicable airports under (92 Ill. Adm. Code 16, Section 16.A. APPENDIX A).
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any rulemakings pending on this Part? No

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- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate under the State Mandates Act.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rulemaking. Written submissions shall be filed with:

Mr. Robert Hahn
Illinois Department of Transportation
Division of Aeronautics, Airspace Specialist
1 Langhorne Bond Dr.
Springfield IL 62707

217/524-1580

Comments received within forty-five days after the date of publication of this Illinois Register will be considered. Comments received after that time will be considered, time permitting.

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: No impact to small businesses, small municipalities and not for profit corporations.
 - 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: None

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

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICSPART 64
MARSHALL COUNTY AIRPORT
HAZARD ZONING REGULATIONS (REPEALED)

Section

64.10	Introduction
64.20	Short Title
64.30	Definitions
64.40	Surfaces and Height Limitations
64.50	Use Restrictions
64.60	Non-Conforming Uses
64.70	Permits
64.80	Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
64.90	Variances
64.100	Notice of Construction or Alteration
64.110	Enforcement
64.120	Appeal and Judicial Review
64.130	Penalties
64.140	Conflicting Regulations
64.150	Severability
64.160	Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

SOURCE: Adopted at 3 Ill. Reg. 27, p. 219, effective July 7, 1979; codified at 6 Ill. Reg. 15574; repealed at 40 Ill. Reg. _____, effective _____.

Section 64.10 Introduction

- a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the Marshall County Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Marshall County

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Airport zoning map (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

- b) These zoning regulations are adopted at the request of the Marshall County Board, a municipal corporation of the State of Illinois, as owner and operator of Marshall County Airport, pursuant to the authority conferred by an Act entitled, the Airport Zoning Act as approved July 17, 1945, (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Marshall County Airport and of occupants of land or to property in its vicinity, and also if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Marshall County Airport and the public investment therein.
- 1) Accordingly, it is declared:
- A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Marshall County Airport;
- B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and
- C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.
- 2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.
- c) It is hereby determined by the Department of Transportation, Division of Aeronautics, State of Illinois, that the zoning regulations for Marshall County

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Airport be adopted as follows:

Section 64.20 Short Title

These zoning regulations shall be known and may be cited as "Airport Hazard Zoning Regulations for Marshall County Airport".

Section 64.30 Definitions

As used in these zoning regulations, unless the context otherwise requires:

"Airport" – The Marshall County Airport located near Lacon, in the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ and the East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of Section 31, Township 30 North, Range 2 West of the Third Principal Meridian, Marshall County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 567.5' above mean sea level (AMSL).

"Airport Hazard" – Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude $41^{\circ} 01' 4.7''$ N and Longitude $89^{\circ} 23' 7.5''$ W.

"Alteration" – Any construction which would result in a change in height or lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Federal Aviation Regulations, Objects Affecting Navigable Airspace (14 CFR 77).

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Department" – The Department of Transportation, Division of Aeronautics of the

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State of Illinois.

"Growth" – Any object of natural growth, including trees, shrubs and foliage.

"Height" – The overall height of the top of a structure including any appurtenance installed thereon, and for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

"Landing Area" – The area of the airport used for the landing, taking off or taxiing of aircraft.

"Non-Conforming Use" – Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an Federal Aviation Administration (FAA) planning document or military service, military airport planning document.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics.

"Person" – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this State and the Division of Aeronautics.

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 64.40 hereof.

"Precision Instrument Runway" – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision

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Approach Radar (PAR) or a runway for which a precision approach system is planned and is so indicated by an FAA Approved Layout Plan.

"Runway" – An area of the airport designated for the landing or taking off of aircraft and consisting of either a specially prepared hard surface or turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance of each one foot vertically.

"State" – The State of Illinois.

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 64.90.

"Visual Runway" – A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA Approved Layout Plan, or by any planning document, submitted to the FAA by competent authority.

Section 64.40 Surfaces and Height Limitations

- a) Establishment and Creation
 - 1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

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- 2) Such airport imaginary surfaces are hereby created and established, in order to carry out the provisions of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include non-precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map for Marshall County Airport prepared by William J. Murray and Associates, Inc., Springfield, Illinois, (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.). An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.
- 3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surfaces.
- 4) The various surfaces are hereby established, and the height limitations are hereby established for each of the surfaces, as follows:
 - b) Horizontal Surface
 - 1) A horizontal plane 150' above the established airport elevations of 567.5' AMSL, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:
 - A) 5,000 feet for all runways designated as utility or visual;
 - B) 10,000 feet for all other runways.
 - 2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall

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be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

- 1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.
- 2) The conical surface does not include the precision instrument approach surfaces and the transitional surfaces.

d) Primary Surface

- 1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:
 - A) 250' for utility runways having only visual approaches;
 - B) 500' for utility runways having non-precision instrument approaches;
 - C) For other than utility runways, the width is:
 - i) 500' for visual runways having only visual approaches;
 - ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;
 - iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision

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instrument runways.

- 2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.
- e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.
- 1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:
 - A) 1,250' for that end of a utility runway with only visual approaches;
 - B) 1,500' for that end of runway other than a utility runway with only visual approaches;
 - C) 2,000' for that end of a utility runway with a non-precision instrument approach;
 - D) 3,500' for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile;
 - E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and
 - F) 16,000' for precision instrument runways.
 - 2) The approach surface extends for a horizontal distance of:
 - A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;
 - B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and

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- C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.
- 3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.
- f) Transitional Surface – These surfaces extend outward and upward at right (90°) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 567.5' AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.
- g) Circling Approach Surface – This is a surface 200' above ground level (AGL) or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Marshall County Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.
- h) Excepted Height Limitations – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50 feet above the surface of the land.

Section 64.50 Use Restrictions

Notwithstanding any other provisions of these zoning regulations, no use may be made of land or water within any surface established by these zoning regulations in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots because of the difficulty in distinguishing between airport lights and other, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility

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in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

Section 64.60 Non-Conforming Uses

- a) Regulations Not Retroactive – Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.
- b) Marking and Lighting – Notwithstanding the provisions of Section 64.60(a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Marshall County Airport.

Section 64.70 Permits

- a) Future Uses – Except as specifically provided in paragraphs (1), (2), and (3) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.
 - 1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces set forth in these regulations, no permit shall be required for any growth or structure less than 75 feet of vertical

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height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.

- 2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.
 - 3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.
- b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits established by these regulations.

