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Rules of Governmental Agencies

GEORGE H. RYAN
Secretary of State



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Administrative Code Div.
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INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity 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 or amendments to or repealers of existing rules, including those by emergency or peremptory action.

The *Register* also contains 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. In addition, the *Register* contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current *Register* volume and a Sections Affected Index listing, by Title of the *Illinois Administrative Code*, each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume. Both indices are action coded and are designed to aid the public in monitoring rules.

The *Register* will serve as the update to the *Illinois Administrative Code*, a compilation of the rules of State agencies. The most recent edition of the *Code* along with the *Register* comprise the most current accounting of the State agencies' rules.

The *Illinois Register* is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1989, ch. 127, pars. 1001 et seq., as amended).

REGISTER PUBLICATION SCHEDULE 1991

Material Rec'd after 4:30 p.m. on:	And before 4:30 p.m. on:	Will be in Issue #:	Published on:	Material Rec'd after 4:30 p.m. on:	And before 4:30 p.m. on:	Will be in Issue #:	Published on:
Dec. 18, 1990	Dec. 24, 1990	1	Jan. 4, 1991	June 25, 1991	July 2, 1991	28	July 12, 1991
Dec. 24, 1990	Dec. 31, 1990	2	Jan. 11, 1991	July 2, 1991	July 9, 1991	29	July 19, 1991
Dec. 31, 1990	Jan. 8, 1991	3	Jan. 18, 1991	July 9, 1991	July 16, 1991	30	July 26, 1991
Jan. 8, 1991	Jan. 15, 1991	4	Jan. 25, 1991	July 16, 1991	July 23, 1991	31	Aug. 2, 1991
Jan. 15, 1991	Jan. 22, 1991	5	Feb. 1, 1991	July 23, 1991	July 30, 1991	32	Aug. 9, 1991
Jan. 22, 1991	Jan. 29, 1991	6	Feb. 8, 1991	July 30, 1991	Aug. 6, 1991	33	Aug. 16, 1991
Jan. 29, 1991	Feb. 5, 1991	7	Feb. 15, 1991	Aug. 6, 1991	Aug. 13, 1991	34	Aug. 23, 1991
Feb. 5, 1991	Feb. 11, 1991	8	Feb. 22, 1991	Aug. 13, 1991	Aug. 20, 1991	35	Aug. 30, 1991
Feb. 11, 1991	Feb. 19, 1991	9	Mar. 1, 1991	Aug. 20, 1991	Aug. 27, 1991	36	Sept. 6, 1991
Feb. 19, 1991	Feb. 26, 1991	10	Mar. 8, 1991	Aug. 27, 1991	Sept. 3, 1991	37	Sept. 13, 1991
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Mar. 19, 1991	Mar. 26, 1991	14	Apr. 5, 1991	Sept. 24, 1991	Oct. 1, 1991	41	Oct. 11, 1991
Mar. 26, 1991	Apr. 2, 1991	15	Apr. 12, 1991	Oct. 1, 1991	Oct. 8, 1991	42	Oct. 18, 1991
Apr. 2, 1991	Apr. 9, 1991	16	Apr. 19, 1991	Oct. 8, 1991	Oct. 15, 1991	43	Oct. 25, 1991
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Apr. 23, 1991	Apr. 30, 1991	19	May 10, 1991	Oct. 29, 1991	Nov. 5, 1991	46	Nov. 15, 1991
Apr. 30, 1991	May 7, 1991	20	May 17, 1991	Nov. 5, 1991	Nov. 12, 1991	47	Nov. 22, 1991
May 7, 1991	May 14, 1991	21	May 24, 1991	Nov. 12, 1991	Nov. 19, 1991	48	Dec. 2, 1991 (Mon.)
May 14, 1991	May 21, 1991	22	May 31, 1991	Nov. 19, 1991	Nov. 26, 1991	49	Dec. 6, 1991
May 21, 1991	May 28, 1991	23	June 7, 1991	Nov. 26, 1991	Dec. 3, 1991	50	Dec. 13, 1991
May 28, 1991	June 4, 1991	24	June 14, 1991	Dec. 3, 1991	Dec. 10, 1991	51	Dec. 20, 1991
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June 18, 1991	June 25, 1991	27	July 5, 1991	Dec. 24, 1991	Dec. 31, 1991	2	Jan. 10, 1992

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).

NOTICE OF PROPOSED RULES

Currently, there is no specific regulatory framework in

Illinois which addresses dealer advertising practices.

Vehicle complaints have consistently constituted the single

largest category of complaints received by the Attorney

General's Office.

Next to the purchase of a home, buying a car is perhaps the

most significant and expensive purchase consumers will make

on a recurring basis. A majority of these purchases are

financed and are made as a result of ads placed by dealers.

Upon thumbing through the newspaper on any given Sunday, for

example, consumers are bombarded by the overwhelming presence

of vehicle ads, promising deals that can't be beat. The

problem is that some vehicle dealers, to the competitive

disadvantage of reputable dealers, make advertising claims

that are deceptive in order to lure car buyers through their

doors. This harms consumers, who, as a result of deceptive

ads and inaccurate information, are unable to make informed

comparative purchase decisions. Moreover, it harms

legitimate Illinois dealers who are placed at a competitive

disadvantage as a result of deceptive advertising. The

highly competitive nature of the automobile industry, coupled

with the lack of a specific regulatory scheme, has resulted

in an increase of problematic automobile ads. Business and

consumers alike will benefit from the proposed rules.

Consumers will benefit by receiving truthful and accurate

information in order to more effectively comparative shop for

a vehicle. Dealers will benefit from fair methods of

competition.

The proposed rules focus on five (5) primary advertising

A)

General Advertising Disclosure Requirements

This area focuses on the requirement that all

material terms relative to the advertised offer

must be clearly and conspicuously disclosed. For

example, objectionable ads would include those

which inconspicuously relegate credit terms

affecting the vehicle price to "fine-type" print

buried at the bottom of the ad; or those which use

inaccurate photos or illustrations when describing

specific vehicles.

B)

Price Advertising Practices

This area focuses on ads which reference, explicitly or implicitly, a price, whether that price is the dealer's own former regular price or a

NOTICE OF PROPOSED RULES

1) Heading of the Part: Motor Vehicle Advertising

2) Code citation: 14 Ill. Adm. Code 475

3) Section Numbers: Proposed Action:

New Section

New Section

New Section

New Section

New Section

New Section

New Section

New Section

New Section

New Section

New Section

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New Section

4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 121 1/2,

pars. 262, 263, 264.

5) A Complete Description of the Subjects and Issues Involved:

The proposed rules embody a comprehensive set of standards addressing vehicle dealer advertising practices in Illinois. Formulation of the proposed rules represents the culmination of over three (3) years of investigation and study of these practices in Illinois by the Attorney General's Office.

ATTORNEY GENERAL

NOTICE OF PROPOSED RULES

competitor's price. It includes practices such as misrepresenting the total price of the vehicle, making savings claims, price matching representations and cost-price advertising.

C) **Other Specific Advertising Practices**

Vehicle sales transactions often differ slightly in nature than typical retail transactions in part, because the vehicle sale price is often arrived at through negotiation or bargaining. Consequently, there are certain specific advertising practices which are peculiar to vehicle sales transactions.

This area focuses on the more specific dealer advertising practices found to be prevalent. For example, it is deceptive to advertise:

"Free"- offers of free prizes, gifts or other incentives where the price of the advertised vehicle is arrived at through bargaining or negotiation.

"Rebate"- offers of cash rebates if they are conditioned on the purchase or lease of a vehicle.

D) **Credit Sales Advertising Practices**

A majority of vehicle purchases are financed either through the dealer or a private lender. Often times, dealers will advertise attractive credit terms, such as low monthly payments ("only \$120 a month") or low downpayments ("only \$120 per month") then it must also state: the amount or percentage of any required downpayment; the terms of repayment (i.e., number of payments or period of repayment); and the annual percentage rate of "APR."

E) **Lease Advertising Practices**

A majority of vehicle purchases are financed either through the dealer or a private lender. Often times, dealers will advertise attractive credit terms, such as low monthly payments ("only \$120 a month") or low downpayments ("only \$100 down") in an effort to attract consumers whose purchase decisions are based on what their monthly payments will be and whether those monthly payments are compatible with their budgets. This area focuses

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on promoting disclosure of consumer credit terms so that consumers can formulate meaningful comparisons, not only a monthly payments, but also of the terms of repayment, including periods of repayment, downpayment requirements and finance charges. The requirements are further designed to prevent the advertising of credit terms in a deceptive or misleading manner. For example, if an ad offering a vehicle for sale states the amount of a monthly payment ("only \$120 per month") then it must also state: the amount or percentage of any required downpayment; the terms of repayment (i.e., number of payments or period of repayment); and the annual percentage rate of "APR."

E. **Lease Advertising Practices**

Similar to the requirements applicable to credit sales ads, this area focuses on required disclosures which must be made in connection with the offer of credit terms in consumer lease vehicle ads.

Thus, if a dealer advertises the offer of a lease vehicle and the ad states the amount or number of required payments, then it must also disclose the following terms: a) lease (that the transaction is a lease); b) downpayment; c) payment schedule; d) purchase option; and e) termination of lease liability.

- 6) Will this proposed rule replace an emergency rule currently in effect? No.
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Does this proposed rule contain incorporations by reference? No.
- 9) Are there any other proposed amendments pending on this Part? No.
- 10) Statement of Statewide Policy Objectives:
These regulations will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 11) Time, Place, and Manner in which interested persons may comment on the proposed rulemaking:

NOTICE OF PROPOSED RULES

TITLE 14: COMMERCE

SUBTITLE B: CONSUMER PROTECTION

CHAPTER II: ATTORNEY GENERAL

PART 475

MOTOR VEHICLE ADVERTISING

SUBPART A: GENERAL PROVISIONS

Interested parties may submit written comment within 45 days of this notice, to the attention of:

Ms. Julie A. Cardosi
Assistant Attorney General
Deputy Chief, Consumer Protection Division
500 South Second Street
Springfield, Illinois 62706

12) Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: April 23, 1991.

B) Types of small businesses affected: Small businesses which engage in motor vehicle advertising, and, in particular, small new and used vehicle dealers, will be affected by these regulations.

C) Reporting, bookkeeping or other procedures required for compliance: There are no additional reporting, bookkeeping or other procedures required for compliance with these regulations. Dealers are already required by law not to disseminate misleading advertisements.

D) Types of performed skills necessary for compliance: None.

The full text of the proposed rules begins on the next page.

Section 475.110

Definitions

SUBPART B: GENERAL ADVERTISING PRACTICES

Section 475.210

Clear and conspicuous--Disclosure of Material Terms Footnotes and Asterisks

475.230

Print Size

475.240

Photographs and Illustrations

475.250

Color Contrasts

475.260

Abbreviations

SUBPART C: PRICE ADVERTISING

Section 475.310

Advertised Price

475.320

Advertising Limitations

475.330

Low Prices

475.340

Lowest Prices, Guaranteed Lowest Prices

475.350

Price Matching

475.360

Disclosure of Basis for Price Comparison

475.370

Sales

475.380

Liquidation Sale

475.390

Range of Savings or Price Comparison Claims

475.410

Dealer Cost/Invoice Pricing

475.420

Buy-Down Rate

SUBPART D: OTHER ADVERTISING PRACTICES

Section 475.510

Executive or Official Vehicles

475.520

Previously Driven and Demonstrator Vehicles

475.530

Rebates

475.540

Trade-Ins

475.550

No Money Down

475.560

Dealer Size

475.570

Factory Outlet

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475.580 Contract Add-Ons
475.590 Gifts and Free Offers

SUBPART E: CREDIT SALES ADVERTISING

Section
475.610 Credit Sales Advertising Disclosures
475.620 Advertised Terms Unavailable
475.630 Advertised Finance Rate
475.640 Advertisement of Credit Terms

SUBPART F: LEASE ADVERTISING

Section
475.710 Lease Advertising Disclosures
475.720 Other Limitations, Restrictions or Conditions

AUTHORITY: Implementing Sections 2 and 3 and authorized by Section 4 of the Consumer Fraud and Deceptive Business Practices Act (Ill. Rev. Stat. 1989, ch. 121 1/2, pars. 261 et seq.).

SOURCE: Adopted at _____ Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 475.110 Definitions

"Advertisement" (including the terms "advertise" and "advertising") means any oral, written, graphic, or pictorial statement made by any person in any manner, including, without limitation, by publication, dissemination, solicitation or circulation, in the course of "trade" and "commerce," as those terms are defined herein. Advertisement includes, without further limitation, any statement or representation made in a newspaper, magazine, or other publication; or on radio or television; or appearing in any notice, handbill, sign, billboard, banner, poster, display, circular, pamphlet, letter, or other printed material; or contained in any window sticker or price tag.

"Buy-down rate" means a financing rate which, as a result of the dealer's advance payment of finance charges to a third party, is below the prevailing market financing rate.

"Clear and Conspicuous" (including the terms "clearly" and "conspicuously") means that the statement, representation or term being conveyed is disclosed in such a manner that is:

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in close proximity to the statement, representation or term it clarifies, modifies, explains, or to which it otherwise relates; and

readily noticeable; and

reasonably understandable by the person(s) to whom it is directed.

Without limiting the requirements of the preceding, a statement, representation or term is not clear and conspicuous, unless it shall, at a minimum:

Not contradict or substantially alter any terms it purports to clarify, modify, explain, or otherwise relate to.

Employ abbreviations only if they are commonly understood by the public or approved by federal or state law.

For printed, written, typed or graphic advertisements,

be in close proximity to the statement, representation or term it purports to clarify, modify, explain or to which it otherwise relates; and

be of sufficient prominence in terms of print, size and color contrast, as compared with the remainder of the advertisement so as to be readily noticeable to the person(s) to whom it is directed.

In print advertisements, any type size which is 10-point type or larger is deemed readily noticeable.

For radio advertisements, the audio portion of a television advertisement or advertisements in any other audio-visual medium,

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be at a decibel level equal to the highest decibel level used in the advertisement; and

be at a speed equal to or less than any other statement, representation or term contained in the advertisement; and

not use other words or sounds which have the effect of obscuring or detracting from attention to the statement, representation or term.

For the video portion of a television advertisement or advertisements in any other audio-visual medium,

be displayed on not less than one-third of the screen; and

contain letters or color or shade that readily contrasts with the background; and

appear on the screen for a duration sufficient to allow a viewer to have a reasonable opportunity to read and understand the statement, representation or term.

"Dealer" means a dealer as defined in the Illinois Vehicle Code and includes used car dealers, also as defined therein (Ill. Rev. Stat. 1989, ch. 95 1/2, pars. 1-100 et seq.).

"Dealer's cost" (including words of similar import) means the actual cost or total consideration paid by the dealer to the manufacturer for the vehicle, and where no other consideration, fee or charge, including, without limitation, overhead, rebates, promotional fees, advertising, or any other consideration, has been or will be paid by the manufacturer or a third party to the dealer prior or subsequent to the purchase of the vehicle, which in any way reduces, diminishes or offsets the cost to the dealer of purchasing the vehicle.

"Demonstrator" means a motor vehicle which has been driven by the dealer employees or prospective customers

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of that or another dealership which is offering the vehicle for sale.

"Documentary service fee" or words of similar import, including, without limitation, "documentation and handling" fee or "D and H" fee, means a fee for services actually rendered to, for, or on behalf of the retail buyer in preparing, handling, and processing documents pertaining to the motor vehicle and the closing of the transaction, and shall not exceed the amount of forty dollars (\$40.00); provided, however, said fee may be adjusted on January 1st of each calendar year for inflation, employing the Consumer Price Index published by the United States Department of Labor as the basis for adjustment.

"Executive" or "official" vehicle means a motor vehicle which has been driven exclusively by executives of the parent motor vehicle manufacturer's personnel or by an executive of an authorized dealer in the same make of car.

"Free" means without charge or cost, monetary or otherwise, to the recipient, and includes terms of essentially identical import, such as "give away." A free offer in conjunction with the sale or lease of goods or services is one that conveys to customers the message that the goods or services are offered at no cost in conjunction with the purchase of other goods or services for no more than their regular price.

"Motor Vehicle" means a motor vehicle as defined in the Illinois Vehicle Code (Ill. Rev. Stat. 1989, ch. 95 1/2, pars. 1-100 et seq.).

"New Motor Vehicle" means a motor vehicle which is of the current or previous model year and which has not been previously sold to any person except a franchised distributor or franchised new vehicle dealer.

"Person" means any natural person or legal representative, partnership, association, corporation, company, trust, individual, organization or other legal entity, and any agent, employee, salesperson, partner,

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officer, director, member, associate, stockholder, trustee or other authorized person.

"Rebate" means the payment of money to a consumer or payment to a dealer or third party on behalf of a consumer on the condition that the consumer purchase or lease a motor vehicle.

"Rental Vehicle" means a vehicle which has been offered to the public for business or personal use driving for short periods of time, such as on a daily or weekly basis.

"Trade" and "Commerce" mean the advertising, offering for sale, sale, or distribution of any services and any property, tangible or intangible, real, personal or mixed, and any other article, commodity, or thing of value wherever situated, and shall include any trade or commerce directly or indirectly affecting the people of this State.