Section 64.80 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed

Whenever the Department determines that a non-conforming structure or use or growth has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated or decayed:

- a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and
- b) Whether application is made for a permit, or not, the Department may issue an order, in cases where the remaining structure or use or growth constitutes a violation of these zoning regulations, compelling the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure or use of growth as may be necessary to

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conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within ten (10) days after notice thereof; the Department may proceed to have such structure or use or growth so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

Section 64.90 Variances

- a) General – Any person wishing to erect or increase the height of any structure, or permit any growth, or use his property not in accordance with these zoning regulations, may apply to the Department for a variance from these regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.
- b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of such structure or growth to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or growth.

Section 64.100 Notice of Construction or Alteration

- a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitation established herein by Section 64.40 hereof with respect to Marshall County Airport:
 - 1) Any construction or alteration of more than 200' in height above the ground level at its site.
 - 2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

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- A) 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport, with at least one runway more than 3,200 feet in actual length.
 - B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3,200 feet in actual length.
- 3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward, 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a water way or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (a) or (b) of this paragraph.
 - 4) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department of these zoning regulations.
- b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Marshall County Airport:
- 1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.
 - 2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.
 - 3) Any object that would be shielded by existing structures of a permanent

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and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.

c) Form and Time of Notice

- 1) Each person who is required to notify the Department under paragraph (a) shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Division of Aeronautics, Capital Airport, North Walnut Street Road, Springfield, Illinois 62705. Copies of this form may be obtained from the Department.
- 2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.
- 3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in paragraph (2) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.

d) Acknowledgment of Notice

- 1) The Department will acknowledge in writing the receipt of such notice submitted under paragraph (a) above within 30 days of receipt of such notice.
- 2) The acknowledgment will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:
 - A) Would not exceed any standard of the statute, rules, and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or
 - B) Would exceed a standard of the statute, rules and regulations of the

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Department, or these zoning regulations but would not be a hazard to air navigation, although an application for variance pursuant Section 64.90 of these regulations would be required; or

- C) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation and an application for Variance pursuant to Section 64.90 of these regulations would be required; or
- D) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or
- E) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 64.110 Enforcement

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for permits or variances, required by these zoning regulations to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied.

Section 64.120 Appeal and Judicial Review

- a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.
- b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Marshall County, Illinois or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, the Administrative

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Review Law (Ill. Rev. Stat. 1981, ch. 110, pars. 3-101 et seq.).

Section 64.130 Penalties

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a petty offense, and such hazard shall be removed by proper legal proceedings and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of Marshall County, Illinois, or Circuit Court of any County in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

Section 64.140 Conflicting Regulations

Where a conflict exists between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or growths, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 64.150 Severability

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these zoning regulations are declared to be severable.

Section 64.160 Effective Date

- a) These zoning regulations shall be in full force and effect from and after concurrence by the Illinois Commerce Commission, adoption by the Department and ten (10) days after filing with the Secretary of State.
- b) Concurred in by Order of the Illinois Commerce Commission dated March 7, 1979.
- c) Adopted by Order of the Division of Aeronautics dated March 14, 1979.

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- d) Filed with the Office of the Secretary of State on June 27, 1979 and became effective July 7, 1979.

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- 1) Heading of the Part: Marking, Inventory, Transfer and Disposal of State-Owned Personal Property
- 2) Code Citation: 44 Ill. Adm. Code 5010
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
5010.100	Repealed
5010.210	Amendment
5010.220	Amendment
5010.1210	Amendment
- 4) Statutory Authority: Authorized by the Illinois Property Control Act [30 ILCS 605]
- 5) Effective Date of Rules: May 6, 2016
- 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. 13880; October 23, 2015
- 10) Has JCAR issued a Statement of Objection to the Rulemaking? No
- 11) Differences between Proposal and Final Version. None
- 12) Have all of the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Not applicable
- 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 change requires only equipment with a value over \$500 or equipment subject to theft to be given an identification number. The

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rule change eliminates the outdated and burdensome requirement that all equipment receive an identification number by limiting the requirement only to high-value items.

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

Kelly Weston
Illinois Department of Central Management Services
720 Stratton Office Building
Springfield IL 62706

217/524-7518

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, GRANTMAKING,
PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE D: PROPERTY MANAGEMENT
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 5010
MARKING, INVENTORY, TRANSFER AND DISPOSAL OF
STATE-OWNED PERSONAL PROPERTY

SUBPART A: GENERAL

- Section
5010.100 Authority ([Repealed](#))
5010.110 Policy
5010.120 Applicability

SUBPART B: MARKING AND INVENTORY OF STATE PROPERTY

- Section
5010.200 Definition of Equipment
5010.210 Marking of State-Owned Equipment
5010.220 Inventory of Equipment
5010.230 Required Entries on Inventory Records
5010.240 Definition of Required Entries
5010.250 Demolition
5010.260 Cannibalization

SUBPART C: PROPERTY REPORTING SYSTEM

- Section
5010.300 Property Change Report (Repealed)
5010.310 Transaction Codes
5010.320 Vehicle Reporting

SUBPART D: INVENTORY REQUIREMENTS

- Section
5010.400 Equipment Inventory Reporting
5010.410 Types of Inventory

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5010.420	Report of Equipment Acquired through Central Management Services (Repealed)
5010.430	Report of Equipment not Acquired through Central Management Services Real Property Acquisitions (Repealed)
5010.435	Report of Equipment Purchased on the Installment Plan
5010.440	Fund Codes Used on Agency Report of Acquired New Properties and Additions Form
5010.450	Monthly Inventory (Repealed)
5010.460	Annual Inventory
5010.470	Reporting "On Location" Equipment for Annual Inventory Report
5010.480	Reporting U.S. Property on Annual Inventory
5010.485	Inventories of Facilities Scheduled for Closure
5010.490	Discrepancies
5010.500	Evidence of Theft Found During Annual Inventory
5010.510	Property Control Information Processed on Magnetic Tape
5010.520	Access to Automated Property Control Systems

SUBPART E: TRANSFERABLE EQUIPMENT

Section	
5010.600	Definition of Transferable Equipment
5010.610	Disposal of Transferable Equipment
5010.620	Report of Transferable Equipment
5010.630	Moving and Storage of Transferable Equipment
5010.640	Agency Requests for Transferable Equipment
5010.650	Holding Time for Transferable Equipment
5010.660	Sale of Transferable Equipment
5010.670	Sale of Transferable Equipment to Municipalities or Units of Local Government, Illinois School Districts, and Not-for-Profit Educational, Charitable and Public Health Organizations
5010.680	Trade-Ins
5010.690	Trade-In Procedure
5010.700	Exceptions to Trade-In Procedure
5010.710	Determination of Appraised Value
5010.720	Notice of Sales of Transferable Equipment
5010.730	Terms of Sale to Municipalities and Units of Local Government in Illinois, Illinois School Districts, and Not-for-Profit Educational, Charitable and Public Health Organizations
5010.740	Public Sale of Transferable Equipment
5010.750	Method of Sale

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5010.760	Frequency of Sales
5010.770	Notice of Public Sales
5010.780	Terms of Public Sale
5010.790	Alternative Methods of Sale
5010.800	Proceeds of Sales of Transferable Equipment

SUBPART F: SCRAP SALES AND PROCEDURES

Section	
5010.900	Scrapping of State-Owned Equipment
5010.910	Criteria for Scrapping
5010.920	Permission to Scrap
5010.930	Scrapping Under Special Circumstances
5010.940	Method of Disposal
5010.950	Sale of Scrap
5010.960	Authorization to Sell Scrap
5010.970	Notice of Sale
5010.980	Terms of Sales
5010.990	Payment for Scrap by Bidder
5010.1000	Assistance in Sales
5010.1010	Proceeds of Sale of Scrap

SUBPART G: DISPOSITION OF VEHICLES

Section	
5010.1100	Disposal of State-Owned Vehicles
5010.1110	Vehicles to be Turned Over to the Property Control Division
5010.1120	Turning in Operable Vehicles
5010.1130	Transfer of Operable Vehicles to State Agencies
5010.1140	Sale of Vehicles
5010.1150	Inoperable Vehicles
5010.1160	Request for Disposal of Inoperable Vehicles
5010.1170	Funds Derived from Vehicle Sales

SUBPART H: DISPOSITION OF ELECTRONIC DATA PROCESSING EQUIPMENT

Section	
5010.1200	Disposal of Electronic Data Processing Equipment
5010.1210	Agencies Authorized to Dispose of Surplus EDP Equipment by Sale

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- 5010.1220 Transfer of Surplus EDP Equipment
- 5010.1230 Sale of EDP Equipment
- 5010.1240 Terms of Contract
- 5010.1250 Payment
- 5010.1260 Proceeds from Sale of Surplus EDP Equipment

SUBPART I: ANTIQUE, HISTORICAL AND SPECIAL INTEREST PROPERTY

Section

- 5010.1300 Property Value

SUBPART J: EXEMPTIONS

Section

- 5010.1400 Request for Exemption
- 5010.1410 Transfer of Property Purchased with Non-Appropriated Funds for Research at State Universities (Repealed)

SUBPART K: DISPOSITION OF LABORATORY EQUIPMENT

Section

- 5010.1500 Listing of Laboratory Equipment
- 5010.1510 Proceeds from Sales of Laboratory Equipment

SUBPART L: DISPOSITION OF HAZARDOUS MATERIAL

Section

- 5010.1600 Disposal of Hazardous Material

AUTHORITY: Implementing and authorized by Sections 67.15 and 67.22 of the Civil Administrative Code of Illinois [20 ILCS 405/67.15 and 67.22] and Sections 1 through 7, 8 and 9 of the State Property Control Act [30 ILCS 605/1-7, 8 and 9].

SOURCE: Adopted at 7 Ill. Reg. 9170, effective June 22, 1983; codified at 8 Ill. Reg. 17254; emergency amendment at 11 Ill. Reg. 2909, effective January 29, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 10671, effective June 14, 1988; emergency amendment at 14 Ill. Reg. 8714, effective May 15, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15775, effective September 17, 1990; amended at 16 Ill. Reg. 17595, effective November 9, 1992; amended at 22 Ill. Reg. 6931, effective April 6, 1998; recodified Title of the Part at 39 Ill. Reg.

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5903; amended at 40 Ill. Reg. 7569, effective May 6, 2016.

SUBPART A: GENERAL

Section 5010.100 Authority (Repealed)

~~These rules are promulgated under authority of Illinois Revised Statutes, 1981, Chapter 127, paragraphs 63b13.15, 63b13.22, 133b1, 133b2, 133b3, 133b4, 133b4.1, 133b4.2, 133b4.3, 133b5, 133b6, 133b7, 133b8, 133b9, 133b9.1, 133b9.2, 133b9.3, 133b9.4, 133b9.5, 133b9.6, 133b9.7, 133b9.8, 133b9.9, 133b9.10, 133b10, 133b11 and 133b12.~~

(Source: Repealed at 40 Ill. Reg. 7569, effective May 6, 2016)

SUBPART B: MARKING AND INVENTORY OF STATE PROPERTY

Section 5010.210 Marking of State-Owned Equipment

- a) The agencies are responsible for marking each piece of State-owned equipment in their possession ~~to indicate that it is the property of the State of Illinois with a unique six digit identification number to be assigned by the agency holding the property.~~
- b) The ~~marking identification number~~ may be applied by using the agency's inventory decal or by indelibly marking ~~the number on~~ the property.
- c) ~~Equipment with a value of \$500 or more and equipment that is subject to theft with a value less than \$500 must be marked with a unique identification number to be assigned by the agency holding the property. Each agency is responsible for adopting policies clearly delineating categories of equipment considered to be subject to theft. The identification number shall be affixed to the property in a general area easily located by all and in no danger of being damaged.~~
 - 1) ~~The identification number may be applied by using the agency's inventory decal or by indelibly marking the number on the property.~~
 - 2) ~~The identification number shall be affixed to the property in a general area easily located by all and in no danger of being damaged.~~
 - 3) ~~When equipment consists of several pieces that are likely to be used~~

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separately (e.g., tool sets), each piece shall be marked in a manner that the identification number is not easily removed.

- d) ~~When equipment consists of several pieces which are likely to be used separately (such as tool sets), each piece shall be marked in such a manner that the identification number is not easily removed.~~
- e)
- 1) ~~When an agency's inventory decal is used to mark equipment, equipment with a value of \$500 or more shall be marked with a distinctive form of identification selected by the holding agency and filed with the Division of Property Control.~~
 - 2) ~~All equipment regardless of value shall be clearly marked to indicate that it is the property of the State of Illinois.~~

(Source: Amended at 40 Ill. Reg. 7569, effective May 6, 2016)

Section 5010.220 Inventory of Equipment

~~a) All equipment with an acquisition value of \$500 or more~~ and equipment that is subject to theft with a value less than \$500 must be ~~is subject to being~~ reported to CMS by the holding agency. Equipment with an acquisition value of less than \$500 that is not subject to theft is not subject to reporting; however, agencies will be responsible for establishing and maintaining internal control records over these items.