"Trade area" means the geographic area where the motor vehicle dealership is located and where the dealer's advertisements are disseminated.

SECTION B - GENERAL ADVERTISING PRACTICES

Section 475.210 CLEAR AND CONSPICUOUS DISCLOSURE OF MATERIAL TERMS

It is an unfair or deceptive act for any person to advertise, offer for sale or sell any motor vehicle without disclosing all material terms and conditions relating to the offer clearly and conspicuously at the outset of the offer so as to leave no reasonable probability that the offering might be misunderstood. Material terms include, without limitation, those mandated by federal or state law, or without which the advertisement would be false or misleading.

Section 475.220 FOOTNOTES AND ASTERISKS

It is an unfair or deceptive act to use one or more footnotes or asterisks which, alone or in combination, confuse, contradict, materially modify or unreasonably limit a principal message of the ad.

Section 475.230 PRINT SIZE

It is an unfair or deceptive act to use any print in type size so small as to be not readily noticeable. In print advertisements;

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any type size which is 10-point type or larger is deemed readily noticeable.

Section 475.240 PHOTOGRAPHS AND ILLUSTRATIONS

It is an unfair or deceptive act to use inaccurate photographs or illustrations when describing specific automobiles; including, for example, without limitation, advertising a fully-loaded car when the ad actually refers to a minimally-equipped automobile in text.

Section 475.250 COLOR CONTRASTS

It is an unfair or deceptive act to use color contrasts which render the text confusing or difficult to read.

Section 475.260 ABBREVIATIONS

It is an unfair or deceptive act to use any unexplained abbreviation which is confusing, misleading or not commonly understood by the general public or approved by federal or state law.

SUBPART C: PRICE ADVERTISING

Section 475.310 ADVERTISED PRICE

It is an unfair or deceptive act for a dealer to advertise the total price of a motor vehicle without including in the advertised price all costs to the purchaser at the time of sale, or which are necessary or usual prior to delivery of such vehicle to the purchaser, including without limitation, any costs of delivery, dealer preparation and any other charges of any nature; provided however, taxes, license and title fees and a documentary service fee, as defined herein, may be excluded from the advertised price if the dealer clearly discloses in the advertisement that these costs are excluded from the advertised price.

Section 475.320 ADVERTISING LIMITATIONS

It is an unfair or deceptive act for a dealer to fail to clearly and conspicuously disclose in an advertisement any limitations, including, but not limited to the availability of a single or number of vehicles in stock, or period of time during which the offer is in effect, or other applicable restrictions, to which the advertised price may be subject.

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openly and actively and in good faith, with an intent to sell the vehicle(s) at that price(s).

(b)

It is an unfair or deceptive act for a dealer to use any advertising term(s) which compare the dealer's current selling price with a "list price", or other similar terms, to claim a savings, unless such list price is the manufacturer's suggested retail price ("MSRP"), and is the price at which the vehicle is offered by a reasonable number of dealers in the dealer's trade area, or is the dealer's own former (regular) price as defined in subsection a) 1) or 2) above. However, a dealer may reference an MSRP in relation to its former (regular) price if no savings are claimed, and the MSRP figure is disclosed and identified as such in the ad, and the dealer discloses that the MSRP may not be the price at which the vehicle is sold in the trade area.

(c)

It is an unfair or deceptive act to use any advertising term(s) which compare the dealer's current selling price with a higher price, explicitly or implicitly, unless the basis for the price comparison is clearly and conspicuously disclosed; provided, however, a dealer may compare the higher and lower price without disclosing the basis for the price comparison, if the higher price is the dealer's own former (regular) price, and only if:

It is an unfair or deceptive act to use the term "low prices", or words of similar import in the ad, unless the prices offered are lower than those usually offered by the dealer or other dealers in the same trade area.

Section 475.340 LOWEST PRICES--GUARANTEED LOWEST PRICES

It is an unfair or deceptive act to use the terms "lowest prices", "guaranteed lowest prices", "prices lower than anyone else", or words of similar import in the ad, unless the dealer systematically monitors and continues to monitor competitive prices in the trade area and can substantiate such claim.

Section 475.350 PRICE MATCHING

It is an unfair or deceptive act to use terms "meet your best offer" or "we won't be undersold", or terms of similar import which suggest that a dealer will beat or match a competitor's price unless:

a) the dealer clearly and conspicuously discloses its price matching policy and any limitations; and

b) such policy does not require the presentation of any evidence which places an unreasonable burden on the consumer.

Section 475.360 DISCLOSURE OF BASIS FOR PRICE COMPARISON

a) It is an unfair or deceptive act to use any advertising term(s) which compare the dealer's current selling price with a higher price, explicitly or implicitly, unless the basis for the price comparison is clearly and conspicuously disclosed; provided, however, a dealer may compare the higher and lower price without disclosing the basis for the price comparison, if the higher price is the dealer's own former (regular) price, and only if:

1) the former (regular) price is equal to or below the price(s) at which the dealer made a substantial number of sales of such vehicle(s) in the recent regular course of its business; or

2) the former (regular) price is equal to or below the price(s) at which the dealer offered the vehicle(s) for a reasonably substantial period of time in the recent regular course of its business,

NOTICE OF PROPOSED RULES

Section 475.380 LIQUIDATION SALE

It is an unfair or deceptive act to use the words "sale", "discount", "savings", "price cut", "bargain", "reduced", "clearance", "tent sale", and other similar terms, which state or imply a price savings, unless the current selling price of the vehicle is reduced by a reasonable amount from the vehicle's former (regular) price as defined in Section 475.360 a) 1) or 2), above. If the dealer reduces the price by 5% or more, a rebuttable presumption shall exist that the price reduction was of a reasonable amount.

Section 475.370 SALES

price at which the vehicle is sold in the trade area.

It is an unfair or deceptive act to use terms such as, but not limited to, "Liquidation Sale", "Public Notice", "Closing Out Sale", "Lost Our Lease Sale", "Forced to Vacate Sale" or similar

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terms used to connote or imply a court-ordered or other forced liquidation of assets, or to induce a belief that upon disposal of the stock of goods on hand, the business will cease and be discontinued at the premises where the sale is conducted unless such is the case.

Section 475.390 RANGE OF SAVINGS OR PRICE COMPARISON CLAIMS

It is an unfair or deceptive act to state or imply that any vehicles are being offered for sale at a range of prices or at a range of percentage or fractional discounts, through, but not limited to use of the terms "As Low As" or "From," or terms of similar import, unless:

- a) the highest price or lowest discount in the range is clearly and conspicuously disclosed in the advertisement; and
- b) a reasonable number of these vehicles in the advertisement are offered with at least the largest advertised discount; and
- c) the vehicles are readily available for sale in sufficient quantity likely to meet reasonably expectable public demand.

If at least 5% of the vehicles in the advertisement are offered with at least the largest advertised discount, it shall create a rebuttable presumption that a reasonable number were offered with at least the largest advertised discount.

Section 475.410 DEALER COST/INVOICE PRICING

It is an unfair or deceptive act for any dealer to use in connection with the advertising or sale of any vehicle, the terms "dealer's cost," "cost," "dealer's invoice," "invoice price," "factory invoice," "factory billing," or terms of like import or other representation that a vehicle will be sold at, above, or below a cost or price standard, unless the advertisement:

- a) Exclusively uses the terms "invoice" or "invoice price";
- b) Complies with the following:
 - 1) clearly and conspicuously discloses that the dealer's profit is not limited to the amount of dollars charged over invoice;

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- 2) the price standard represents the total consideration paid by the dealer to the manufacturer for the vehicle, and where no other consideration, fee or charge, including without limitation, overhead, rebates, promotional fees, advertising or other consideration has been or will be paid by the manufacturer or a third party to the dealer prior or subsequent to the purchase of the vehicle, which in any way reduces, diminishes or offsets the cost to the dealer of purchasing the vehicle;
- 3) purchasers shall be able to purchase all vehicles described by the advertisement at the advertised price. If some vehicles in stock may not be purchased at advertised prices because of nonfactory options installation, the advertisement shall clearly and conspicuously disclose that the advertised price applies only to a specified number of vehicles or to one or more vehicles by stock number; and
- 4) the invoice shall be readily available for inspection by prospective customers.

Section 475.420 BUY-DOWN RATE

- a) It is an unfair or deceptive act for any dealer to advertise the sale of any motor vehicle at a "buy-down" rate, as that term is defined herein, without clearly and conspicuously disclosing in the advertisement that the interest rate is not sponsored or subsidized by the manufacturer, if such is, in fact, true. "Manufacturer" includes any subsidiaries of the manufacturer that advertise or offer motor vehicle financing.
- b) It is an unfair or deceptive act for any person to advertise or offer below market finance rates, without clearly and conspicuously disclosing that the difference between the "cash" and "credit" price (i.e., buy down rate) is a hidden finance charge, which may, in fact, affect the purchase price and which must be included in the APR calculation.

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"\$2500 minimum trade-in", including, without limitation, that the trade-in will be valued at a specific amount or guaranteed minimum amount if:

- 1) the price of the vehicle offered for sale is increased because of the amount of the allowance; or
- 2) the offer fails to disclose that it is conditioned upon the purchase of additional options or services, if such is the case.
- 3) It is an unfair or deceptive act for any dealer to advertise or offer a range of amounts for trade-ins (e.g., "up to \$1,000" or "as much as \$1,000"), unless the ad clearly and conspicuously discloses the criteria the dealer will use to determine the amount to be paid for a particular trade-in.

Section 475.550 NO MONEY DOWN

It is an unfair or deceptive act for any dealer to advertise using the phrase "no money down" or words of similar meaning, where a down payment is, in fact, required and the consumer is required to finance the down payment by a loan or make the down payment in cash.

Section 475.560 DEALER SIZE

It is an unfair or deceptive act for any dealer to use statements as to dealer size, dealer inventory, or sales volume to represent or imply that the dealer can and does sell automobiles at a lower price, as a result of such size, inventory or volume, than do other dealers, unless such is the fact.

Section 475.570 FACTORY OUTLET

It is an unfair or deceptive act for a dealer to advertise using the terms "Factory Outlet", "Authorized Distribution Center", "Factory Authorized Sale", or similar special affiliation, connection or relationship with the manufacturer that is greater or more direct than that of any other dealer, when, in fact, no such affiliation, connection or relationship exists.

Section 475.580 CONTRACT ADD-ONS

It is an unfair or deceptive practice for a dealer to negotiate the terms of a sale and thereafter add the cost of items including, without limitation, extended warranties, credit life,

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SUBPART D: OTHER ADVERTISING PRACTICES

Section 475.510 EXECUTIVE OR OFFICIAL VEHICLES

It is an unfair or deceptive act for a dealer to advertise "executive" or "official" vehicles unless such vehicles when so advertised have been used exclusively by executives of the parent motor car manufacturer's personnel or by an executive of an authorized dealer in the same make of car. These vehicles so advertised shall not have been sold to a member of the public prior to the appearance of the ad. Vehicles described as "Executive" shall be qualified by the words "Driven".

Section 475.520 PREVIOUSLY DRIVEN AND DEMONSTRATOR VEHICLES

It is an unfair or deceptive act for any dealer to advertise any motor vehicle which has been previously driven or is a "demonstrator" vehicle, or has been leased or rented on an individual or fleet basis, without clearly and conspicuously disclosing:

- a) The year, make, and model.
- b) The actual odometer reading as of the date of the ad, unless the dealer knows or has reason to know that the odometer reading is inaccurate.

Section 475.530 REBATES

It is an unfair or deceptive act for any dealer to use or offer any cash rebates, including, without limitation, a payment or an offset to a consumer or payment to a dealer or third party on behalf of the consumer on the condition that the consumer purchase or lease a motor vehicle.

It is an unfair or deceptive act for any dealer to use or offer any cash rebate through a manufacturer's rebate program, without clearly and conspicuously disclosing that the dealer is paying a portion of the rebate amount, if such is the case, and may have increased the price of the car accordingly. (Proper disclosure might include, without limitation: "Dealer payment of \$ _____ [or] _____ % may increase final price of vehicle.")

Section 475.540 TRADE-INS

It is an unfair or deceptive act for any dealer to advertise or offer a specific trade-in allowance (i.e.,

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dealer preparation, or undercoating, to the contract without previously disclosing same to the consumer and without the consumer's consent.

Section 475.590 GIFTS AND FREE OFFERS

- a) It is an unfair or deceptive act for any dealer to promote, advertise or offer for sale any vehicle, by means of offering free prizes, gifts or other incentives to any consumer unless all material terms and conditions relating to the offer are clearly and conspicuously disclosed at the outset of the offer so as to leave no reasonable probability that the offering might be misunderstood.
- b) It is an unfair or deceptive act to use the word "free," or words of similar import in connection with the purchase of a vehicle where the vehicle is sold at a price arrived at through bargaining or negotiation, rather than at the former (regular) price.

SECTION E: CREDIT SALES ADVERTISING

Section 475.610 CREDIT SALES ADVERTISING DISCLOSURES

It is an unfair or deceptive act to advertise "closed-end credit" terms in the advertisement, offer of sale, or sale of any motor vehicle if the the advertisement contains any one of following five "triggering terms":

- a) amount or percentage of down payment;
- b) number of payments;
- c) period of repayment;
- d) amount of any payment (expressed as percentage or dollar-amount); or
- e) amount of any finance charge;

without clearly and conspicuously disclosing the following terms:

- f) amount or percentage of any down payment;
- g) terms of repayment; and
- h) "annual percentage rate" using that term spelled out in full or the abbreviation "A.P.R." If the annual

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percentage rate may be increased after the contract is signed, that fact must be disclosed.

Section 475.620 ADVERTISED TERMS UNAVAILABLE

It is an unfair or deceptive act to advertise credit terms that are not actually available.

Section 475.630 ADVERTISED FINANCE RATE

It is an unfair or deceptive act to advertise a finance rate (A.P.R.) without disclosing, if such is the fact, the following:

- a) that such rate is limited to certain models; or
- b) that the price may be increased by a dealer's contribution to lower the rate; or
- c) that to take advantage of such a reduced rate, a customer must purchase additional options or services; or
- d) that taking advantage of the rate will increase the final price of the vehicle or options or services purchased; or
- e) that the offer expires after a limited time period; or
- f) any other conditions, qualifications or limitations which materially affect the availability of such rate.

Section 475.640 ADVERTISEMENT OF CREDIT TERMS

It is an unfair or deceptive act for any person engaged in the making of loans to consumers or furnishing goods or services in a credit transaction to advertise using the terms "bank rates", "bank financing" or words of like import unless it is a bank, banking association or trust company authorized to do business under the laws of Illinois or of the United States.