- b) ~~All items of equipment with an acquisition value of under \$500 are not required to be reported to CMS, except that all firearms, cameras, calculators, antiques, and other items subject to theft must be reported regardless of acquisition cost.~~

(Source: Amended at 40 Ill. Reg. 7569, effective May 6, 2016)

SUBPART H: DISPOSITION OF ELECTRONIC DATA PROCESSING EQUIPMENT

Section 5010.1210 Agencies authorized to Dispose of Surplus EDP Equipment by Sale

- a) The following agencies may dispose of surplus EDP equipment by sale:
- 1) The Department of Central Management Services.

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- 2) Any other Illinois agency exempt from the provisions of the Illinois [Procurement Code \[30 ILCS 500\] Purchasing Act \(Ill. Rev. Stat. ch. 127, pars. 132, et seq.\)](#) upon receiving permission of the Director of Central Management Services.
- b) Agencies requesting permission to sell surplus EDP equipment shall submit a request in writing to the Director of Central Management Services. No permission shall be granted unless the Director of Central Management Services finds the transaction financially advantageous to the State.
- c) [The request](#) ~~Request~~ should include:
 - 1) [a general](#) ~~General~~ description of the equipment;~~;~~
 - 2) [the](#) age and condition of [the](#) equipment;~~;~~ and
 - 3) [the](#) reason for disposal.

(Source: Amended at 40 Ill. Reg. 7569, effective May 6, 2016)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Net Metering
- 2) Code Citation: 83 Ill. Adm. Code 465
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
465.5	Amendment
465.10	Amendment
465.35	Amendment
465.40	Amendment
465.50	Amendment
465.55	New Section
465.70	Amendment
465.80	Amendment
465.90	New Section
- 4) Statutory Authority: Implementing Section 16-107.5 of the Public Utilities Act [220 ILCS 5/16-107.5] and authorized by Sections 16-107.5 and 10-101 of the Public Utilities Act [220 ILCS 5/16-107.5 and 10-101]
- 5) Effective Date of Rules: May 6, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Commission's Springfield office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 39 Ill. Reg. 6134; May 8, 2015
- 10) Has JCAR issued a Statement of Objection to this rulemaking? Yes
- 11) Differences between Proposal and Final Version: A number of edits have been made to conform to changes made by the Joint Committee. Also, in response to the Joint Committee's objection, the term "provider" replaces the term "supplier" in Sections 465.35(b) and 465.90; Section 465.35(b) had used "supplier" in the second notice version, and Section 465.90 had used "supplier" on both first and second notice.

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- 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
- 15) Summary and Purpose of Rulemaking: The amendments incorporate recent statutory amendments to the net metering provisions found in Section 16-107.5 of the Public Utilities Act. Other modifications, though not prompted by changes to the underlying statute, are intended to improve the operation of the net metering programs offered by electricity providers. Among these amendments are changes in application and enrollment procedures, in billing, and in reporting requirements. The rulemaking adds sections applicable to interval meter data and meter aggregation. Provisions in the definitions section are also being added or altered to correspond to the changes made elsewhere in the Part.
- 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 Amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER c: ELECTRIC UTILITIESPART 465
NET METERING

Section

465.5	Definitions
465.10	Application of Part 465
465.20	Purpose of this Part
465.30	Tariffs
465.35	Net Metering Application and Enrollment Procedures
465.40	Reporting Requirements
465.50	Electricity Provider Billing for Eligible Customers
465.55	Interval Meter Data
465.60	Complaint Procedures
465.70	Penalty Provisions
465.80	Miscellaneous Provisions
465.90	Meter Aggregation

AUTHORITY: Implementing Section 16-107.5 of the Public Utilities Act [220 ILCS 5/16-107.5] and authorized by Sections 16-107.5 and 10-101 of the Public Utilities Act [220 ILCS 5/16-107.5 and 10-101].

SOURCE: Emergency rules adopted at 32 Ill. Reg. 202, effective December 22, 2007, for a maximum of 150 days; adopted at 32 Ill. Reg. 8116, effective May 15, 2008; amended at 40 Ill. Reg. 7578, effective May 6, 2016.

Section 465.5 Definitions

Terms defined in Section 16-102 of the Public Utilities Act (Act) [220 ILCS 5/16-102] shall have the same meaning for purposes of this Part as they have under Section 16-102 of the Act, unless further defined in this Part.

["Alternative retail electric supplier" or "ARES" has the meaning set forth in Section 16-102 of the Act.](#)

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"Annual period" means the period of 12 consecutive monthly billing periods ending on the last day of either the net metering customer's April monthly billing period or its October monthly billing period, whichever was selected by the customer in connection with its application for net metering.

"Arm's-length agreement" means an agreement negotiated by unrelated parties, each acting in his or her own self-interest. "Arm's-length agreement" shall not include any standardized agreement offered to consumers of goods or services that does not afford the consumer a realistic opportunity to bargain and is offered under such conditions that the consumer cannot obtain the desired product or service except by acquiescence in the standardized agreement.

"Avoided costs" means the incremental costs to the electricity provider of electric energy or capacity or both, which, but for the purchase from an eligible customer, the electricity provider would generate itself or purchase from another source.

"Electric utility" means a public utility, as defined in Section ~~3-1055/3-105~~ [220 ILCS 5/3-105] of the Act, that has a franchise, license, permit or right to furnish or sell electricity or light, except when used solely for communications purposes, to retail customers within a service area, as both of these terms are defined in Section ~~16-1025/16-102~~ of the Act.

"Electricity provider" means an electric utility, ~~whether providing services within or outside of its service area,~~ or an alternative retail electric supplier.

"Electricity supplier" means:

the alternative retail electric supplier that is providing electric supply services; or

the electric utility that is providing electric supply services, either within or outside its service area.

"Eligible customer" or "customer" means a retail customer that owns or operates a solar, wind, or other eligible renewable electrical generating facility with a rated capacity of ~~not more than up to~~ 2,000 kilowatts (kW) that is located on the customer's premises and is intended primarily to offset the customer's own electrical requirements.

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"Eligible renewable electrical generating facility" means a generator or generators with a total rated capacity of not more than up to 2,000 kW kilowatts powered by solar electric energy, wind, dedicated crops grown for electricity generation, agricultural residues, untreated wood waste and unadulterated wood waste, landscape trimmings, livestock manure, anaerobic digestion of livestock waste or anaerobic digestion of food processing waste, fuel cells powered by renewable fuels or microturbines powered by renewable fuels, or hydroelectric energy.

"Net electricity metering" or "~~Net~~ metering" means measurement during the billing period applicable to an eligible customer of the net amount of electricity supplied by an electricity provider to the customer's premises or provided to the electricity provider by the customer.

"Net purchaser of electricity" means that the total amount of generation produced by the customer is less than the customer's total usage during an~~the~~ applicable billing period.

"Net seller of electricity" means that the total amount of generation produced by the customer is greater than the customer's total usage during an~~the~~ applicable billing period.