SECTION F: LEASE ADVERTISING

Section 475.710 LEASE ADVERTISING DISCLOSURES

It is an unfair or deceptive act to advertise the offer of a "consumer lease" if the advertisement contains any one of the following three "triggering terms":

- a) amount of any payment;

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<p>1) The Heading of the Part: Pay Plan</p> <p>2) The Code Citation: 80 Ill. Adm. Code 310</p> <p>3) Section Numbers: 310.100, 310.230, 310.490 Proposed Action: Amended, Amended, Amended</p> <p>4) Statutory Authority: Ill. Rev. Stat. 1987, ch. 127, par. 63b108a(2)</p> <p>5) A Complete Description of the Subjects and Issues Involved: In Section 310.230, Part-Time Daily or Hourly Special Services Rate, the revisions within this section are in regard to the minimum hourly wage rate which changed from \$3.80 to \$4.25, effective April 1, 1991. Also in relation to the new minimum hourly wage rate, the minimum daily rates of the Aftary Inspector, Chaplain I, Chemist I, Educator, Educator Aide, Laboratory Technician II, Recreation Worker I, Technical Advisor II and III will all be changed to \$32.00. In Sections 310.100 and 310.490, Other Pay Provisions, these sections relating to "Lump Sum Payment" of accrued vacation and sick time at the time of layoff are being revised to explain that temporary layoffs are not separations and, therefore, lump sum pay cannot be given in these transactions.</p>	<p>b) number of required payments; or</p> <p>c) statement that any or no downpayment or other payment is required at the beginning of the lease;</p> <p>Without clearly and conspicuously disclosing the following terms:</p> <p>d) Lease - that the transaction is a lease;</p> <p>e) downpayment - total amount of any payment required at commencement of lease, or statement that no such payment is required;</p> <p>f) payment schedule - number, amount, due dates, or period of scheduled payments, and total of such payments under the lease;</p> <p>g) purchase option - statement whether customer has option to purchase the leased property and at what time and price;</p> <p>h) termination of lease liability - statement of amount of any liabilities the lease imposes upon customer at end of term; and if customer is liable, a statement that the customer shall be liable for any difference between the estimated value of the leased property and its realized value at end of lease term.</p> <p>Section 475.720 OTHER LIMITATIONS, RESTRICTIONS OR CONDITIONS</p> <p>It is an unfair or deceptive act to advertise a leased vehicle without disclosing any of the following conditions, limitations or restrictions, if such is the fact:</p> <p>a) Rate of any excess mileage charge and the mileage above which that charge must be paid.</p> <p>b) Lessee responsibility for maintenance and repair.</p> <p>c) Lessee liability in the event of early termination of the lease (e.g., misstating penalty for early termination).</p>
<p>6) Will this proposed rule replace an emergency rule currently in effect?</p> <p>No.</p> <p>7) Does this rulemaking contain an automatic repeal date? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "yes", please specify date:</p> <p>8) Do these proposed amendments contain any incorporations by reference?</p> <p>No.</p> <p>9) Are there any proposed amendments pending to this part? Yes</p>	<p>310.30 Amended 15 Ill. Reg. 4497 (March 29, 1991)</p> <p>310.40 Amended 15 Ill. Reg. 4497 (March 29, 1991)</p>

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310.280	Amended	15 Ill. Reg. 4497 (March 29, 1991)
310.290	Amended	15 Ill. Reg. 4497 (March 29, 1991)
310.320	Amended	15 Ill. Reg. 4497 (March 29, 1991)
310. App. A, Table D	Amended	15 Ill. Reg. 4497 (March 29, 1991)
310. App. A, Table E	Amended	15 Ill. Reg. 4497 (March 29, 1991)
310. App. A, Table F	Amended	15 Ill. Reg. 4497 (March 29, 1991)
310. App. A, Table J	Amended	15 Ill. Reg. 4497 (March 29, 1991)
310. App. A, Table P	Amended	15 Ill. Reg. 4497 (March 29, 1991)
310. App. A, Table U	Amended	15 Ill. Reg. 4497 (March 29, 1991)
310.450	Amended	15 Ill. Reg. 5147 (April 12, 1991)
310.530	Amended	15 Ill. Reg. 5147 (April 12, 1991)
310.540	Amended	15 Ill. Reg. 5147 (April 12, 1991)
310. Appendix C	Amended	15 Ill. Reg. 5147 (April 12, 1991)
310. Appendix D	Amended	15 Ill. Reg. 5147 (April 12, 1991)

10) Statement of Statewide Objectives:

These amendments to the Pay Plan pertain only to State employees subject to the Personnel Code and do not set out any guidelines that are to be followed by local or other jurisdictional bodies within the State.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Within 45 days, comments should be written and addressed to:

Mr. Michael Murphy
Department of Central Management Services
Division of Technical Services
504 William G. Stratton Building
Springfield, Illinois 61706

Telephone: (217) 782-5601

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12) Initial Regulatory Flexibility Analysis:A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs:

The Department of Central Management Services' Pay Plan does not affect private businesses. Amendments made to the Pay Plan are not subject to any guidelines or regulations of the Department of Commerce and Community Affairs.

B) Types of small businesses affected:

None. The Department of Central Management Services' Pay Plan extends only to Personnel Code employees under the jurisdiction of the Governor.

C) Reporting, bookkeeping or other procedures required for compliance:

None

D) Types of professional skills necessary for compliance:

None

The full text of the proposed Rule(s) begins on the next page.

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TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
TABLE V	CU-500 (Corrections, Meet and Confer Employees)
TABLE W	RC-062 (Technical Employees, AFSCME)
TABLE X	RC-063 (Professional Employees, AFSCME)
TABLE Y	RC-063 (Educators, AFSCME)
TABLE Z	RC-063 (Physicians, AFSCME)
APPENDIX B	Schedule of Salary Grades - Monthly and Annual Rates of Pay for Fiscal Year 1991
APPENDIX C	Physician Administrator Rates and Medical Facilities Administrator Rates for Fiscal Year 1991
APPENDIX D	Merit Compensation System Salary Schedule for Fiscal Year 1991
APPENDIX E	Teaching Salary Schedule (Repealed)
APPENDIX F	Physician and Physician Specialist Salary Schedule (Repealed)

AUTHORITY: Implementing and authorized by Section 8a(2) of the Personnel Code (Ill. Rev. Stat. 1989, ch. 127, par. 63b108a(2)).

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of

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150 days; peremptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; peremptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; peremptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; peremptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; peremptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; peremptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; peremptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; peremptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; peremptory amendment at 11 Ill. Reg. 17919, effective October 19, 1987; peremptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; peremptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; peremptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; peremptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; peremptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; peremptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; peremptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; peremptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989;

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Section 310.100 Other Pay Provisions

a) Transfer -- Upon the assignment of an employee to a vacant position in a class with the same salary grade as the class for the position being vacated, the employee's base salary will not be changed. Upon separation from a position of a given class and subsequent appointment to a position in the same salary grade, no increase in salary will be given.

b) Entrance Salary -- Normally upon original entry to state service, an employee's base salary will be at Step 1 of the salary grade.

1) A) If a candidate possesses directly related training and experience in excess of the minimum requirements of the class specification, the entrance salary may be up to Step 3 as determined by the employing agency. The salary offered should not provide more than a 10% increase over the candidate's current salary.

B) Such qualifications above the minimum requirements must possess documented support for higher than the Step 1 entrance salary. An entrance salary higher than Step 3 must have prior approval from the Director of Central Management Services.

2) Area Differential -- For positions where additional compensation is required because of dissimilar economic or other conditions in the geographical area in which such positions are established, a higher entrance step may be authorized by the Director of Central Management Services. Present employees receiving less than the new rate shall be advanced to the new rate.

3) Upon the geographical transfer from or to an area for which additional compensation has been authorized, an employee will receive an adjustment to the appropriate salary level for the new geographical area of assignment effective the first day of the month following date of approval.

c) Differential and Overtime Pay -- An eligible employee may have an amount added to his/her base salary for a given pay period for work performed which is in excess of the normal requirements for the position and work schedule, as follows:

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amended at 14 ILL. Reg. 615, effective January 2, 1990; peremptory amendment at 14 ILL. Reg. 1627, effective January 11, 1990; amended at 14 ILL. Reg. 4455, effective March 12, 1990; peremptory amendment at 14 ILL. Reg. 7652, effective May 7, 1990; amended at 14 ILL. Reg. 10002, effective June 11, 1990; emergency amendment at 14 ILL. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 ILL. Reg. 14361, effective August 24, 1990; emergency amendment at 14 ILL. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 ILL. Reg. 16092; peremptory amendment at 14 ILL. Reg. 17098, effective September 26, 1990; amended at 14 ILL. Reg. 17189, effective October 2, 1990; amended at 14 ILL. Reg. 17189, effective October 19, 1990; amended at 14 ILL. Reg. 18719, effective November 13, 1990; peremptory amendment at 14 ILL. Reg. 18854, effective November 13, 1990; peremptory amendment at 15 ILL. Reg. 663, effective January 7, 1991; amended at 15 ILL. Reg. 3296, effective February 14, 1991; amended at 15 ILL. Reg. 4401, effective March 11, 1991; peremptory amendment at 15 ILL. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 ILL. Reg. 5465, effective April 2, 1991; amended at 15 ILL. Reg. _____, effective _____, 1991.

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- 1) Shift Differential Pay -- An employee may be paid an amount in addition to his-her base salary for work performed on a regularly scheduled second or third shift. The additional compensation will be at a rate and in a manner approved by the Department of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.
- 2) Overtime Pay --
 - A) The Director of Central Management Services will maintain a list of titles whose incumbents are eligible for overtime at a time and one-half rate for all hours actually worked in excess of the normal work schedule in any given work week. Overtime shall be paid in cash only unless an employee requests compensatory time off at the time and one-half rate. Such request shall be considered and granted or denied by the agency in light of their operating needs. The employee shall make his-her choice known to the agency not later than the end of the work week in which the overtime was earned. If such compensatory time request is granted it shall be taken within the fiscal year it was earned at a time convenient to the employee and consistent with the operating needs of the agency. Accrued compensatory time not used by the end of the fiscal year in which it was earned shall be liquidated and paid in cash at the rate it was earned.
 - B) A list will also be maintained by the Director of Central Management Services of titles whose incumbents are eligible for straight-time overtime. Employees in these classes of positions who are assigned and perform work in excess of the normal work schedule as established by the agency shall be compensated at a straight-time rate on either a cash or compensatory time-off basis, as determined by the agency in light of their operating needs, for all hours worked in excess of a normal work week. Overtime in less than one-half hour increments per day shall not be accrued. If compensatory time is not liquidated within the fiscal year during which it is accrued, it must be liquidated at the end of the fiscal year in cash at the employee's rate of pay in effect at the time of liquidation.

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- 3) Incentive Pay -- An employee may be paid an amount in addition to his-her base salary for work performed in excess of the normal work standard as determined by agency management. The additional compensation shall be at a wage rate and in a manner approved by the Director of the Department of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.
- 4) Extra Duty Pay -- An employee may be paid an amount in addition to his-her base salary for service in addition to the regular work schedule on a special work assignment. Additional compensation will be at a rate and in a manner approved by the Director of the Department of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.
 - d) Part-Time Work -- Part-time employees whose base salary is other than an hourly or daily basis shall be paid on a daily basis which will be computed from annual rates of salary and the total number of work days in the year.
 - e) Out-of-State Assignment -- Employees who are assigned to work out-of-state on a temporary basis may receive an appropriate differential during the period of the assignment, as approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.
 - f) Lump Sum Payment -- Shall be provided for accrued vacation and overtime at the current base rate to those employees separated from employment under the Personnel Code. Leaves of absence and temporary lay-off are not separations and therefore lump sum cannot be given in these transactions. Method of computation is explained in Section 310.70(a) of this Part.

AGENCY NOTE -- The method to be used in computing lump sum payment for accrued vacation and overtime payment for an incumbent entitled to shift differential during his-her regular work hours will be to use his-her current base salary plus the shift differential pay.

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Section 310.230 Part-Time Daily or Hourly Special Services Rate

The rate of pay as approved by the Director of Central Management Services for persons employed on a consultative or part-time basis requiring irregular hours of work shall be as listed below, except the total compensation of an employee in any given month shall not exceed the monthly rate of Step 5 of the salary grade for the title as shown in the Schedule of Salary Grades (Appendix B) if the class title is subject to the Schedule of Salary Grades, or Step 5 of the negotiated salary range for classes of positions shown in Section 310.220, Subpart B, Schedule of Rates, or 75% of the maximum rate of those classes of positions subject to the provisions of the Merit Compensation System, Subpart C of this Pay Plan.

Table listing job titles and their corresponding salary ranges. Includes positions like Apiary Inspector, Building-Grounds Laborer, and Office Aide.

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3) Salary Treatment Upon Return From Leave -- An employee returning from Military Leave, Peace Corps Leave, Vista Leave, Service-Connected Disability Leave, leave to accept a Temporary, Emergency, Provisional, Exempt or Trainee position, or Educational Leave will be placed on the step which reflects satisfactory performance increases to which he/she would have been entitled during his/her period of leave. Creditable service date will be maintained. An employee returning to his/her former salary grade from any other leave of over fourteen days will be placed at the step on which he/she was situated prior to his/her leave, and his/her creditable service date will be extended by the duration of the leave.

1) Upon the reemployment of an employee in a class with the same salary grade as the position held before layoff, the employee will be placed at the same salary step as held at the time of the layoff, and his/her creditable service date will be adjusted to reflect that time on layoff does not count as creditable service time.

2) Upon the reemployment of an employee in a class at a lower salary range than the range of the class for the position held before layoff, the employee will be placed at the step in the lower salary grade which provides the base salary nearest in amount to, but less than, the current value of the step held at the time of layoff, and his/her creditable service date will be adjusted to reflect that time on layoff does not count as creditable service time.

1) Reinstatement -- The salary upon reinstatement of an employee will be as determined by the employing agency and approved by the Director of Central Management Services. This salary should not provide more than a 10% increase over the candidate's current salary or exceed the current value of the salary step held in the position where previously certified. In no event is the resulting salary to be lower than the minimum rate or higher than the maximum rate of the salary range.

(Source: Amended at 15 Ill. Reg. _____, effective _____, 1991)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Office Assistant	\$4.00 \$4.25 to \$8.75 (per hour)
	\$42 to \$65
Office Associate	\$4.00 \$4.25 to \$9.50 (per hour)
Optometrist	\$50 to \$160 (daily)
Optometrist	\$15 to \$35 (hourly)
Physician	\$100 to \$300
Physician Specialist (A)	\$100 to \$325 (daily)
Physician Specialist (A)	\$20 to \$60 (hourly)
Physician Specialist (B)	\$100 to \$350 (daily)
Physician Specialist (B)	\$20 to \$70 (hourly)
Physician Specialist (C)	\$100 to \$360 (daily)
Physician Specialist (C)	\$20 to \$75 (hourly)
Physician Specialist (D)	\$100 to \$370 (daily)
Physician Specialist (D)	\$20 to \$85 (hourly)
Podiatrist	\$50 to \$125
Psychologist I	\$35 to \$80
Psychologist II	\$40 to \$125
Psychologist III	\$40 to \$150
Recreation Worker I	\$25 \$32 to \$40
Recreation Worker I	\$5.33 (per hour)
Registered Nurse I	\$39 to \$54
Registered Nurse I (2nd or 3rd shift)	\$41 to \$56
Registered Nurse I (Cook County)	\$43 to \$58
Registered Nurse I (Cook County - 2nd or 3rd shift)	\$44 to \$59
Registered Nurse II	\$43 to \$58
Registered Nurse II (2nd or 3rd shift)	\$44 to \$59
Registered Nurse II (Cook County)	\$45 to \$60
Registered Nurse II (Cook County - 2nd or 3rd shift)	\$47 to \$62
Social Worker II	\$35 to \$75
Social Worker III	\$35 to \$80
Student Worker	\$3.35 \$4.25 to \$8.00 (per hour)
Tax Examiner	\$53 to \$73
Technical Advisor II	\$20 \$32 to \$35 (per hour)
Technical Advisor III	\$30 \$32 to \$60 (per hour)
Technical Advisor IV	\$50 to \$80 (per hour)
Veterinarian II	\$95 to \$130 (daily)

(Source: Amended at 15 Ill. Reg. _____, effective _____, 1991)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Section 310.490 Other Pay Provisions

- a) Transfer -- Upon assignment of an employee to a vacant position in a class with the same salary range as the class for the position being vacated, the employee's base salary will not be changed. Upon separation and subsequent appointment to a position in the same salary range, no increase in salary will be given.
- b) Entrance Salary -- Normally upon entry to state service, an employee's base salary will be at the minimum salary of the salary range.
 - 1)
 - A) If a candidate possesses directly related training and experience in excess of the minimum requirements of the class specification, the employing agency may grant an entrance salary up to the midpoint of the first half of the salary range; however, this shall not provide more than a 10% increase over the candidate's current salary. Such qualifications above the minimum requirements must possess documented support for higher than the minimum entrance salary.
 - B) An entrance salary above the middle of the first half of the salary range must have prior approval of the Director of Central Management Services. This approval will be based on consideration of the candidate's training and experience exceeding the requirements of the class, prior salary history, particular staffing requirements of an agency, and labor market influence on recruitment needs.
 - 2) Area Differential -- For positions where additional compensation is required because of dissimilar economic or other conditions in the geographical area in which such positions are established, a higher entrance salary may be authorized by the Director of Central Management Services. Present employees receiving less than the new rate of pay shall be advanced to the new rate.
 - 3) Upon the geographical transfer from or to an area for which additional compensation has been authorized, an employee will receive an adjustment to the appropriate salary level for the new geographical area of assignment, effective the first day of the month following the date of assignment.

NOTICE OF PROPOSED AMENDMENTS

d) Part-Time Work -- Part-time employees whose base salary is other than an hourly or daily basis shall be paid on a daily rate basis which will be computed from annual rates of salary and the total number of work days in the year.

e) Out-of-State Assignment -- Employees who are assigned to work out-of-state on a temporary basis may receive an appropriate differential during the period of the assignment, as approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.

f) Lump Sum Payment -- Shall be provided for accrued vacation and overtime at the current base rate to those employees separated from employment under the Personnel Code. Leaves of absence and temporary layoff are not separations and therefore lump sum payments cannot be given in these transactions. Methods of computation are explained in Section 310.520(a) of the Merit Compensation System.

AGENCY NOTE: The method to be used in computing lump sum payment for vacation and overtime payment for an incumbent entitled to shift differential during the regular work hours will be to use the current base salary plus the shift differential pay.

g) Salary Treatment upon Return from Leave -- An employee returning from Military Leave, Peace Corps Leave, Vista Leave, Service-Connected Disability Leave, Leave to accept a Temporary, Emer-gency, Provisional, Exempt or Trainee position, or Education leave will have his/her salary established as determined appro-priate by the employing agency and approved by the Director of Central Management Services. However, in no event is the re-sulting salary to be lower than the minimum rate or higher than the maximum rate of the salary range. Creditable service date will be maintained. An employee returning to his/her former salary range from any other leave of over fourteen days will be placed at the salary which the employee received prior to the leave and the creditable service date will be extended by the duration of the leave.

h) Employees in classes which are made subject to the Merit Com-pensation System after July 1, 1979, will retain their current salary, except that in no event is the resultant salary to be lower than the minimum rate or higher than the maximum rate of the new salary range.

c) Differential and Overtime Pay -- An eligible employee may have an amount added to the base salary for a given pay period for work performed which is in excess of the normal requirements for the position and work schedule, as follows:

1) Shift Differential Pay -- An employee may be paid an amount in addition to the base salary for work performed on a regularly scheduled second or third shift. The additional compensation will be at a rate and in a manner approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.