"Non-competitive customer" means an eligible customer whose class of electric service had not been declared competitive pursuant to Section 16-113 of the Act prior to July 1, 2011, including:

all residential retail customers;

all non-residential retail customers with peak demands of less than 100 kW if located in the service territory of an electric utility serving at least 3,000,000 retail customers; and

all non-residential retail customers with peak demands of less than 150 kW if located in the service territory of an electric utility serving at least 1,000,000 retail customers.

"Time of use rate" means any contract or tariff under which the kilowatt-hour (kWh) price for electric power and energy supply is not uniform over all of the hours in a billing period.

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"Type (d) Customer" means an eligible, non-competitive customer whose electric delivery service is provided and measured on a kWh basis and whose electric supply service is not based on hourly pricing.

"Type (d-5) Customer" means an eligible, non-competitive customer whose electric delivery service is provided and measured on a kWh basis and whose electric supply service is based on hourly pricing.

"Type (e) Customer" means an eligible, non-competitive customer whose electric delivery service is provided and measured on a kW demand basis and whose electric supply service is not based on hourly pricing.

"Type (f) Customer" means an eligible customer who is not a Type (d) Customer, Type (d-5) Customer or Type (e) Customer.

(Source: Amended at 40 Ill. Reg. 7578, effective May 6, 2016)

Section 465.10 Application of Part 465

This Part shall apply to all Illinois electric utilities and ~~ARES alternative retail electric suppliers as defined in the Act that are required to provide net metering services~~ in accordance with Section 16-107.5 of the Act ~~[220 ILCS 5/16-107.5]~~.

(Source: Amended at 40 Ill. Reg. 7578, effective May 6, 2016)

Section 465.35 Net Metering Application and Enrollment Procedures

- a) Each electricity ~~supplier~~provider shall establish an application form and publish on its website procedures to enable eligible customers to participate in the net metering program offered by the electricity ~~supplier~~provider. Each electricity supplier shall designate a point of contact and provide contact information on its website. The point of contact shall be able to direct questions concerning net metering request submissions and the net metering process to knowledgeable individuals within the company.
- b) An electricity provider may establish an enrollment cap of 51% of the peak demand supplied by the electricity provider in the previous calendar year in accordance with Section 16-107.5(j) of the Act. Nothing in this Part alters the authority of electricity providers to offer net metering beyond the limitations in

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Section 16-107.5(j) of the Act, if they so choose. ~~Applicable electric utilities (e.g., Illinois Power Company, Central Illinois Light Company, Central Illinois Public Service Company, Commonwealth Edison Company and MidAmerican Energy Company) shall limit the number of eligible customers with generators that have a nameplate rating of 40 kilowatts and below to 200 new billing accounts until March 31, 2009.~~

- e) ~~Each electricity provider shall establish an open enrollment period to receive net metering applications during the first month that net metering is available. If an electricity provider receives applications in excess of any applicable limits set forth in subsection (b), that provider shall determine enrollment priority by lottery. Applications will not be accepted prior to the start of the open enrollment period. This subsection does not prohibit an electricity provider from providing an initial preference for customers that are already participating in net billing or other programs similar to net metering that are offered by that provider.~~
- cd) ~~Net~~After the end of the open enrollment period, or after any applicable limit provided for in subsection (b) has been met, whichever comes first, net metering enrollment priority shall be established on a first-come, first-served basis, according to an electricity ~~supplier's~~provider's date stamp or similar electronic method for indicating receipt of a completed net metering application. ~~Applicants that applied during the open enrollment period that did not establish enrollment priority during the open enrollment period shall have their enrollment priority established in accordance with this subsection (d) based upon the date stamp of the application submitted during the open enrollment period.~~
- de) Each completed application for net metering services shall be in writing or be submitted via an electronic application process established by the electricity supplier and shall include:
- 1) The customer's name, contact information and corresponding service location where the proposed net metering generation facility or facilities are located;
 - 2) The name plate capacity rating of the proposed net metering generation facility or facilities; and

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- 3) Sufficient information to permit the electricity ~~supplier~~provider to determine whether any facility on the application qualifies as an eligible renewable electrical generating facility.
- ~~ef~~) Electricity ~~suppliers~~providers shall provide net metering applicants with a single ~~point~~ mailing address ~~for all net metering applications~~ to which a completed physical application must be sent. In addition, or as an alternative, electricity suppliers may establish an electronic net metering application process. Electricity ~~suppliers~~providers shall date stamp, either physically or by electronic means, date stamp each completed application upon receipt and determine whether the application meets the requirements of subsection (d). ~~Electricity completeness determination. Upon receipt of a completed and executed application, electricity~~ ~~suppliers~~providers shall, within 10 business days after receipt of a qualified~~an~~ application or completion of an open enrollment period, notify an applicant ~~as to~~ whether it is authorized to participate in the electricity ~~supplier's~~provider's net metering program. An electricity ~~supplier~~provider shall state, in writing, its reasons for denying a prospective net metering customer's application. An electricity ~~supplier~~provider shall not deny a prospective net metering customer's application in a manner that violates this Part, 83 Ill. Adm. Code 466 or Section 16-107.5 of the Act.
- ~~fg~~) If an electricity ~~supplier~~provider denies an application due to the cap authorized by~~provided for in~~ subsection (b), the electricity ~~supplier~~provider shall offer the applicant the opportunity to be placed on a waiting list. If space becomes available under the cap, due to either attrition among enrolled customers or an increase in the electricity ~~supplier's~~provider's peak demand, wait-listed customers shall be processed before new applications.
- ~~gh~~) Any authorization to net meter shall remain effective for as long as the customer remains eligible for net metering and continues taking electric supply~~generation~~ service from the electricity ~~supplier~~provider, subject to the limitations in subsections (~~gh~~)(1) and (~~gh~~)(2).
- 1) A customer authorized to net meter under subsection (~~ef~~) shall submit an executed application for interconnection, pursuant to 83 Ill. Adm. Code 466, to the customer's electric utility within 30 business days after the date of the notification from the electricity ~~supplier~~provider pursuant to subsection (~~ef~~). An electricity ~~supplier~~provider may cancel the

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authorization if the customer has not submitted an executed application by the ~~required~~ date specified in subsection (g)(2)(A).

- 2) The following provisions apply to any electricity ~~supplier~~provider that establishes enrollment limits, as authorized by~~provided for in~~ subsection (b):
 - A) The electricity ~~supplier~~provider ~~may~~ cancel a customer's authorization to net meter if the customer has not executed and returned to the customer's electric utility an interconnection agreement with the electric utility pursuant to 83 Ill. Adm. Code 466 and provided the executed interconnection agreement to its electricity supplier~~with the customer's electric utility~~ within 12 months after receiving the interconnection agreement from the electric utility.
 - B) The electricity ~~supplier~~provider must automatically extend the authorization to net meter by an additional six months for an eligible customer that has met the requirements of subsection (g)(2)(A)~~executed an interconnection agreement within 12 months after receiving the interconnection agreement from the utility~~, but whose eligible renewable electrical generating facility has not commenced operation and passed any applicable witness test.
 - C) A customer seeking to extend the authorization to net meter for an additional six months pursuant to subsection (g)(2)(B) must pay a deposit of \$25 for each ~~kW~~kilowatt of the nameplate rating of the customer's eligible renewable electrical generating facility, which shall be refunded only if the facility commences operation and passes any applicable witness test. A customer may only receive a single six-month extension.
 - D) Customers who have previously applied to net meter must reapply if:
 - i) the customer has had its authorization to net meter canceled for failure to execute and return the interconnection agreement as required by subsection (g)(2)(A); or

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- ii) the customer has exhausted its allotted time to commence operation and pass any applicable witness test pursuant to subsections (g)(2)(B) and (g)(2)(C).
- E) If a customer must reapply pursuant to subsection (g)(2)(D), all other customers awaiting authorization to net meter at that time shall be deemed to have applied before the reapplying customer for purposes of the enrollment priority established by subsection (c). Additionally, the project for which a customer must reapply shall be removed from the calculation of the 5% of peak demand supplied by the electricity supplier enrollment cap.
- hi) With respect to any customer that has been authorized for net metering offered by an ARES, the ARESelectricity provider that is not the electric utility providing delivery service to the customer, the electricity provider must notify the electric utility in writing or via an electronic method approved by the utility of thea customer's status as a net metering customer within 15 days after the customer's authorization.
- ij) With respect to any customer that has had its authorization for net metering canceled by an ARES, the ARESelectricity provider that is not the electric utility providing delivery service to the customer, the electricity provider must notify the electric utility in writing or via an electronic method approved by the utility of the customer's status as a canceled net metering customer within 15 days after the cancellation.
- j) With respect to any non-competitive customer authorized for net metering offered by an electricity supplier that is switching to another electricity supplier, the electric utility must notify the customer's new electricity supplier via an electronic method approved by the utility of the customer's status as a net metering customer.
- k) With respect to any customer that has been authorized for net metering that is switching from one electricity supplier to another, the customer's new electricity supplier shall inform the customer within 15 calendar days after the date the electric utility provides the notice to the new electricity supplier pursuant to subsection (j), of any steps that are necessary to apply for net metering with the new supplier.

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(Source: Amended at 40 Ill. Reg. 7578, effective May 6, 2016)

Section 465.40 Reporting Requirements

The annual report required by Section 16-107.5(k) of the Act shall be filed electronically with the Chief Clerk~~Manager of the Energy Division~~ of the Illinois Commerce Commission, in a manner that meets all filing requirements of the Commission's electronic filing system, by April 1 of each year ~~beginning in 2009~~. The report shall include all information required under Section 16-107.5(k) of the Act, including, but not limited to, ~~the following information~~: the total number of net metering customers served~~peak demand supplied~~ by the electricity provider; ~~during the previous year~~; the type, capacity and energy sources of the generating systems used by the electricity provider's net metering customers; whether the total generating capacity of the electricity provider's net metering customers equals or exceeds the 5% cap; and; whether the electricity provider intends to limit the total generating capacity of its net metering customers to 51%; and the electricity provider's total number of net metering customers. The Commission will maintain the reports required by this Section on the Commission's website.

(Source: Amended at 40 Ill. Reg. 7578, effective May 6, 2016)

Section 465.50 Electricity Provider Billing for Eligible Customersa) Billing for Type (d) Customers

- 1) The electricity supplier shall determine whether each customer is a net purchaser of electricity or a net seller of electricity during the billing period.
- 2) If a customer is a net purchaser of electricity during the billing period, the electricity supplier shall assess charges on the net amount purchased at the tariffed or contract rate, as appropriate, under which the customer is taking service from the electricity supplier. When the electricity provider is an ARES, the electric utility shall assess charges for delivery and other provided services at the tariffed rate under which the customer is taking electric service from the electric utility. Notwithstanding these requirements, the tariffed or contract rates for both electric supply and delivery services shall be non-discriminatory rates that are identical, with respect to rate structure, retail rate components, and any monthly charges, with the rates that the customer would be charged if not a net metering customer, unless an electricity supplier and the customer have entered into

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an arm's-length agreement setting forth different prices, terms and conditions for the provision of net metering service.

- 3) If a customer is a net seller of electricity during the billing period, the customer shall receive a 1:1 kWh credit from the electricity supplier that is equal to the net kWh supplied by the customer during the billing period. When the electricity supplier is an ARES, the electric utility shall issue to the customer a 1:1 kWh credit for delivery service that is equal to the net kWh delivered to the electric utility's system by the customer during the billing period.
- 4) Any credits received by the customer shall be carried over to subsequent billing periods. Unused credits shall expire either at the end of the annual period or, in the event the customer terminates service from the electricity supplier, at the time the customer terminates service from the electricity supplier.
- 5) Customers remain responsible for all taxes, fees and utility delivery charges that would otherwise be applicable to the net amount of electricity used by the customer.

b) Billing for Type (d-5) Customers

- 1) The electricity supplier shall determine whether each customer is a net purchaser of electricity or a net seller of electricity during each hour for which the tariffed or contract rate, as appropriate, is applicable.
- 2) For the hours in which the customer is a net purchaser of electricity, the electricity supplier shall charge the customer for the net electricity supplied to and used by the customer according to the terms of the contract or tariff to which the same customer would be assigned or be eligible if the customer were not a net metering customer.
- 3) For the hours in which the customer is a net seller of electricity, the customer shall receive a credit that consists of an energy credit and a delivery credit. The energy credit for an hour shall be determined by multiplying the net electricity supplied during that hour by the same price per kWh as the electricity provider would charge for kWh energy sales during that same time period. The delivery credit shall be determined by

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multiplying the net electricity supplied during that hour by a credit that reflects all kWh-based electricity charges applicable to the customer electric service rate, excluding energy charges, for that hour. When eligible customers receive service under an electric utility's bundled service rates, the monetary credit shall be equal to the applicable kWh-based bundled service charges, multiplied by the net electricity supplied over the billing period. The electricity supplier shall provide the energy credit and, if the electricity supplier is also the electric utility, it shall also provide the delivery credit. If the electricity provider is an ARES, the electric utility shall provide credit for delivery services.