2) Overtime Pay -- The Director of the Department of Central Management Services shall maintain a listing of classes of positions subject to the provisions of the Merit Compensation System who are eligible for overtime compensation. Classes in salary ranges MC 6 and below are eligible for straight-time overtime unless exceptions are determined by the Director of Central Management Services. Classes above MC 6 may be added to the list when requested by an agency and approved by the Director of Central Management Services in consideration of need of the agency and relationship to eligible titles. Employees in these classes of positions who are assigned and perform work in excess of the normal work schedule as established by the agency shall be compensated at a straight-time rate on either a cash or compensatory time-off basis for all hours worked in excess of a normal work week. Overtime in less than one-half hour increments per day shall not be accrued. If compensatory time is not liquidated within the fiscal year during which it is accrued, it must be liquidated at the end of the fiscal year in cash at the employee's rate of pay in effect at the time of liquidation. Any exception to the above provisions for overtime compensation shall be approved by the Director of the Department of Central Management Services. Such exceptions must be requested by the employing agency and will be determined on the basis of the special nature of the situation, a substantial need to provide overtime compensation and a significant number of hours worked beyond the normal work schedule, and will be granted only for a specified time period for which the special situation is expected to exist.

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- i) Extra Duty Pay -- An employee may be paid an amount in addition to the base salary for services in addition to the regular work schedule on a special assignment. Additional compensation will be a rate and manner as approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.
- j) Salary Treatment Upon Reemployment --
- 1) Upon the reemployment of an employee in a class with the same salary range as the class for the position held before layoff, the employee will be placed at the same salary as held at the time of the layoff, and his creditable service date will be adjusted to reflect that time on layoff does not count as creditable service time.
 - 2) Upon the reemployment of an employee in a class at a lower salary range than the range of the class for the position held before layoff, the employee will be placed at the same salary as held at the time of layoff, except that if this exceeds the maximum of the new range, the employee will be placed at that maximum salary. The creditable service date will be adjusted to reflect that time on layoff does not count as creditable service time.
- k) Reinstatement -- The salary upon reinstatement of an employee will be as determined by the employing agency and approved by the Director of Central Management Services. This salary should not provide more than a 10% increase over the candidate's current salary, or exceed the salary rate held in the position where previously certified. In no event is the resulting salary to be lower than the minimum rate or higher than the maximum rate of the salary range.

(Source: Amended at 15 Ill. Reg. _____, effective _____, 1991)

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Employment
- 2) Code Citation: 56 Ill. Adm. Code 2732
- 3) Section Number: 2732.125 Proposed Action: New Section
- 4) Statutory Authority: Ill. Rev. Stat., 1989, ch. 48, pars. 321.2, 322, 610 and 611.
- 5) A Complete Description of the Subjects and Issues Involved: This proposed amendment sets forth the Director's interpretation of Section 211.2 as requiring that the "four or more" provision of that section requires that the four or more workers perform their services in Illinois in order to be included in determining the liability of the employing unit.
- 6) Will the proposed amendment replace an emergency amendment currently in effect? No.
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Does this proposed amendment contain incorporations by reference? No.
- 9) Are there any other proposed amendments pending on this Part? No.
- 10) Statement of Statewide Policy Objective? Not Applicable.
- 11) Time, Place and Manner in which interested persons may comment on this Proposed Rulemaking: All persons who submit a request to comment regarding this proposed amendment within 20 days after this notice has been published in the ILLINOIS REGISTER will be given a reasonable opportunity to submit data, views, arguments or comments. The request shall be addressed to:

Stella Adams Cuthbert, Commissioner
 Illinois Department of Employment Security
 401 South State Street - 2nd Floor South
 Chicago, IL 60605
 312-793-4240

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: DEFINITIONS AND GENERAL PROVISIONS
- 2) Code Citation: 35 Ill. Adm. Code 211
- 3) Section Numbers: Proposed Action:
211.122 Amendment
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 111½, pars. 1009, 1009.1, 1010, and 1027
- 5) A Complete Description of the Subjects and Issues Involved:

The Board hereby proposes to amend its rules in response to USEPA additions to the list of chemicals exempted from the definition of volatile organic materials (VOMs). At 56 Fed. Reg. 11418, March 18, 1991, USEPA added five compounds and four classes of compounds to the list of negligibly photoreactive compounds exempt from regulation under state implementation plans (SIPs). Those compounds constitute additions to those compounds exempted in R89-8, effective January 1, 1990. The Board directs attention to that prior docket for information relating to the original listing of exempted compounds.

This Proposal for Public Comment is adopted pursuant to the identical-in-substance mandate under Section 9.1(e) of the Environmental Protection Act, Ill. Rev. Stat. 1989, ch. 111½, par. 1009.1(e). Section 9.1(e) provides for quick adoption of regulations which are "identical in substance" to certain published federal policy statements and that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by the Joint Committee on Administrative Rules (JCAR). The Federal Register citation to the revision in the federal policy statement used in this Opinion and Order is as follows:

56 Fed. Reg. 11418

March 18, 1991

The revision to USEPA's "Recommended Policy on the Control of Volatile Organic Compounds" adds five compounds and four classes of compounds to the list of negligibly-photochemically-reactive compounds exempted from regulation as volatile organic compounds. This portion of the Board's rulemaking proceeding effects the amendments to the definition of "volatile organic material" that actually exempts the compounds included in the federal policy revision. The added Board Note informs the reader that U.S. Environmental Protection Agency or the Illinois Environmental Protection Agency (IEPA) may require monitoring as a pre-condition to such an exemption under certain circumstances. A parallel amendment to Part 215 would codify the circumstances under

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

which the IEPA may require monitoring.

The Board notes that the present definition of volatile organic material is under amendment in docket R88-14. The Notice of Proposed Amendments for that docket appears in the June 1, 1990 Illinois Register. That proceeding affects the base text of this definition by making significant revisions not reflected in the Notice for the present rulemaking. The Board will soon adopt R88-14 and will reflect those revisions in the base text of any further action arising through the present rulemaking.

As a routine matter the Board amends three definitions to reference the 1989 version of the Illinois Revised Statutes. Those are the definitions of "acid gasses," "automobile," and "light duty truck."

- 6) Will these proposed amendments replace emergency amendments currently in effect? No.
- 7) Does this rulemaking contain an automatic repeal date?: No.
- 8) Do these proposed amendments contain incorporations by reference? Yes.
- 9) Are there any other amendments pending on this Part? Yes.

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
211.122	Amendment	14 Ill. Reg. 08463, June 1, 1990
211.122	Amendment	15 Ill. Reg. 04573, March 29, 1991

- 10) Statement of Statewide Policy Objectives:

The present rulemaking relaxes an existing standard by exempting certain compounds from the definition of volatile organic material for the purposes of air pollution control. This rulemaking is mandated by Section 9.1(e) of the Environmental Protection Act, and by the federal Clean Air Act. The statewide policy objectives are set forth in Section 9.1(e) of the Environmental Protection Act. This rulemaking imposes mandates on units of local government only to the extent they may be involved in the emissions of any of the listed chemical compounds into the environment.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R91-10 and be addressed to:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE B: AIR POLLUTION

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER C: EMISSION STANDARDS AND LIMITATIONS

FOR STATIONARY SOURCES

PART 211

DEFINITIONS AND GENERAL PROVISIONS

SUBPART A: GENERAL PROVISIONS

Section

211.101 Incorporations by Reference

211.102 Abbreviations and Units

SUBPART B: DEFINITIONS

Section

211.121 Other Definitions

211.122 Definitions

Appendix A Rule into Section Table

Appendix B Section into Rule Table

AUTHORITY: Implementing Sections 9, 9.1 and 10 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1009, 1009.1, 1010 and 1027, as amended by P.A. 86-366, effective January 1, 1990).

SOURCE: Adopted as Chapter 2: Air Pollution, Rule 201: Definitions, R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R74-2 and R75-5, 32 PCB 295, at 3 Ill. Reg. 5, p. 777, effective February 3, 1979; amended in R78-3 and 4, 35 PCB 75 and 243, at 3 Ill. Reg. 30, p. 124, effective July 28, 1979; amended in R80-5, at 7 Ill. Reg. 1244, effective January 21, 1983; codified at 7 Ill. Reg. 13590; amended in R82-1 (Docket A) at 10 Ill. Reg. 12624, effective July 7, 1986; amended in R85-21(A) at 11 Ill. Reg. 11747, effective June 29, 1987; amended in R86-34 at 11 Ill. Reg. 12267, effective July 10, 1987; amended in R86-39 at 11 Ill. Reg. 20804, effective December 14, 1987; amended in R82-14 and R86-37 at 12 Ill. Reg. 787, effective December 24, 1987; amended in R86-18 at 12 Ill. Reg. 7284, effective April 8, 1988; amended in R86-10 at 12 Ill. Reg. 7621, effective April 11, 1988; amended in R88-23 at 13 Ill. Reg. 10862, effective June 27, 1989; amended in R89-8 at 13 Ill. Reg. 17457, effective January 1, 1990; amended in R89-16 at 14 Ill. Reg. 9141, effective May 23, 1990; amended in R88-30(B) at 15 Ill. Reg. 5223, effective March 28, 1991; amended in R91-10 at 15 Ill. Reg. , effective

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Ms. Dorothy M. Gunn, Clerk

Illinois Pollution Control Board

State of Illinois, Center, Suite 11-500

100 W. Randolph St.

Chicago, IL 60601

A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: April 15, 1991.

B) Types of small businesses affected: Only those small businesses engaged in the emission of any of the compounds listed as exempt from the definition of volatile organic materials.

C) Reporting, bookkeeping or other procedures required for compliance: None. However, under limited circumstances recited in the proposed rule, the Agency may require monitoring for certain compounds as a precondition to its exemption from the definition of volatile organic material.

D) Types of professional skills necessary for compliance: None. However, if the Agency does require monitoring for any compound as a precondition to its exemption from the definition of volatile organic material, the assistance of engineers or chemists specializing in the sampling and analysis of environmental pollutants might be needed.

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

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Section 211.122 Definitions

"Accumulator": The reservoir of a condensing unit receiving the condensate from a surface condenser.

"Acid Gases": For the purposes of Section 9.4 of the Environmental Protection Act (the Act) (Ill. Rev. Stat. 1987⁹, ch. 111¹/₂, par. 1009.4), hydrogen chloride, hydrogen fluoride and hydrogen bromide, which exist as gases, liquid mist, or any combination thereof.

"Actual Heat Input": The quantity of heat produced by the combustion of fuel using the gross heating value of the fuel.

"Aeration": The practice of forcing air through bulk stored grain to maintain the condition of the grain.

"Afterburner": A device in which materials in gaseous effluents are combusted.

"Air Dried Coating": Coatings that dry by the use of air or forced air at temperatures up to 363.15° K (194° F).

"Annual Grain Through-Put": Unless otherwise shown by the owner or operator, annual grain through-put for grain-handling operations, which have been in operation for three consecutive years prior to June 30, 1975, shall be determined by adding grain receipts and shipments for the three previous fiscal years and dividing the total by 6. The annual grain through-put for grain-handling operations in operation for less than three consecutive years prior to June 30, 1975, shall be determined by a reasonable three-year estimate; the owner or operator shall document the reasonableness of his three-year estimate.

"Architectural Coating": Any coating used for residential or commercial buildings or their appurtenances, or for industrial buildings which is site applied.

"Asphalt": The dark-brown to black cementitious material (solid, semisolid or liquid in consistency) of which the main constituents are bitumens which occur naturally or as a residue of petroleum refining.

"Asphalt Prime Coat": A low-viscosity liquid asphalt applied to an absorbent surface as the first of more than one asphalt coat.

"Automobile": Any first division motor vehicle as that term is defined in the Illinois Vehicle Code (Ill. Rev. Stat. 1987⁹, ch.

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95¹/₂, pars 1-100 et seq.).

"Automobile or Light-Duty Truck Manufacturing Plant": A facility where parts are manufactured or finished for eventual inclusion into a finished automobile or light-duty truck ready for sale to vehicle dealers, but not including customizers, body shops and other repairers.

"Automobile or Light Duty Truck Refinishing": the repainting of used automobiles or light duty trucks.

"Batch Loading": The process of loading a number of individual parts at the same time for degreasing.

"Bead-Dipping": The dipping of an assembled tire bead into a solvent-based cement.

"British Thermal Unit": The quantity of heat required to raise one pound of water from 60° F to 61° F (abbreviated btu).

"Bulk Gasoline Plant": Any gasoline storage and distribution facility that receives gasoline from bulk gasoline terminals by delivery vessels and distributes gasoline to gasoline dispensing facilities.

"Bulk Gasoline Terminal": Any gasoline storage and distribution facility that receives gasoline by pipeline, ship or barge, and distributes gasoline to bulk gasoline plants or gasoline dispensing facilities.

"Can Coating": The application of a coating material to a single walled container that is manufactured from metal sheets thinner than 29 gauge (0.0141 in).

"Certified Investigation": A report signed by Illinois Environmental Protection Agency (Agency) personnel certifying whether a grain-handling operation (or portion thereof) or grain-drying operation is causing or tending to cause air pollution. Such report must describe the signatory's investigation, including a summary of those facts on which he relies to certify whether the grain-handling or grain-drying operation is causing or threatening or allowing the discharge or emission of any contaminant into the environment so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board (Board) under the Environmental Protection Act (Act). The certified investigation shall be open to a reasonable public inspection and may be copied

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"Complete Combustion": A process in which all carbon contained in a fuel or gas stream is converted to carbon dioxide.

"Component": Any piece of equipment which has the potential to leak volatile organic material including, but not limited to, pump seals, compressor seals, seal oil degassing vents, pipeline valves, pressure relief devices, process drains and open ended valves. This definition excludes valves which are not externally regulated, flanges, and equipment in heavy liquid service. For purposes of 35 Ill. Adm. Code 216, Subpart Q, this definition also excludes bleed ports of gear pumps in polymer service.

"Concentrated Nitric Acid Manufacturing Process": Any acid producing facility manufacturing nitric acid with a concentration equal to or greater than 70 percent by weight.

"Condensate": Hydrocarbon liquid separated from its associated gasses which condenses due to changes in the temperature or pressure and remains liquid at standard conditions.

"Control device": For purposes of 35 Ill. Adm. Code 215, Subpart Q, an enclosed combustion device, vapor recovery system, flare, or closed container.

"Conveyorized Degreasing": The continuous process of cleaning and removing soils from surfaces utilizing either cold or vaporized solvents.

"Crude Oil": A naturally occurring mixture which consists of hydrocarbons and sulfur, nitrogen or oxygen derivatives of hydrocarbons and which is a liquid at standard conditions.

"Crude Oil Gathering": The transportation of crude oil or condensate after custody transfer between a production facility and a reception point.

"Custody Transfer": The transfer of produced petroleum and/or condensate after processing and/or treating in the producing operations, from storage tanks or automatic transfer facilities to pipelines or any other forms of transportation.

"Cutback Asphalt": Any asphalt which has been liquified by blending with petroleum solvents other than residual fuel oil and has not been emulsified with water.

"Degreaser": Any equipment or system used in solvent cleaning.

"Delivery Vessel": Any tank truck or trailer equipped with a cleaning is not included in this definition.

"Cold Cleaning": The process of cleaning and removing soils from surfaces by spraying, brushing, flushing or immersion while maintaining the organic solvent below its boiling point. Wipe

"Coil Coating": The application of a coating material to any flat metal sheet or strip that comes in rolls or coils.

"Coating Plant": Any building, structure or installation that contains a coating line and which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person (or by persons under common control).

"Coating Line": An operation where a surface coating is applied to a material and subsequently the coating is dried and/or cured.

"Coating Applicator": Equipment used to apply a surface coating.

"Coal Refuse": Waste products of coal mining, cleaning and coal preparation operations containing coal, matrix material, clay and other organic and inorganic material.

"Closed Vent System": A system that is not open to the atmosphere and that is composed of piping, connections, and, if necessary, flow inducing devices that transport gas or vapor from a piece or pieces of equipment to a control device, or return the gas or vapor to the process line.

"Closed Purge System": A system that is not open to the atmosphere and that is composed of piping, connections, and, if necessary, flow inducing devices that transport liquid or vapor from a piece or pieces of equipment to a control device, or return the liquid or vapor to the process line.

"Clear Coating": Coatings that lack color and opacity or are transparent using the undercoat as a reflectant base or undertone color.

"Cleaning and Separating Operation": That operation where foreign and undesired substances are removed from the grain.

"Choke Loading": That method of transferring grain from the grain-handling operation to any vehicle for shipment or delivery which precludes a free fall velocity of grain from a discharge spout into the receiving container.

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storage tank that is used for the transport of gasoline to a stationary storage tank at a gasoline dispensing facility, bulk gasoline plant or bulk gasoline terminal.

"Distillate Fuel Oil": Fuel oils of grade No. 1 or 2 as specified in detailed requirements for fuel oil A.S.T.M. D-369-69 (1971).

"Dry Cleaning Facility": A facility engaged in the cleaning of fabrics using an essentially nonaqueous solvent by means of one or more solvent washes, extraction of excess solvent by spinning and drying by tumbling in an airstream. The facility includes, but is not limited to, washers, dryers, filter and purification systems, waste disposal systems, holding tanks, pumps and attendant piping and valves.

"Dump-Pit Area": Any area where grain is received at a grain-handling or grain-drying operation.

"Effective Grate Area": That area of a dump-pit grate through which air passes, or would pass, when aspirated.

"Effluent Water Separator": Any tank, box, sump or other apparatus in which any organic material floating on or entrained or contained in water entering such tank, box, sump or other apparatus is physically separated and removed from such water prior to outfall, drainage or recovery of such water.

"Emission Rate": Total quantity of any air contaminant discharge into the atmosphere in any one-hour period.

"End Sealing Compound Coat": A compound applied to can ends which functions as a gasket when the end is assembled on the can.

"Excess Air": Air supplied in addition to the theoretical quantity necessary for complete combustion of all fuel and/or combustible waste material.

"Excessive Release": A discharge of more than 295g (0.65 pounds) of mercaptans and/or hydrogen sulfide into the atmosphere in any five minute period.

"Existing Grain-Drying Operation": Any grain-drying operation the construction or modification of which was commenced prior to June 30, 1975.

"Existing Grain-Handling Operation": Any grain-handling operation the construction or modification of which was commenced prior to June 30, 1975.

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"Exterior Base Coat": An initial coating applied to the exterior of a can after the can body has been formed.

"Exterior End Coat": A coating applied by rollers or spraying to the exterior end of a can.

"External Floating Roof": A storage vessel cover in an open top tank consisting of a double deck or pontoon single deck which is supported by the petroleum liquid being contained and is equipped with a closure seal between the deck edge and tank wall.

"Extreme Performance Coating": Coatings designed for exposure to any of the following: the ambient weather conditions, temperatures above 368.15° K (203° F), detergents, abrasive and scouring agents, solvents, corrosive atmospheres, or other similar extreme environmental conditions.

"Fabric Coating": The coating of a textile substrate, including operations where the coating impregnates the substrate.

"Final Repair Coat": The repainting of any coating which is damaged during vehicle assembly.

"Firebox": The chamber or compartment of a boiler or furnace in which materials are burned, but not the combustion chamber or afterburner of an incinerator.

"Flexographic Printing": The application of words, designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of elastomeric materials.

"Floating Roof": A roof on a stationary tank, reservoir or other container which moves vertically upon change in volume of the stored material.

"Freeboard Height": For open top vapor degreasers, the distance from the top of the vapor zone to the top of the degreaser tank. For cold cleaning degreasers, the distance from the solvent to the top of the degreaser tank.

"Fuel Combustion Emission Source": Any furnace, boiler or similar equipment used for the primary purpose of producing heat or power by indirect heat transfer.

"Fuel Gas System": A system for collection of refinery fuel gas including, but not limited to, piping for collecting tail gas from

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occurred.

"Gross Heating Value": Amount of heat produced when a unit quantity of fuel is burned to carbon dioxide and water vapor, and the water vapor condensed as described in A.S.T.M. D-2015-66, D-900-55, D-1826-64 and D-240-64.

"Heavy Liquid": Liquid with a true vapor pressure of less than 0.3 kPa (0.04 psi) at 294.3° K (70° F) or 0.1 Reid Vapor Pressure as determined by A.S.T.M. method D-323; or which when distilled requires a temperature of 300° F or greater to recover 10% of the liquid as determined by A.S.T.M. method D-86.

"Heavy Metals": For the purposes of Section 9.4 of the Act, elemental, ionic, or combined forms of arsenic, cadmium, mercury, chromium, nickel and lead.

"Heavy, Off-Highway Vehicle Products": For the purposes of Section 215.204(k), heavy off-highway vehicle products shall include: heavy construction, mining, farming or material handling equipment; heavy industrial engines; diesel-electric locomotives and associated power generation equipment; and the components of such equipment or engines.

"Hot Well": The reservoir of a condensing unit receiving the condensate from a barometric condenser.

"Housekeeping Practices": Those activities specifically defined in the list of housekeeping practices developed by the Joint EPA - Industry Task Force and included herein under 35 Ill. Adm. Code 212.461.

"Incinerator": Combustion apparatus in which refuse is burned. "Indirect Heat Transfer": Transfer of heat in such a way that the source of heat does not come into direct contact with process materials.

"In-Process Tank": A container used for mixing, blending, heating, reacting, holding, crystallizing, evaporating, or cleaning operations in the manufacture of pharmaceuticals.

"In-situ Sampling Systems": Nonextractive samplers or in-line samplers.

"Interior Body Spray Coat": A coating applied by spray to the interior of a can after the can body has been formed.

various process units, mixing drums and controls and distribution piping.

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"Fugitive Particulate Matter": Any particulate matter emitted into the atmosphere other than through a stack, provided that nothing in this definition or in 35 Ill. Adm. Code 212.5ubpart K shall exempt any source from compliance with other provisions of 35 Ill. Adm. Code 212 otherwise applicable merely because of the absence of a stack.

"Gas Service": Means that the component contains process fluid that is in the gaseous state at operating conditions.

"Gasoline": Any petroleum distillate having a Reid vapor pressure of 4 pounds or greater.

"Gasoline Dispensing Facility": Any site where gasoline is transferred from a stationary storage tank to a motor vehicle gasoline tank used to provide fuel to the engine of that motor vehicle.

"Grain": The whole kernel or seed of corn, wheat, oats, soybeans and any other cereal or oil seed plant; and the normal fines, dust and foreign matter which results from harvesting, handling or conditioning. The grain shall be unaltered by grinding or processing.

"Grain-Drying Operation": Any operation, excluding aeration, by which moisture is removed from grain and which typically uses forced ventilation with the addition of heat.

"Grain-Handling and Conditioning Operation": A grain storage facility and its associated grain transfer, cleaning, drying, grinding and mixing operations.

"Grain-Handling Operation": Any operation where one or more of the following grain-related processes (other than grain-drying operation, portable grain-handling equipment, one-turn storage space, and excluding flour mills and feed mills) are performed: receiving, shipping, transferring, storing, mixing or treating of grain or other processes pursuant to normal grain operations.

"Green Tire Spraying": The spraying of green tires, both inside and outside, with release compounds which help remove air from the tire during molding and prevent the tire from sticking to the mold after curing.

"Green Tires": Assembled tires before molding and curing have

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"Internal Transferring Area": Areas and associated equipment used for conveying grain among the various grain operations.

"Large Appliance Coating": The application of a coating material to the component metal parts (including but not limited to doors, cases, lids, panels and interior support parts) of residential and commercial washers, dryers, ranges, refrigerators, freezers, water heaters, dishwashers, trash compactors, air conditioners and other similar products.

"Light-Duty Truck": Any second division motor vehicle, as that term is defined in the Illinois Vehicle Code, (Ill. Rev. Stat. 1987⁹, ch. 95 $\frac{1}{2}$, pars. 1-100 et seq.) weighing less than 3854 kilograms (8500 pounds) gross.

"Liquid-Mounted Seal": A primary seal mounted in continuous contact with the liquid between the tank wall and the floating roof edge around the circumference of the roof.

"Liquid Service": Means that the equipment or component contains process fluid that is in a liquid state at operating conditions.

"Liquids Dripping": Any visible leaking from a seal including spraying, misting, clouding and ice formation.

"Load-Out Area": Any area where grain is transferred from the grain-handling operation to any vehicle for shipment or delivery.

"Low Solvent Coating": A coating which contains less organic solvent than the conventional coatings used by the industry. Low solvent coatings include water-borne, higher solids, electro-deposition and powder coatings.

"Magnet Wire Coating": The application of a coating of electrically insulating varnish or enamel to conducting wire to be used in electrical machinery.

"Major Dump Pit": Any dump pit with an annual grain through-put of more than 300,000 bushels, or which receives more than 40% of the annual grain through-put of the grain-handling operation.

"Major Metropolitan Area (MMA)": Any county or group of counties which is defined by the following Table:

MAJOR METROPOLITAN AREAS IN ILLINOIS (MMA's)

MMA

COUNTIES INCLUDED IN MMA

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Champaign-Urbana	Champaign
Chicago	Cook, Lake, Will, DuPage, McHenry, Kane, Grundy, Kendall, Kankakee
Decatur	Macon
Peoria	Peoria, Tazewell
Rockford	Winnebago
Rock Island -- Moline	Rock Island
Springfield	Sangamon
St. Louis (Illinois)	St. Clair, Madison
Bloomington -- Normal	McLean

"Major Population Area (MPA)": Areas of major population concentration in Illinois, as described below:

The area within the counties of Cook; Lake; DuPage; Will; the townships of Burton, Richmond, McHenry, Greenwood, Nunda, Door, Algonquin, Grafton and the municipality of Woodstock, plus a zone extending two miles beyond the boundary of said municipality located in McHenry County; the townships of Dundee, Rutland, Elgin, Plato, St. Charles, Campton, Geneva, Blackberry, Batavia, Sugar Creek and Aurora located in Kane County; and the municipalities of Kankakee, Bradley and Bourbonnais, plus a zone extending two miles beyond the boundaries of said municipalities in Kankakee County.

The area within the municipalities of Rockford and Loves Park, plus a zone extending two miles beyond the boundaries of said municipalities.

The area within the municipalities of Rock Island, Moline, East Moline, Carbon Cliff, Milan, Oak Grove, Silvis, Hampton, Greenwood and Coal Valley, plus a zone extending two miles beyond the boundaries of said municipalities.

The area within the municipalities of Galesburg and East Galesburg, plus a zone extending two miles beyond the boundaries of said municipalities.

The area within the municipalities of Bartonville, Peoria and Peoria Heights, plus a zone extending two miles beyond the boundaries of said municipalities.

The area within the municipalities of Pekin, North Pekin, Marquette Heights, Creve Coeur and East Peoria, plus a zone extending two miles beyond the boundaries of said municipalities.

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Coatings, other than paint and ink

Concrete curing compounds

Dyes

Friction materials and compounds

Resin solutions

Rubber solutions

Viscose solutions

The storage and handling of formulations associated with the process described above.

The use and handling of organic liquids and other substances for clean-up operations associated with the process described above.

"Miscellaneous Metal Parts and Products": For the purpose of 35 Ill. Adm. Code 215.204, miscellaneous metal parts and products shall include farm machinery, garden machinery, small appliances, commercial machinery, industrial machinery, fabricated metal products and any other industrial category which coats metal parts or products under the Standard Industrial Classification Code for Major Groups 33, 34, 35, 36, 37, 38 or 39 with the exception of the following: coating lines subject to 35 Ill. Adm. Code 215.204(a)-(i) and (k), automobile or light-duty truck refinishing, the exterior of marine vessels and the customized top coating of automobiles and trucks if production is less than thirty-five vehicles per day.

"Miscellaneous Organic Chemical Manufacturing Process":

A manufacturing process which produces by chemical reaction, one or more of the following organic compounds or mixtures of organic compounds and which is capable of emitting volatile organic materials:

Chemicals listed in 35 Ill. Adm. Code 215. Appendix D.

Chlorinated and sulfonated compounds

Cosmetic, detergent, soap or surfactant intermediaries or specialties and products

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Disinfectants

Food additives

Oil and petroleum product additives

Plasticizers

Resins or polymers

Rubber additives

Sweeteners

Varnishes

The storage and handling of formulations associated with the process described above.

The use and handling of organic liquids and other substances for clean-up operations associated with the process described above.

"Mixing Operation": The operation of combining two or more ingredients, of which at least one is a grain.

"New Grain-Drying Operation": Any grain-drying operation the construction or modification of which is commenced on or after June 30, 1975.

"New Grain-Handling Operation": Any grain-handling operation the construction or modification of which is commenced on or after June 30, 1975.

"No Detectable Volatile Organic Material Emissions": A discharge of volatile organic material into the atmosphere as indicated by an instrument reading of less than 500 ppm above background as determined in accordance with 40 CFR 60.485(c).

"One Hundred Percent Acid": Acid with a specific gravity of 1.8205 at 30° C in the case of sulfuric acid and 1.4952 at 30° C in the case of nitric acid.

"One-Turn Storage Space": That space used to store grain with a total annual through-put not in excess of the total bushel storage of that space.

"Opacity": A condition which renders material partially or wholly

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imperious to transmittance of light and causes obstruction of an observer's view. For the purposes of these regulations, the following equivalence between opacity and Ringelmann shall be employed:

Opacity Percent	Ringelmann
10	0.5
20	1.
30	1.5
40	2.
60	3.
80	4.
100	5.

"Open Top Vapor Degreasing": The batch process of cleaning and removing soils from surfaces by condensing hot solvent vapor on the colder metal parts.

"Operator of Gasoline Dispensing Facility": Any person who is the lessee of or operates, controls or supervises a gasoline dispensing facility.

"Organic Material": Any chemical compound of carbon including diluents and thinners which are liquids at standard conditions and which are used as dissolvers, viscosity reducers or cleaning agents, but excluding methane, carbon monoxide, carbon dioxide, metallic carbonic acid, metallic carbide, metallic carbonates and ammonium carbonate.

"Organic Materials": For the purposes of Section 9.4 of the Act, any chemical compound of, carbon including diluents and thinners which are liquids at standard conditions and which are used as dissolvers, viscosity reducers or cleaning agents, and polychlorinated dibenzo-p-dioxins, polychlorinated dibenzofurans and polynuclear aromatic hydrocarbons are organic materials, while methane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbonate are organic materials.

"Organic Vapor": Gaseous phase of an organic material or a mixture of organic materials present in the atmosphere.

"Overvarnish": A coating applied directly over ink or printing.

"Owner of Gasoline Dispensing Facility": Any person who has legal or equitable title to a stationary storage tank at a gasoline dispensing facility.

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"Packaging Rotogravure Printing": Rotogravure printing upon paper, paper board, metal foil, plastic film and other substrates, which are, in subsequent operations, formed into packaging products or labels for articles to be sold.

"Paint Manufacturing Plant": A plant that mixes, blends, or compounds enamels, lacquers, sealers, shellacs, stains, varnishes or pigmented surface coatings.

"Paper Coating": The application of a coating material to paper or pressure sensitive tapes, regardless of substrate, including web coating on plastic fibers and decorative coatings on metal foil.

"Particulate Matter": Any solid or liquid material, other than water, which exists in finely divided form.

"Petroleum Liquid": Crude oil, condensate or any finished or intermediate product manufactured at a petroleum refinery, but not including Number 2 through Number 6 fuel oils as specified in A.S.T.M. D-396-69, gas turbine fuel oils Numbers 2-GT through 4-GT as specified in A.S.T.M. D-2880-71 or diesel fuel oils Numbers 2-D and 4-D, as specified in A.S.T.M. D-975-68.

"Petroleum Refinery": Any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through distillation, cracking, extraction or reforming of unfinished petroleum derivatives.

"Pharmaceutical": Any compound or mixture, other than food, used in the prevention, diagnosis, alleviation, treatment or cure of disease in man and animal.

"Photochemically Reactive Material": Any organic material with an aggregate of more than 20 percent of its total volume composed of the chemical compounds classified below or the composition of which exceeds any of the following individual percentages composition limitations. Whenever any photochemically reactive material or any constituent of any organic material may be classified from its chemical structure into more than one of the above groups of organic materials it shall be considered as a member of the most reactive group, that is, the group having the least allowable percent of the total organic materials.

A combination of hydrocarbons, alcohols, aldehydes, esters, ethers or ketones having an olefinic or cyclo-olefinic types of unsaturation: 5 percent. This definition does not apply to perchloroethylene or trichloroethylene.

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A combination of aromatic compounds with eight or more carbon atoms to the molecule except ethyl-benzene: 8 percent.

A combination of ethylbenzene, ketones having branched hydrocarbon structures or toluene: 20 percent.

"Pneumatic Rubber Tire Manufacture": The production of pneumatic rubber tires with a bead diameter up to but not including 20.0 inches and cross section dimension up to 12.8 inches, but not including specialty tires for antique or other vehicles when produced on equipment separate from normal production lines for passenger or truck type tires.

"Polybasic Organic Acid Partial Oxidation Manufacturing Process": Any process involving partial oxidation of hydrocarbons with air to manufacture polybasic acids or their anhydrides, such as maleic anhydride, phthalic anhydride, terephthalic acid, isophthalic acid, trimellitic anhydride.

"Portable Grain-Handling Equipment": Any equipment (excluding portable grain dryers) that is designed and maintained to be movable primarily for use in a non-continuous operation for loading and unloading one-turn storage space, and is not physically connected to the grain elevator, provided that the manufacturer's rated capacity of the equipment does not exceed 10,000 bushels per hour.

"Portland Cement Process": Any facility manufacturing portland cement by either the wet or dry process.