- 4) Customers remain responsible for all taxes, fees and utility delivery charges that would otherwise be applicable to the net amount of electricity supplied to the eligible customer by the electricity provider.

c) Billing for Type (e) Customers

- 1) The electricity supplier shall determine whether each customer is a net purchaser of electricity or a net seller of electricity during the billing period.
- 2) If a customer is a net purchaser of electricity during the billing period, the electricity supplier shall assess charges on the net amount purchased at the tariffed or contract rate, as appropriate, under which the customer is taking service from the electricity supplier. When the electricity provider is an ARES, the electric utility shall assess charges for delivery and other provided services at the tariffed rate under which the customer is taking electric service from the electric utility. Notwithstanding these requirements, the tariffed or contract rates for both electric supply and delivery services shall be non-discriminatory rates that are identical, with respect to rate structure, retail rate components, and any monthly charges, with the rates that the customer would be charged if not a net metering customer, unless an electricity supplier and the customer have entered into an arm's-length agreement setting forth different prices, terms and conditions for the provision of net metering service.
- 3) If a customer is a net seller of electricity during the billing period, the customer shall receive a 1:1 kWh credit that reflects the kWh-based charges in the customer's electric service rate from the electricity supplier

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that is equal to the net kWh supplied by the customer during the billing period. When the electricity provider is an ARES, the electric utility shall issue to the customer a 1:1 kWh credit that reflects the kWh-based charges, if any, for delivery service that is equal to the net kWh delivered to the electric utility's system by the customer during the billing period.

- 4) Any credits received by the customer shall be carried over to subsequent billing periods. Unused credits shall expire either at the end of the annual period or, if the customer terminates service from the electricity supplier, at the time of the termination.
- 5) Customers remain responsible for all taxes, fees and utility delivery charges that would otherwise be applicable to the net amount of electricity used by the customer.

d) Billing for Type (f) Customers

- 1) The electricity supplier shall determine whether the customer is a net purchaser of electricity or a net seller of electricity during each hour. For each hour, the electricity supplier shall multiply the applicable rate by the amount purchased or sold by the customer to determine each hour's charge or credit. These amounts shall be summed to determine the net energy charge or credit for each billing period.
- 2) If the customer is a net purchaser of electricity during the billing period, the electricity supplier shall apply the applicable tariffed or contract rate, as applicable, to the net amount purchased. If the customer is a net seller of electricity, the electricity supplier shall compensate the customer for any excess kWh credits at the electricity provider's avoided cost of electricity supply over the monthly period or as otherwise specified by the terms of a power-purchase agreement negotiated between the customer and electricity supplier. For purposes of calculating the customer's electricity bill, any resulting credits may be used to offset other charges assessed by the electricity supplier.
- 3) The electricity supplier shall not establish any unreasonable differences among localities in net metering customers' prices, terms, conditions, services, products or facilities.

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- 4) For the purpose of calculating the customer's bill, any compensation to the customer may be used to offset other charges assessed by the electricity supplier.
 - 5) Customers remain responsible for all taxes, fees and utility delivery charges that would otherwise be applicable to the gross amount of electricity supplied to the eligible customer by the electricity supplier.
- a) ~~Billing for all residential customers and non-residential customers with generators no greater than 40kW~~
- 1) ~~Customers taking services under rates other than time-of-use rates~~
 - A) ~~The electric utility shall determine whether the customer is a net purchaser of electricity or a net seller of electricity during the billing period.~~
 - B) ~~If the customer is a net purchaser of electricity during the billing period, the electricity provider shall assess charges on the net amount purchased at the tariffed or contract rate, as appropriate, under which, the customer is taking service from the electricity provider. To the extent that the electric utility is not the electricity provider, the electric utility shall assess charges for delivery and other provided services at the tariffed rate under which the customer is taking electric service from the electric utility.~~
 - C) ~~If the customer is a net seller of electricity, the customer shall receive a credit from the electricity provider that is equal to the net kilowatt hours supplied by the customer during the billing period. To the extent that the electric utility is not the electricity provider, the customer shall receive a credit for delivery service from the electric utility that is equal to the net kilowatt hours delivered to the electric utility's system by the customer during the billing period. Any credits received by the customer will be carried over to subsequent billing periods. Unused credits will expire at the end of the annual period or earlier in the event the customer terminates service from the electricity provider.~~
 - 2) ~~Customers taking service under time-of-use rates~~

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- A) ~~The electric utility shall determine whether the customer is a net purchaser of electricity or a net seller of electricity during each discrete time period for which the tariffed or contract rate for electricity supply, as appropriate, is applicable. For each time period, the electricity provider shall multiply the tariffed or contract rate for electricity supply, as appropriate, by the amount purchased or sold by the customer to determine each time period's charge or credit. These amounts shall be summed to determine the net energy charge or credit for the billing period.~~
- B) ~~If the customer is a net purchaser of electricity, the customer will remain responsible for all taxes, fees and utility delivery charges that would otherwise be applicable to the net amount of electricity used by the customer.~~
- C) ~~If the customer is a net seller of electricity, the customer shall receive a monetary credit from the electricity provider that is equal to the energy credit determined for the billing period, plus kilowatt-hour based delivery charges multiplied by the net energy supplied over the billing period. When eligible customers receive service under an electricity provider's bundled service rates, the monetary credit shall be equal to the applicable kilowatt-hour based bundled service charges, multiplied by the net energy supplied over the billing period. In the event that the electricity provider is not the electric utility, the monetary credit for delivery service shall be provided by the electric utility. Any monetary credits received by the customer will be carried over to subsequent billing periods. Unused credits will expire at the end of the annual period or earlier in the event that the customer terminates service from the electricity provider. For purposes of calculating the customer's electricity bill, any credits may be used to offset other charges assessed by the electricity provider.~~
- b) ~~Billing for non-residential eligible customers with generators over 40 kW and no greater than 2,000 meters~~
- 1) ~~Customers taking service under rates other than time-of-use rates~~