"Power Driven Fastener Coating": The coating of nail, staple, brad and finish nail fasteners where such fasteners are fabricated from wire or rod of 0.0254 inch diameter or greater, where such fasteners are bonded into coils or strips, such coils and strips containing a number of such fasteners, which fasteners are manufactured for use in power tools, and which fasteners must conform with formal standards for specific uses established by various federal and national organizations including Federal Specification FF-N-105b of the General Services Administration dated August 23, 1977 (does not include any later amendments or editions; U.S. Army Armament Research and Development Command, Attn: DRDAR-TST, Rock Island, IL 61201), Bulletin UM-25d of the U.S. Department of Housing and Urban Development - Federal Housing Administration dated September 5, 1973 (does not include any later amendments or editions; Department of HUD, 547 W. Jackson Blvd., Room 1005, Chicago, IL 60606), and the Model Building Code of the

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Council of American Building Officials, and similar standards. For the purposes of this definition, the terms "brad" and "finish nail" refer to single leg fasteners fabricated in the same manner as staples. The application of coatings to staple, brad, and finish nail fasteners may be associated with the incremental forming of such fasteners in a cyclic or repetitious manner (incremental fabrication) or with the forming of strips of such fasteners as a unit from a band of wires (unit fabrication).

"PPM (Vol) - (Parts per Million) (Volume)": A volume/volume ratio which expresses the volumetric concentration of gaseous air contaminant in a million unit volumes of gas.

"Pressure Release": The emission of materials resulting from system pressure being greater than set pressure of the pressure relief device.

"Pressure Tank": A tank in which fluids are stored at a pressure greater than atmospheric pressure.

"Prime Coat": The first film of coating material applied in a multiple coat operation.

"Prime Surfacer Coat": A film of coating material that touches up areas on the surface not adequately covered by the prime coat before application of the top coat.

"Process": Any stationary emission source other than a fuel combustion emission source or an incinerator.

"Process Unit": Components assembled to produce, as intermediate or final products, one or more of the chemicals listed in 35 Ill. Adm. Code 215. Appendix D. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

"Process Unit Shutdown": A work practice or operational procedure that stops production from a process unit or part of a process unit. An unscheduled work practice or operational procedure that stops production from a process unit or part of a process unit for less than 24 hours is not a process unit shutdown. The use of spare components and technically feasible bypassing of components without stopping production is not a process unit shutdown.

"Process Weight Rate": The actual weight or engineering approximation thereof of all materials except liquid and gaseous fuels and combustion air, introduced into any process per hour. For a cyclical or batch operation, the process weight rate shall

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be determined by dividing such actual weight or engineering approximation thereof by the number of hours of operation excluding any time during which the equipment is idle. For continuous processes, the process weight rate shall be determined by dividing such actual weight or engineering approximation thereof by the number of hours in one complete operation, excluding any time during which the equipment is idle.

"Production Equipment Exhaust System": A system for collecting and directing into the atmosphere emissions of volatile organic material from reactors, centrifuges and other process emission sources.

"Publication Rotogravure Printing": Rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements or other types of non-packaging printed materials.

"Purged Process Fluid": Liquid or vapor from a process unit that contains volatile organic material and that results from flushing or cleaning the sample line(s) of a process unit so that an uncontaminated sample may then be taken for testing or analysis.

"Reactor": A vat, vessel or other device in which chemical reactions take place.

"Reasonably Available Control Technology (RACT)": The lowest emission limitation that an emission source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

"Refinery Fuel Gas": Any gas which is generated by a petroleum refinery process unit and which is combusted at the refinery, including any gaseous mixture of natural gas and fuel gas.

"Refinery Unit, Process Unit or Unit": A set of components which are a part of a basic process operation such as distillation, hydrotreating, cracking or reforming of hydrocarbons.

"Residual Fuel Oil": Fuel oils of grade No. 4, 5 and 6 as specified in detailed requirements for fuel oils A.S.T.M. D-396-69 (1971).

"Restricted Area": The area within the boundaries of any municipality as defined in the Illinois Municipal Code, plus a zone extending one mile beyond the boundaries of any such municipality having a population of 1000 or more according to the latest federal census.

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"Ringelmann Chart": The chart published and described in the Bureau of Mines, U.S. Department of Interior, Information Circular 8333 (Revision of IC7718) May 1, 1967, or any adaptation thereof which has been approved by the Agency.

"Roadway": Any street, highway, road, alley, sidewalk, parking lot, airport, rail bed or terminal, bikeway, pedestrian mall or other structure used for transportation purposes.

"Roll Printing": The application of words, designs and pictures to a substrate usually by means of a series of hard rubber or metal rolls each with only partial coverage.

"Rotogravure Printing": The application of words, designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is recessed relative to the non-image area.

"Safety Relief Valve": A valve which is normally closed and which is designed to open in order to relieve excessive pressures within a vessel or pipe.

"Sandblasting": The use of a mixture of sand and air at high pressures for cleaning and/or polishing any type of surface.

"Sensor": A device that measures a physical quantity or the change in a physical quantity such as temperature, pressure, flow rate, pH, or liquid level.

"Set of Safety Relief Valves": One or more safety relief valves designed to open in order to relieve excessive pressures in the same vessel or pipe.

"Sheet Basecoat": A coating applied to metal when the metal is in sheet form to serve as either the exterior or interior of a can for either two-piece or three-piece cans.

"Shotblasting": The use of a mixture of any metallic or non-metallic substance and air at high pressures for cleaning and/or polishing any type of surface.

"Side-Seam Spray Coat": A coating applied to the seam of a three-piece can.

"Smoke": Small gas-borne particles resulting from incomplete combustion, consisting predominantly but not exclusively of carbon, ash and other combustible material, that form a visible

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plume in the air.

"Smokeless Flare": A combustion unit and the stack to which it is affixed in which organic material achieves combustion by burning in the atmosphere such that the smoke or other particulate matter emitted to the atmosphere from such combustion does not have an appearance density or shade darker than No. 1 of the Ringlemann Chart.

"Solvent Cleaning": The process of cleaning soils from surfaces by cold cleaning, open top vapor degreasing or conveyORIZED degreasing.

"Specialty High Gloss Catalyzed Coating": Commercial contract finishing of material prepared for printers and lithographers where the finishing process uses a solvent-borne coating, formulated with a catalyst, in a quantity of no more than 12,000 gallons/year as supplied, where the coating machines are sheet fed and the coated sheets are brought to a minimum surface temperature of 190° F, and where the coated sheets are to achieve the minimum specular reflectance index of 65 measured at a 60 degree angle with a gloss meter.

"Splash Loading": A method of loading a tank, railroad tank car, tank truck or trailer by use of other than a submerged loading pipe.

"Stack": A flue or conduit, free-standing or with exhaust port above the roof of the building on which it is mounted, by which air contaminants are emitted into the atmosphere.

"Standard Conditions": A temperature of 70° F and a pressure of 14.7 pounds per square inch absolute (psia).

"Standard Cubic Foot (scf)": The volume of one cubic foot of gas at standard conditions.

"Startup": The setting in operation of an emission source for any purpose.

"Stationary Emission Source": An emission source which is not self-propelled.

"Stationary Storage Tank": Any container of liquid or gas which is designed and constructed to remain at one site.

"Submerged Loading Pipe": Any loading pipe the discharge opening of which is entirely submerged when the liquid level is 6 inches

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above the bottom of the tank. When applied to a tank which is loaded from the side, any loading pipe the discharge of which is entirely submerged when the liquid level is 18 inches or two times the loading pipe diameter, whichever is greater, above the bottom of the tank. The definition shall also apply to any loading pipe which is continuously submerged during loading operations.

"Sulfuric Acid Mist": Sulfuric acid mist as measured according to the method specified in 35 Ill. Adm. Code 214.101(b).

"Surface Condenser": A device which removes a substance from a gas stream by reducing the temperature of the stream, without direct contact between the coolant and the stream.

"Synthetic Organic Chemical or Polymer Manufacturing Plant": A plant that produces, as intermediates or final products, one or more of the chemicals or polymers listed in 35 Ill. Adm. Code 215. Appendix D.

"Top Coat": A film of coating material applied in a multiple coat operation other than the prime coat, final repair coat or prime surfacer coat.

"Transfer Efficiency": ratio of the amount of coating deposited onto a part or product to the total amount of coating solids used.

"Tread End Cementing": The application of a solvent-based cement to the tire tread ends.

"True Vapor Pressure": The equilibrium partial pressure exerted by a petroleum liquid as determined in accordance with methods described in American Petroleum Institute Bulletin 2517, "Evaporation Loss From Floating Roof Tanks" (1962).

"Turnaround": The procedure of shutting down an operating refinery unit, emptying gaseous and liquid contents to do inspection, maintenance and repair work, and putting the unit back into production.

"Undertread Cementing": The application of a solvent-based cement to the underside of a tire tread.

"Unregulated Safety Relief Valve": A safety relief valve which cannot be actuated by a means other than high pressure in the pipe or vessel which it protects.

"Vacuum Producing System": Any reciprocating, rotary or centrifugal blower or compressor, or any jet ejector or device

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For purposes of this definition, the following are not volatile organic materials:

- Chlorodifluoroethane (HCFC-142b)
- Chlorodifluoromethane (CFC-22)
- Chloropentafluoroethane (CFC-115)
- 2-Chloro-1,1,1,2-tetrafluoroethane (HCFC-124)
- Dichlorodifluoroethane (CFC-12)
- Dichlorofluoroethane (HCFC-141b)
- Dichloromethane (Methylene chloride)
- Dichlorotetrafluoroethane (CFC-114)
- Dichlorotrifluoroethane (HCFC-123)
- 1,1-Difluoroethane (HCFC-152a)
- Ethane
- Methane
- ~~Dichloromethane (methylene chloride)~~
- Pentafluoroethane (HFC-125)
- Tetrafluoroethane (HFC-134a)
- 1,1,2,2-Tetrafluoroethane (HFC-134)
- Trichloroethane (Methyl chloroform)
- Trichlorofluoroethane (CFC-11)
- Trichlorotrifluoroethane (CFC-113)
- 1,1,1-Trifluoroethane (HFC-143a)
- Trifluoromethane (FC-23)

and the following classes of compounds:

Cyclic, branched, or linear, completely fluorinated alkanes.

Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations.

Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations.

Subhur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

BOARD NOTE: USEPA or the Agency may require

monitoring to demonstrate the amount of an exempted compound in a source's emissions on a case-by-case basis as a pre-condition to exemption of that compound under certain circumstances, such as where VOMs and exempted compounds are mixed together, there are a large

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that creates suction from a pressure below atmospheric and discharges against a greater pressure.

"Valves Not Externally Regulated": Valves that have no external controls, such as in-line check valves.

"Vapor Balance System": Any combination of pipes or hoses which creates a closed system between the vapor spaces of an unloading tank and a receiving tank such that vapors displaced from the receiving tank are transferred to the tank being unloaded.

"Vapor Collection System": All piping, seals, hoses, connections, pressure-vacuum vents, and other possible sources between the gasoline delivery vessel and the vapor processing unit and/or the storage tanks and vapor holder.

"Vapor Control System": Any system that prevents release to the atmosphere of organic material in the vapors displaced from a tank during the transfer of gasoline.

"Vapor-Mounted Primary Seal": A primary seal mounted with an air space bounded by the bottom of the primary seal, the tank wall, the liquid surface and the floating roof.

"Vinyl Coating": The application of a topcoat or printing to vinyl coated fabric or vinyl sheets; provided, however, that the application of an organisol or plastisol is not vinyl coating.

"Volatile Organic Liquid": Any liquid which contains volatile organic material.

"Volatile Organic Material" or "Volatile Organic Material Content (VOM)": the emissions of volatile organic material which would result from the exposure of a coating, printing ink, fountain solution, tire spray, dry cleaning waste or other similar material to the air, including any drying or curing, in the absence of any control equipment. VOMC is typically expressed as kilogram (kg) VOM/liter (1b VOM/gallon) or coating or coating solids, or kg VOM/kg (1b VOM/lb) of coating material.

Any organic material which participates in atmospheric photochemical reactions unless specifically exempted from this definition. Volatile organic material emissions shall be measured by the reference methods specified under 40 CFR 60, Appendix V (1986) (no future amendments or editions are included), or, if no reference method is applicable, may be determined by mass balance calculations.

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number of exempted compounds, or the chemical composition of the exempted compounds is not known. See 35 Ill. Adm. Code 215.108; 56 Fed Reg. 11419-20.

"Volatile Petroleum Liquid": Any petroleum liquid with a true vapor pressure that is greater than 1.5 psia (78 millimeters of mercury) at standard conditions.

"Wastewater (Oil/Water) Separator": Any device or piece of equipment which utilizes the difference in density between oil and water to remove oil and associated chemicals of water, or any device, such as a flocculation tank or a clarifier, which removes petroleum derived compounds from waste water.

"Weak Nitric Acid Manufacturing Process": Any acid producing facility manufacturing nitric acid with a concentration of less than 70 percent by weight.

"Woodworking": The shaping, sawing, grinding, smoothing, polishing and making into products of any form or shape of wood.

(Source: Amended at 15 Ill. Reg. , effective)

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- 1) Heading of the Part: ORGANIC MATERIAL EMISSION STANDARDS AND LIMITATIONS
- 2) Code Citation: 35 Ill. Adm. Code 215
- 3) Section Numbers: Proposed Action:
215.108 New Section
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 111 $\frac{1}{2}$, pars. 1009, 1009.1, 1010, and 1027
- 5) A Complete Description of the Subjects and Issues Involved:

The Board hereby proposes to amend its rules in response to USEPA additions to the list of chemicals exempted from the definition of volatile organic materials (VOMs). At 56 Fed. Reg. 11418, March 18, 1991, USEPA added five compounds and four classes of compounds to the list of negligibly photoreactive compounds exempt from regulation under state implementation plans (SIPs). Those compounds constitute additions to those compounds exempted in R89-8, effective January 1, 1990. The Board directs attention to that prior docket for information relating to the original listing of exempted compounds.

This Proposal for Public Comment is adopted pursuant to the identical-in-substance mandate under Section 9.1(e) of the Environmental Protection Act, Ill. Rev. Stat. 1989, ch. 111 $\frac{1}{2}$, par. 1009.1(e). Section 9.1(e) provides for quick adoption of regulations which are "identical in substance" to certain published federal policy statements and that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by the Joint Committee on Administrative Rules (JCAR). The Federal Register citation to the revision in the federal policy statement used in this Opinion and Order is as follows:

56 Fed. Reg. 11418

March 18, 1991

The revision to USEPA's "Recommended Policy on the Control of Volatile Organic Compounds" adds five compounds and four classes of compounds to the list of negligibly-photochemically-reactive compounds exempted from regulation as volatile organic compounds. This portion of the Board's rulemaking proceeding effects a provision that allows IEPA to require monitoring for compounds under the limited circumstances cited by USEPA in the federal policy revision. A parallel amendment to Part 211 would actually codify the amendments to the definition of "volatile organic material."

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
 SUBTITLE B: AIR POLLUTION
 CHAPTER I: POLLUTION CONTROL BOARD
 SUBCHAPTER c: EMISSIONS STANDARDS AND LIMITATIONS FOR
 STATIONARY SOURCES

PART 215
 ORGANIC MATERIAL EMISSION STANDARDS AND LIMITATIONS

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215.583 Gasoline Dispensing Facilities
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EMERGENCY

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215.602 Exemptions
215.603 Leaks
215.604 Compliance Dates and Geographical Areas
215.605 Compliance Plan
215.606 Exception to Compliance Plan
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Appendix A Rule Into Section Table
Appendix B Section Into Rule Table
Appendix C Past Compliance Dates
Appendix D List of Chemicals Defining Synthetic Organic Chemical and Polymer Manufacturing
Appendix E Reference Methods and Procedures
Appendix F Coefficients for the Total Resource Effectiveness Index (TRE) Equation

AUTHORITY: Implementing Sections 9, 9.1 and 10 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1989, ch. 111 $\frac{1}{2}$, pars. 1009, 1009.1, 1010 and 1027, as amended by P.A. 86-366, effective January 1, 1990).

SOURCE: Adopted as Chapter 2: Air Pollution, Rule 205: Organic Material Emission Standards and Limitations, R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R77-3, 33 PCB 357, at 3 Ill. Reg. 18, p. 41, effective May 3, 1979; amended in R78-3 and R78-4, 35 PCB 75, at 3 Ill. Reg.

NOTICE OF PROPOSED AMENDMENTS

The Heading of the Part: Underground Storage Tanks

Code citation: 35 Ill. Adm. Code 731

Section Number: Proposed Action:

731.113 Amendment
731.191 Amendment

4) Statutory Authority: Sections 22.4(d) and 27 of the Environmental Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1022.4(d) and 1027

5) A Complete Description of the Subjects and Issues Involved: A complete description is contained in the Board's opinion of February 28, 1991 in R91-2, which opinion is available from the address below.

This rulemaking concerns underground storage tanks (USTs) which contain petroleum or hazardous substances.

Section 22.4(d) of the Environmental Protection Act requires the Board to adopt regulations governing USTs which are "identical in substance" with USEPA rules adopted pursuant to the Resource Conservation and Recovery Act. The term "identical in substance" is defined in Section 7.2 of the Environmental Protection Act. Section 22.4(d) also provides that this matter is not subject to Section 5 of the IAPA. The USEPA UST rules are in 40 CFR 280. This rulemaking updates the Board's rules to include USEPA actions during the period July 1 through December 31, 1990.

The amendments to Section 731.113 update incorporations to reference current document editions. The amendments to Section 731.191 extends, for units of local government, the compliance date for financial responsibility.

6) Will this proposed rule replace an emergency rule currently in effect? No.

7) Does this rulemaking contain an automatic repeal date? No.

8) Does this proposed amendment contain incorporations by reference?

Yes. Section 731.113 incorporates rules and regulations of

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30, p. 124, effective July 28, 1979; amended in R80-5 at 7 Ill. Reg. 1244, effective January 21, 1983; codified at 7 Ill. Reg. 13601; Notice of corrections at 7 Ill. Reg. 14575; amended in R82-14 at 8 Ill. Reg. 13254, effective July 12, 1984; amended in R83-36 at 9 Ill. Reg. 9114, effective May 30, 1985; amended in R82-14 at 9 Ill. Reg. 13960, effective August 28, 1985; amended in R85-28 at 11 Ill. Reg. 3127, effective February 3, 1987; amended in R82-14 at 11 Ill. Reg. 7296, effective April 3, 1987; amended in R85-21(A) at 11 Ill. Reg. 11770, effective June 29, 1987; recodified in R86-39 at 11 Ill. Reg. 13541; amended in R82-14 and R86-12 at 11 Ill. Reg. 16706, effective September 30, 1987; amended in R85-21(B) at 11 Ill. Reg. 19117, effective November 9, 1987; amended in R86-36, R86-39, R86-40 at 11 Ill. Reg. 20829, effective December 14, 1987; amended in R82-14 and R86-37 at 12 Ill. Reg. 815, effective December 24, 1987; amended in R86-18 at 12 Ill. Reg. 7311, effective April 8, 1988; amended in R86-10 at 12 Ill. Reg. 7650, effective April 11, 1988; amended in R88-23 at 13 Ill. Reg. 10893, effective June 27, 1989.; amended in R88-30(A) at 14 Ill. Reg. 3555, effective February 27, 1990; emergency amendments adopted in R88-30(A) at 14 Ill. Reg. 6421, effective April 11, 1990 for a maximum of 150 days; amended in R88-19 at 14 Ill. Reg. 7596, effective May 8, 1990; amended in R89-16 at 14 Ill. Reg. 9173, effective May 23, 1990; amended in R88-30(B) at 15 Ill. Reg. 3309, effective February 13, 1991; amended in R91-10 at 15 Ill. Reg. , effective

Any provision of Part 211 notwithstanding, the Agency may require monitoring for any of the compounds listed at 35 Ill. Adm. Code 211.122 as exempted from the definition of "volatile organic material," as a precondition to such exemption, under any of the following circumstances:

- a) Where VOMS and exempted compounds are mixed together in the same emissions?
- b) Where there are a large number of exempted compounds in the same emissions? or
- c) Where the chemical composition of the exempted compounds in the emissions is not known.

(Source: Added at 15 Ill. Reg. , effective)

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agencies of the United States, and rules, regulations, standards or guidelines of nationally recognized organizations and associations, and guidelines or standards of agencies of the United States. Section 22.4(d) of the Environmental Protection Act provides that this matter is not subject to first notice or to second notice review by JCAR.

- 9) Are there any other amendments pending on this Part? Yes, in R90-12:

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
731.140	Amendment	December 21, 1990; 14 Ill. Reg. 20162
731.191	Amendment	December 21, 1990; 14 Ill. Reg. 20162

- 10) Statement of Statewide Policy Objectives:

This rulemaking is mandated by Section 22.4(d) of the Environmental Protection Act, and by the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.). This rulemaking imposes mandates on units of local government only to the extent they may own or operate USTs which contain petroleum or hazardous substances. The rules are intended to prevent groundwater contamination caused by leaking USTs. This rulemaking extends the compliance date for units of local government with respect to financial responsibility.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

The Board will receive written public comment for 45 days after this publication. Comments should reference Docket R91-2, and be addressed to:

Ms. Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
SOIC, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601

- 12) Initial Regulatory Flexibility Analysis (if applicable):

POLLUTION CONTROL BOARD

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- A) Date rule submitted to Business Assistance Office of the Department of Commerce and Community Affairs:
March 5, 1991
- B) Types of small businesses affected:
The existing rules affect small businesses which own or operate USTs which contain petroleum or hazardous substances. The rules indirectly affect small businesses involved in the manufacture, installation, testing and repair of USTs and related equipment.
- C) Reporting, bookkeeping or other procedures required for compliance:
The existing rules require extensive reporting, bookkeeping and other procedures, including notification of the existence of tanks, monitoring for leaks, reporting of suspected leaks, preparation of corrective action plans and maintenance of repair records.
- D) Types of professional skills necessary for compliance:
Compliance with the existing rules may require the services of an attorney, certified public accountant and registered professional engineer with training in corrosion protection and hydrogeology.

The full text of the proposed amendments begins on the next page:

731.152	Release Investigation and Confirmation Reporting and Cleanup of Spills and Overfills
SUBPART F: RELEASE RESPONSE AND CORRECTIVE ACTION	
731.160	General
731.161	Initial Response
731.162	Initial Abatement Measures and Site Check
731.163	Initial Site Characterization
731.164	Free Product Removal
731.165	Investigations for Soil and Groundwater Cleanup
731.166	Corrective Action Plan
731.167	Public Participation
SUBPART G: OUT-OF-SERVICE SYSTEMS AND CLOSURE	
731.170	Temporary Closure
731.171	Permanent Closure and Changes-in-Service
731.172	Assessing Site at Closure or Change-in-Service
731.173	Previously Closed Systems
731.174	Closure Records
SUBPART H: FINANCIAL RESPONSIBILITY	
731.190	Applicability
731.191	Compliance Dates
731.192	Definitions
731.193	Amount and Scope of Required Financial Responsibility
731.194	Allowable Mechanisms and Combinations
731.195	Financial Test of Self-insurance
731.196	Guarantee
731.197	Insurance or Risk Retention Group Coverage
731.198	Surety Bond
731.199	Letter of Credit
731.200	UST State Fund
731.202	Trust Fund
731.203	Standby Trust Fund
731.204	Substitution of Mechanisms
731.205	Cancellation or Nonrenewal by Provider
731.206	Reporting
731.207	Recordkeeping
731.208	Drawing on Financial Assurance
731.209	Release from Financial Assurance Requirement
731.210	Bankruptcy or other Incapacity
731.211	Replenishment
731.900	Incorporation by reference (Repealed)
731.901	Compliance Date (Repealed)

731.152	TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL	
CHAPTER I: POLLUTION CONTROL BOARD	
SUBCHAPTER d: UNDERGROUND INJECTION CONTROL	
AND UNDERGROUND STORAGE TANK PROGRAMS	
PART 731	
UNDERGROUND STORAGE TANKS	
SUBPART A: PROGRAM SCOPE AND INTERIM PROHIBITION	
731.101	Definitions and exemptions (Repealed)
731.102	Interim prohibitions (Repealed)
731.103	Notification Requirements (Repealed)
731.110	Applicability
731.111	Interim Prohibition for Deferred Systems
731.112	Definitions
731.113	Incorporations by Reference
731.114	Implementing Agency
SUBPART B: UST SYSTEMS: DESIGN, CONSTRUCTION, INSTALLATION AND NOTIFICATION	
731.120	Performance Standards for New Systems
731.121	Upgrading of Existing Systems
731.122	Notification Requirements
SUBPART C: GENERAL OPERATING REQUIREMENTS	
731.130	Spill and Overfill Control
731.131	Operation and Maintenance of Corrosion Protection
731.132	Compatibility
731.133	Repairs Allowed
731.134	Reporting and Recordkeeping
SUBPART D: RELEASE DETECTION	
731.140	General Requirements for all Systems
731.141	Petroleum Systems
731.142	Hazardous Substance Systems
731.143	Tanks
731.144	Piping
731.145	Recordkeeping
SUBPART E: RELEASE REPORTING, INVESTIGATION AND CONFIRMATION	
731.150	Reporting of Suspected Releases
731.151	Investigation due to Off-site Impacts

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Appendix A Notification Form

AUTHORITY: Implementing and authorized by Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1022.4, 1022.13 and 1027 (Sections 22.4(d), 22.13(d) and 27 of the Environmental Protection Act).

SOURCE: Adopted in R86-1 at 10 Ill. Reg. 14175, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6220, effective March 24, 1987; amended in R88-27 at 13 Ill. Reg. 9519, effective June 12, 1989; amended in R89-4 at 13 Ill. Reg. 15010, effective September 12, 1989; amended in R89-10 at 14 Ill. Reg. 5797, effective April 10, 1990; amended in R89-19 at 14 Ill. Reg. 9454, effective June 4, 1990; amended in R90-3 at 14 Ill. Reg. 11964, effective July 10, 1990; amended in R90-12 at 15 Ill. Reg. , effective ; amended in R91-2 at 15 Ill. Reg. , effective .

NOTE: Capitalization denotes statutory language.

SUBPART A: PROGRAM SCOPE AND INTERIM PROHIBITION

Section 731.113 Incorporations by Reference

- a) The following publications are incorporated by reference:

ACT. Available from the Association for Composite Tanks, 108 N. State St., Suite 720, Chicago, IL 60602, (800) 368-2105:

ACT-100/88; "Specification for the Fabrication of FRP Clad/Composite Underground Storage Tanks", revised March 16, 1988

ANSI. Available from the American National Standards Institute, 1430 Broadway, New York, New York 10018, (212) 354-3300:

See ASME.

API. Available from the American Petroleum Institute, 1220 L Street, N.W., Washington, D.C. 20005, (202) 682-8000:

API Recommended Practice 1604, "Removal and Disposal of Used Underground Petroleum Storage Tanks", Second Edition, December,

POLLUTION CONTROL BOARD

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1987

API Recommended Practice 1615, "Installation of Underground Petroleum Storage Systems", Fourth Edition, November, 1987

API Recommended Practice 1621, "Bulk Liquid Stock Control at Retail Outlets", Fourth Edition, December, 1987

API Recommended Practice 1626, "Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations", First Edition, April, 1985

API Recommended Practice 1627, "Storage and Handling of Gasoline-Methanol/Cosolvent Blends at Distribution Terminals and Service Stations", First Edition, August, 1986

API Recommended Practice 1631, "Interior Lining of Underground Storage Tanks", Second Edition, December, 1987

API Recommended Practice 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems", Second Edition, December, 1987

API Publication 2015, "Cleaning Petroleum Storage Tanks", Third Edition, September, 1985

API Publication 2200, "Repairing Crude Oil, Liquefied Petroleum Gas, and Product Pipelines", Second Edition, April, 1983

ASME. Available from the American Society of Mechanical Engineers, 345 East 47th Street, New York, NY 10017, (212) 705-7722:

"Chemical Plant and Petroleum Refinery Piping", ASME/ANSI B31.3 - 1987, as supplemented by B31.3a. - 1988 and B31.3b - 1988. Also available from ANSI.

"Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous

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POLLUTION CONTROL BOARD

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UL Canada Standard CAN4-S603.1-M85, "Standard for Galvanic Corrosion Protection Systems for Steel Underground Tanks for Flammable and Combustible Liquids", First Edition, June, 1985.

UL Canada Standard CAN4-S615-M83, "Standard for Reinforced Plastic Underground Tanks for Petroleum Products", First Edition, February, 1983.

UL Canada Standard CAN4-S631-M84, "Standard for Isolating Bushings for Steel Underground Tanks Protected with Coatings and Galvanic Systems", First Edition, May, 1984.

UL Canada Standard CAN4-S633-M84, "Flexible Underground Hose Connectors for Flammable and Combustible Liquids", First Edition, June, 1984.

UL Canada Subject C107C-M1984, "Guide for Glass Fibre Reinforced Plastic Pipe and Fittings for Flammable Liquids", First Edition, June, 1984.

- b) CFR (Code of Federal Regulations). Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401, (202) 783-3238:

10 CFR 50, Appendix A (~~1988-1990~~)

40 CFR 280.3 (1987) (repealed September 23, 1988)

40 CFR 302.4, 302.5 and 302.6 (~~1988-1990~~)

40 CFR 355.40 (~~1988-1990~~)

- c) This Section incorporates no later editions or amendments.

(Source: Amended at 15 Ill. Reg. , effective)

SUBPART H: FINANCIAL RESPONSIBILITY

Section 731.191 Compliance Dates

Owners of petroleum underground storage tanks are required to

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

comply with the requirements of this Subpart by the following dates:

- a) All petroleum marketing firms owning 1,000 or more USTs and all other UST owners that report a tangible net worth of \$20 million or more to the U.S. Securities and Exchange Commission (SEC), Dun and Bradstreet, the Energy Information Administration or the Rural Electrification Administration: January 24, 1989, except that compliance with Section 730.194(b) is required by: July 24, 1989.
- b) All petroleum marketing firms owning 100 through 999 USTs: October 26, 1989.
- c) All petroleum marketing firms owning 13 through 99 USTs at more than one facility: April 26, 1991.
- d) All petroleum UST owners not described in subsections (a), (b) or (c), ~~including~~ excluding units of local government: October 26, 1991.
- e) All units of local government: one year after the date of adoption by the Board of additional mechanisms for use by units of local government to comply with financial responsibility requirements for petroleum USTs.

(Source: Amended at 15 Ill. Reg. , effective)

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

1) The Heading of the Part: RELATED PROGRAM PROVISIONS

2) Code Citation: 89 Ill. Adm. Code 117

3) Section Number: Proposed Action:

117.90

New Section

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, Ch. 23, Pars. 12-13)

5) A Complete Description of the Subjects and Issues Involved: This rulemaking sets out the Department's State Income Match program. Under this program Department records are matched with those of the Department of Revenue. The purpose of the match is to identify income and sources of income not reported to the Department, but reported on income tax forms.

6) Will this Proposed Amendment replace an Emergency Amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date? Yes No

8) Does this Proposed Amendment contain incorporations by reference? No

9) Are there any other Proposed Amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking has no effect on local governmental units.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested

parties may submit comments, data, views, or arguments concerning the proposed rulemaking. All comments must be in writing and should be addressed to Anita Williams, Staff Attorney, Office of the General Counsel, Illinois Department of Public Aid, Jesse B. Harris Building II, 100 South Grand Avenue East, 3rd Floor, Springfield, Illinois 62762 (217)782-1233. The Department will consider all written comments it receives within 30 days of the date of publication of this notice.

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12) Initial Regulatory Flexibility Analysis: This rulemaking has no effect on small businesses.

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

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TITLE 89: SOCIAL SERVICES
 CHAPTER I: DEPARTMENT OF PUBLIC AID
 SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 117
 RELATED PROGRAM PROVISIONS

Section	
117.1	Incorporation By Reference
117.10	Payee For Financial Assistance
117.20	Replacement of Missing Warrants
117.30	Withholding of Rent (Repealed)
117.40	Recovery of Interim Assistance - Aid to the Aged, Blind or Disabled and General Assistance
117.50	Funerals and Burials
117.51	Funeral Home Services
117.52	Burial Expenses
117.53	Payment to Vendor(s)
117.54	Claims for Reimbursement
117.55	Submittal of Claims
117.60	Substitute Parental Care/Supplemental Child Care - AFDC, AABD and GA Family Cases
117.70	Charge for Replacement of Photo ID Cards (Repealed)
117.80	Direct Deposit of Recipients' Warrants
117.90	<u>State Income Tax Match</u>

AUTHORITY: Implementing Articles III, IV and VI and authorized by Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, ch. 23, pars. 3-1 et seq., 4-1 et seq., 6-1 et seq. and 12-13).

SOURCE: Filed and effective December 30, 1977; amended at 2 Ill. Reg. 31, p. 68, effective August 3, 1978; amended at 3 Ill. Reg. 38, p. 258, effective September 20, 1979; amended at 3 Ill. Reg. 41, p. 167, effective October 1, 1979; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 16111, effective November 22, 1983; amended at 9 Ill. Reg. 3726, effective March 13, 1985; amended at 9 Ill. Reg. 4526, effective March 20, 1985; amended at 9 Ill. Reg. 8733, effective May 29, 1985; amended at 9 Ill. Reg. 10779, effective July 5, 1985; amended at 9 Ill. Reg. 16914, effective October 16, 1985; amended at 11 Ill. Reg. 4759, effective March 13, 1987; amended at 12 Ill. Reg. 2985, effective January 13, 1988; amended at 12 Ill. Reg. 13608, effective August 15, 1988; amended at 12 Ill. Reg. 14296, effective August 30, 1988; amended at 13 Ill. Reg. 3936, effective March 10, 1989; amended at 14 Ill. Reg. 780, effective January 1, 1990; amended at 14 Ill. Reg. 9488, effective June 1, 1990; amended at 15 Ill. Reg. _____, effective _____.

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NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE

Section 117.90 State Income Tax Match

The Department conducts a yearly State Income Tax Match. Department records are matched with Illinois Department of Revenue records to obtain possible sources of unreported income.