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- A) ~~The electric utility shall determine whether the customer is a net purchaser of electricity or a net seller of electricity during the billing period. If the customer is a net purchaser of electricity during the billing period, the electricity provider shall apply the applicable tariffed or contract rate, as applicable, to the net amount purchased. If the customer is a net seller of electricity, the electricity provider shall compensate the customer at the electricity provider's avoided cost of electricity supply. For purposes of calculating the customer's electricity bill, any resulting credits may be used to offset other charges assessed by the electricity provider.~~
- B) ~~The electric utility shall assess delivery charges, fees and taxes on the gross amount of electricity supplied to the eligible customer, regardless of whether the eligible customer is a net purchaser or a net seller. When an eligible customer receives service under an electricity provider's bundled service rates, delivery charges shall be the applicable bundled service rate under which that customer purchases electric service. For the purposes of calculating the customer's bill, any compensation to the customer may be used to offset other charges assessed by the utility.~~
- 2) ~~Non-residential customers taking service under time of use rates~~
- A) ~~The electric utility shall determine whether the customer is a net purchaser of electricity or a net seller of electricity during each discrete time period. For each time period, the electricity provider shall multiply the applicable rate to the amount purchased or sold by the customer to determine each time period's charge or credit. These amounts shall be summed to determine the net energy charge or credit for each billing period.~~
- B) ~~The electric utility shall assess delivery charges, fees and taxes on the gross amount of electricity supplied to the eligible customer, regardless of whether the eligible customer is a net purchaser or a net seller. In the case of an eligible customer receiving service under an electricity provider's bundled service rates, delivery services charges shall be the applicable bundled service rate under which the customer purchases electric services. For the purpose of~~

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~~calculating the customer's bill, any compensation to the customer may be used to offset other charges assessed by the electric utility.~~

(Source: Amended at 40 Ill. Reg. 7578, effective May 6, 2016)

Section 465.55 Interval Meter Data

When the customer's electricity provider is an ARES, the electric utility shall provide interval meter data to that ARES when the information is necessary for the ARES' billing purposes.

(Source: Added at 40 Ill. Reg. 7578, effective May 6, 2016)

Section 465.70 Penalty Provisions

- a) Upon complaint or on the Commission's own motion, the Commission may conduct an investigation of an electricity provider's actions under any Section of this Part. The Commission may, after notice and hearing:
- 1) order an electricity provider to cease and desist or correct any violation of, or nonconformance with, any provision of this Part;
 - 2) require an electricity provider to make due reparations or refunds as permitted by statute;
 - 3) impose financial penalties for violations of, or non-conformance with, the provisions of this Part as permitted under the Act;
 - 4) take other remedial and preventive action as provided for under the Act.
- b) These remedies shall be cumulative and may be imposed in addition to other remedies that the Commission may have the authority to impose.

(Source: Amended at 40 Ill. Reg. 7578, effective May 6, 2016)

Section 465.80 Miscellaneous Provisions

- a) In accordance with Section 16-107.5~~(e) and~~(g) of the Act, nothing in this Part is intended to prevent an arms-length agreement between an electricity provider and an eligible customer ~~that either sets forth different prices, terms and conditions for~~

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~~the provision of net metering service, including, but not limited to the provision of the appropriate metering equipment for non-residential customers, or that sets forth the ownership or title of renewable energy credits.~~

- b) In accordance with Section 16-107.5(m) of the Act, nothing in this Part is intended to affect any ~~existing~~ retail contract between an ~~ARES~~ alternative retail electric supplier and an eligible customer existing prior to May 6, 2016.
- b) ~~Nothing in this Part shall be construed to impose upon an alternative retail electric supplier any additional obligation that it does not otherwise have pursuant to the Act.~~

(Source: Amended at 40 Ill. Reg. 7578, effective May 6, 2016)

Section 465.90 Meter Aggregation

- a) Electricity providers shall separately consider each application for meter aggregation for the purposes of net metering and shall determine whether to allow meter aggregation for purposes of net metering on the basis of the facts and circumstances presented in each application.
- b) Whenever an electricity provider determines that it will not allow meter aggregation for the purposes of net metering, the electricity provider shall provide, within 30 days after receiving an application for net metering, an explanation of its determination, based on the facts and circumstances presented in the application, in a written document simultaneously filed with the Chief Clerk of the Commission and provided to the applicant.

(Source: Added at 40 Ill. Reg. 7578, effective May 6, 2016)

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NOTICE OF MODIFICATION TO MEET THE OBJECTION
OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) Heading of the Part: Net Metering
- 2) Code Citation: 83 Ill. Adm. Code 465
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
465.5	Amendment
465.10	Amendment
465.35	Amendment
465.40	Amendment
465.50	Amendment
465.55	New Section
465.70	Amendment
465.80	Amendment
465.90	New Section
- 4) Date Notice of Proposed Rules published in the *Illinois Register*: 39 Ill. Reg. 6134; May 8, 2015
- 5) Date Notice of Objection published in the *Illinois Register*: 40 Ill. Reg. 6863; April 29, 2016
- 6) Summary of Action Taken by the Agency: At its meeting on April 12, 2016, the Joint Committee on Administrative Rules objected to Sections 465.35(b) and 465.90 of the rulemaking because the Joint Committee believed that those provisions were inconsistent with Section 16-107.5 of the Public Utilities Act (220 ILCS 5/16-107.5). The Joint Committee explained, "The statute defines and uses the term 'electricity provider'. The Commission has chosen to use the term 'electricity supplier' and give that term a meaning that differs from the statute."

In response to the Joint Committee's objection, the Commission has elected to modify the proposed rulemaking by changing Sections 465.35(b) and 465.90 and replacing the term "supplier" with the term "provider" in those provisions.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of May 3, 2016 through May 9, 2016. The rulemakings are scheduled for review at the Committee's June 14, 2016 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>
6/17/16	<u>Illinois Power Agency</u> , Fee Assessment and Collection for Regular Procurement Events, Special Procurement Events and Other Services (83 Ill. Adm. Code 1200)	6/26/15 39 Ill. Reg.8705	6/14/16
6/17/16	<u>Illinois Power Agency</u> , Monitoring of Contracts Administered by the Illinois Power Agency (83 Ill. Adm. Code 1210)	6/26/15 39 Ill. Reg.8710	6/14/16
6/17/16	<u>Illinois Power Agency</u> , Uniform System of Accounts (83 Ill. Adm. Code 1220)	6/26/15 39 Ill. Reg.8716	6/14/16
6/17/16	<u>Illinois Power Agency</u> , Prequalified Supplier Lists for Construction and Construction-Related Professional Services (83 Ill. Adm. Code 1230)	6/26/15 39 Ill. Reg.8720	6/14/16
6/17/16	<u>Illinois Power Agency</u> , Recovery of Costs Incurred in Connection with the Cancellation of Facility Development and Construction (83 Ill. Adm. Code 1240)	6/26/15 39 Ill. Reg.8731	6/14/16
6/17/16	<u>Secretary of State</u> , Regulations Under Illinois Securities Law of 1953 (14 Ill. Adm. Code 130)	1/8/16 40 Ill. Reg.329	6/14/16

6/17/16

Secretary of State, Regulations Under Illinois
Securities Law of 1953 (14 Ill. Adm. Code 130)

1/4/16

40 Ill.

Reg.175

6/14/16

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Rules acted upon in Volume 40, Issue 21 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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