- a) Type I-Income Only cases are those cases that received AFDC, AABD or GA cash assistance for each month beginning with March of a tax year through February of the next year, reported earned income on the State income tax return for that tax year, but had no earned income budgeted for the months of cash assistance receipt.
- b) Type II-Joint Return Only cases are those cases that received AFDC cash assistance for each month beginning with March of a tax year through February of the next year, filed a joint State income tax return for that year, but who only had one adult's needs included in the AFDC case for the entire period of AFDC cash assistance receipt.
- c) Type III cases are AFDC cash assistance cases that are a combination of Type I and Type II cases, having all characteristics of both types.
- d) Each case will be notified of an appointment for an interview, advising of the date, time and place, the reason, a statement of the information obtained from the State Income Tax Match and a list of items to bring to the interview.
- e) If the client fails to appear for the interview, the case will be discontinued due to the receipt of income and an overpayment will be determined for the relevant time period.
- f) If the client appears for the interview, the following actions will be taken:
 - 1) For Type I and Type III cases, appropriate actions regarding termination or reduction of benefits and determination of any overpayment will be made based on the information provided by the client regarding income and employment.

2) For Type II and Type III cases, the client will be advised that signing the joint income tax refund creates the inference that the income was available to the client and that the Department will consider the income, less the spouse's share based on the Department's standard of Need, as available, unless the client can prove all or part of the income was not available. The client can do this in one of the following ways:

- A) signing an affidavit that the client's signature on the joint income tax return is a forgery or that it was signed under duress;
- B) having the spouse sign an affidavit that the client and the spouse did not live together and that the client did not receive or have access to the spouse's income;
- C) signing an affidavit that the client did not have access to the spouse's income or only had access to part of the spouse's income;
- D) receipt of child support from the spouse during the relevant time period; or
- E) stating that an amended State income tax return was filed by the client, with the spouse filing separately, and providing a copy of the amended return.

3) If the client proves that the income was not available, no negative actions will be taken. If the client proves that only part of the income was available, then appropriate actions of termination, reduction or overpayment will be taken based on that information.

g) For all cases, if a client appears for the interview, but then fails to provide the necessary information, the case will be discontinued for failure to cooperate and any overpayment will be calculated based on State Income Tax Match as well as other available information.

(Source: Added at 15 Ill. Reg. _____, effective _____)

Proposed Action:

- Amendments 450.5
- Amendments 450.20
- Amendments 450.30
- Amendments 450.35
- Amendments 450.60
- Amendments Appendix C

Section Numbers:

77 Ill. Adm. Code 450

Code Citation:

Illinois Clinical Laboratories Code

Heading of Part:

A Complete Description of the Subjects and Issues Involved:

Illinois Clinical Laboratory Act
 Ill Rev. Stat. ch. 111 1/2, pars. 621-101 et seq.

The statutory changes implemented by these amendments are included in Public Act 86-1292 (House Bill 3694), which took effect on September 6, 1990. Section 0.9 of Public Act 86-1292 amends the Illinois Clinical Laboratory Act by (1) eliminating the requirement for registration of laboratories which only perform "a small number of minor tests" and (2) specifying that "step screening tests" must be included in the Department's list of minor tests. These proposed amendments implement both of these statutory changes.

The proposed amendments include changes in Section 450.35, which contains the list of tests which the Department considers "minor." The Department is proposing the addition of step screening tests which must be added to comply with the statutory changes. The Department is also proposing the addition of pinworm tests. Special provisions are also being proposed to allow exempt laboratories operated by local health departments to perform RPR tests for syphilis under certain specified conditions. These provisions are being proposed as Section 450.35(a)(4).

Changes are also being proposed to eliminate the references to "registration" in Sections

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450.5, 450.20, 450.30, 450.60, and Appendix C. Other changes are also being proposed in these provisions to insure that the rules are consistent with the statutory changes.

These changes will reduce the requirements for laboratories which only perform minor tests. Currently the Department has received about 1300 registrations, which will be affected by these changes. The economic impact of these proposed amendments is expected to be minimal. The proposed amendments have been reviewed by the Clinical Laboratory and Blood Bank Advisory Board.

The Department anticipates adoption of this rulemaking approximately six to nine months after the publication of this notice in the *Illinois Register*.

- 6) Will these Proposed Amendments Replace an Emergency Rule Currently in Effect? No.
- 7) Does this Rulemaking contain an Automatic Repeal Date? No.
- 8) Do these Proposed Amendments Contain Incorporations By Reference? No.
- 9) Are there any other Proposed Amendments Pending on this Part? No.
- 10) Statement of Statewide Policy Objectives:

This rulemaking neither creates nor expands a state mandate. The amendments relax some requirements for exempt laboratories which are operated by local health departments. This relaxation may result in some minimal reduction in costs for units of local governments which operate such local health departments.

- 11) Time, Place, and Manner in which Interested Persons May Comment on this Proposed Rulemaking:

Interested persons may present their comments concerning these rules by writing to Gail DeVito, Division of Governmental Affairs, Illinois Department of Public Health, 535 West Jefferson, Fifth Floor, Springfield, Illinois 62761, within 45 days after this edition of the *Illinois Register*.

These rules may have an impact on small businesses. In accordance with Sections 3.01 and 4.03 of the Administrative Procedure Act, any small business may present their comments in writing to Gail DeVito at the above address.

Any small business (as defined in Section 3.10 of the Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

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- 12) Initial Regulatory Flexibility Analysis:

A) Date Rule was Submitted to the Business Assistance Office of the Department of Commerce and Community Affairs:

B) Type of Small Businesses Affected:

Clinical laboratories, including physicians' office laboratories

C) Reporting, Bookkeeping or Other Procedures Required for Compliance:

No additional reporting, bookkeeping or other procedures are required for compliance.

D) Types of Professional Skills Necessary for Compliance:

No additional professional skills are necessary for compliance.

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

SUBPART E: EQUIPMENT

Section	450.510	Facilities and Equipment
	450.520	Preventive Maintenance of Equipment and Instruments
	450.530	Glassware (Recpealed)
	450.540	Lancets, Needles and Syringes (Recpealed)
	450.550	Electrical Equipment (Recpealed)
	450.560	Photometric and Spectrophotometric Equipment (Recpealed)
	450.570	Analytic Balances and Weighis (Recpealed)

SUBPART F: OUT OF STATE LABORATORIES

Section	450.610	Criteria for Licensure
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SUBPART G: PROFICIENCY SURVEY PROGRAM AND INSPECTION OF FACILITIES

Section	450.710	Inspections
	450.720	Proficiency Survey Program
	450.730	Western Blot Assay Testing Procedures

SUBPART H: SPECIAL REQUIREMENTS PERTAINING TO BLOOD BANKS (REPEALD)

Section	450.810	General (Recpealed)
	450.820	Applicability of Other Parts of the Regulations (Recpealed)
	450.830	Donors and Donor Blood/Criteria for Donor Selection (Recpealed)
	450.835	Directed Blood Donations (Recpealed)
	450.840	Donors and Donor Blood/Identification of Donor Blood (Recpealed)
	450.845	Donors and Donor Blood/Storage and Transportation (Recpealed)
	450.848	Preparation of Blood Components (Recpealed)
	450.850	Plasmapheresis (or Platelepheresis) (Recpealed)
	450.860	Autologous Transfusion (Recpealed)
	450.870	Transfusion Service Records (Recpealed)

SUBPART I: PROHIBITED PRACTICE

Section	450.920	Terms Not to be Used in Names of Laboratories
	450.930	Prohibitions in Advertising and Announcements
	450.940	Acceptance of Specimens and Reporting of Results

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER D: LABORATORIES AND BLOOD BANKS

PART 450
ILLINOIS CLINICAL LABORATORIES CODE

SUBPART A: GENERAL

Section	450.5	Scope and Applicability
	450.10	Definitions
	450.20	Registrations; Permit and License Application
	450.30	Laboratories Covered required to be licensed, have a permit, or be registered
	450.35	Testing Limitations for Exempt, Registration, Permit, and Licensed Laboratories
	450.40	Penalties and Fines
	450.50	Incorporated Materials
	450.60	Administrative Hearings

SUBPART B: DIRECTORS OF CLINICAL LABORATORIES

Section	450.210	Qualifications of the Director of a Clinical Laboratory
	450.220	Operational Participation of the Director
	450.230	Number of Laboratories Permitted to Operate

SUBPART C: LOCATION, CONSTRUCTION AND SANITATION

Section	450.310	Location
	450.320	Conformance to Local Ordinances
	450.330	Safety and Sanitation Manual

SUBPART D: QUALIFICATIONS OF PERSONNEL

Section	450.410	General Supervisor
	450.420	Medical Technologist
	450.430	Cytoecchnologist
	450.440	Technician
	450.450	Laboratory Assistant

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450.950 Referral of Specimens for Examination to Unlicensed Laboratories

SUBPART J: RECORDS AND REPORTS

Section
450.1010 Necessary Records

K: QUALITY CONTROL

Section
450.1110 Responsibilities of Director
450.1120 Reference Materials
450.1130 Preventative Corrective Maintenance Program
450.1140 Procedure Manuals
450.1150 Quality Control System Methodologies
450.1155 Cytology

SUBPART L: HIV CONTAMINATED BLOOD AND HUMAN TISSUE

Section
450.1200 Handling and Disposal of HIV Contaminated Blood and Human Tissue

SUBPART M: HEALTH SCREENING

Section
450.1300 Health Screening and Approved Health Screening Tests
450.1310 Protocol for Conducting Health Screening
450.1320 Application for a Class III Permit to Conduct Health Screening
450.1330 Reporting and Notification

Appendix A Application for Registration, Class I Permit, Class II Permit, and Licensed Laboratory (Repealed)

Appendix B Application for Class III Permit Laboratory (Repealed)

Appendix C Exempt, Registration, Permit, and License Requirements -- An Overview

AUTHORITY: Implementing and authorized by the Illinois Clinical Laboratory Act (Ill. Rev. Stat. ~~1989-1987 and 1988 Supp.~~, ch. 111 1/2, par. 621 et seq., as amended by P.A. 86-1292 ~~86-144~~, effective September 6, 1990 ~~August 4, 1989~~).

SOURCE: Amended November 16, 1970; amended at 2 Ill. Reg., p. 87, effective November 5, 1978; amended at 4 Ill. Reg. 33, p. 224, 225 and 228, effective August 6, 1980; amended at 6 Ill. Reg. 4151, effective April 5, 1982; amended at 7 Ill. Reg. 7643, effective June 14, 1983; codified at 8 Ill. Reg. 19488; amended at 9 Ill. Reg. 20709,

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effective January 3, 1986; emergency amendment at 10 Ill. Reg. 307, effective January 3, 1986, for a maximum of 150 days, amended at 10 Ill. Reg. 10712, effective June 3, 1986; amended at 12 Ill. Reg. 10018, effective May 27, 1988; emergency amendment at 12 Ill. Reg. 19518, effective October 28, 1988 for a maximum of 150 days, amended at 13 Ill. Reg. 4285, effective March 21, 1989; amended at 13 Ill. Reg. 11573, effective July 1, 1989 and September 1, 1989; emergency amendment at 13 Ill. Reg. 13678, effective August 14, 1989, for a maximum of 150 days; emergency rule expired January 11, 1990; amended at 14 Ill. Reg. 2360, effective January 26, 1990; amended at 15 Ill. Reg. _____, effective _____.

NOTE: Capitalization denotes statutory language.

SUBPART A: GENERAL

Section 450.5 Scope and Applicability

- a) The major thrust of this regulatory scheme is to require some form of regulation ~~license or registration~~ of all entities which perform analysis of human specimens under the following five stage classification scheme:
- 1) Exempt Registration ~~Registration~~ Laboratory;
 - 2) Class I Permit Laboratory;
 - 3) Class II Permit Laboratory;
 - 4) Class III Permit Laboratory;
 - 5) Licensed Laboratory.
- b) All laboratories will be regulated as one of these five levels of classification depending upon the tests they conduct, the source of the specimens, and organizational structure. Each of these levels, except exempt laboratories ~~the registration class~~, has regulatory requirements concerning the qualifications of the laboratory director, qualifications of laboratory personnel, proficiency testing and quality control as set forth in this Part. (See Appendix C ~~Registration, Permit, and License Requirements -- An Overview~~).
- 1) Exempt Registration ~~Registration~~ Laboratory
 - A) In order to qualify as an exempt ~~a "Registration"~~ laboratory, the laboratory must meet the definition of a "Class I Permit" laboratory

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Section 450.5(b)(3)(A) (continued)

~~defined in this Part.~~

- B) The "Class II Permit" laboratory must obtain a permit annually from with the Department ~~on the form set forth as Appendix A of this Part.~~ Generally, the other major requirements are as follows:
- i) the minimum level for the qualifications of the laboratory director includes a physician licensed to practice medicine in all its branches, or a person with at least a master's degree with a major in chemical or biological sciences.
 - ii) the minimum level for the qualifications of laboratory personnel includes a laboratory technician. Section 450.440 of this Part specifies that a laboratory technician is any person who completes at least 60 hours of academic credit including chemistry and biology, a high school graduate who has completed a 1 year accredited training program, or a high school graduate who has completed an official military medical laboratory procedures course of at least 50 weeks.
 - iii) the minimum level of proficiency testing requires proficiency testing for all tests conducted by the laboratory.
 - iv) the minimum level of quality control requires such testing for all tests conducted by the laboratory.
- C) The Department expects physicians, local health authorities, and designated agencies to seek "Class II Permit" laboratory status. Health screening activities under Section 1-103 and 2-120 may be conducted by class II laboratories at locations other than the location or locations set forth in the permit or licensure application, however such health screenings must be conducted in accordance with Sections 450.1300, 450.1310, 450.1320, and 450.1330.
- 4) Class III Laboratory
- A) As set forth in this Part, a "Class III Permit" laboratory can be any laboratory which is operated and maintained exclusively for the purposes of conducting health screening tests by a person, corporation, organization, association or group directly or indirectly on a for profit basis. The health screening tests are listed as glucose and cholesterol

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Section 450.5(b)(4)(A) (continued)

by fingerstick in this Part.

- B) The "Class III Permit" laboratory must obtain a permit annually from with the Department ~~on the form set forth as Appendix B of this Part~~ and must comply with Sections 450.1300, 450.1310, 450.1320, and 450.1330. The "Class III Permit" laboratory has no other regulatory requirements. Generally, the other major requirements are as follows:
- i) the minimum level for the qualifications of the laboratory director include a physician licensed to practice medicine in all its branches, or a person with at least a masters degree with a major in chemical or biological sciences.
 - ii) the minimum level for the qualifications of laboratory personnel include a laboratory assistant or laboratory technician. Section 450.450 of this Part specifies that a laboratory assistant is any person who meets the education and experience requirements set by the laboratory director. Section 450.440 of this Part specifies that a laboratory technician is any person who completes at least 60 hours of academic credit including chemistry and biology, a high school graduate who has completed a 1 year accredited training program, or a high school graduate who has completed an official military medical laboratory procedures course of at least 50 weeks.
 - iii) the minimum level of proficiency testing requires proficiency testing for all tests conducted by the laboratory.
 - iv) the minimum level of quality control requires such testing for all tests conducted by the laboratory.
- C) The Department expects corporations and groups to seek "Class III Permit" laboratory status.
- 5) Licensed Laboratory
- A) As set forth in this Part, a "Licensed" laboratory can be any laboratory at a stated location regardless of ownership which accepts specimens from a person authorized by law to submit such specimens when testing is limited to that which is within the qualifications of the Director as set forth in this Part.

Section 450.20(a) (continued)

WITH THIS REQUIREMENT. ANY SUCH LABORATORY WHICH COMPLIES WITH THIS DEADLINE WILL BE PERMITTED TO CONTINUE OPERATION UNTIL RECEIPT OF A PERMIT OR LICENSE OR NOTICE OF DENIAL OF APPLICATION FOR A PERMIT OR LICENSE FROM THE DEPARTMENT. REGISTRATION LABORATORIES MUST FILE A REGISTRATION FORM WITH THE DEPARTMENT BY DECEMBER 31, 1989. (Section 3-103(b) of the Act, as amended by P.A. 86-141, effective August 3, 1989)

b) All applications shall be submitted on forms provided by the Department, shall be notarized, and shall include all information requested on the form.

c) If during the calendar year in which the license, permit, or renewal thereof has been issued there is a change of owner, location or name of the laboratory, the Department shall be notified prior to such change.

d) If the license or permit is to be issued to two or more persons who are co-owners, all such persons shall be identified upon the application for license or permit or renewal of license or permit and all such persons shall sign such application and it shall be notarized.

e) An application for a license or permit, where the owner is a corporation, shall clearly disclose the names of all persons owning 5% or more of the shares of the corporation. A duly authorized officer of the corporation shall sign the application and it shall be notarized.

f) The description of the program shall be provided in sufficient detail to permit the Department to determine the fields of science represented by the services of the laboratory and the tests which may fall within the scope of its program and services.

(Source: Amended at 15 Ill. Reg. _____, effective _____)

Section 450.30 Laboratories Covered required to be licensed, have a permit, or be registered

a) This Section provides the following items provide references to help understand the differences among these laboratories. The Department assigns an identification number to a laboratory at the time of license or permit application. This number is only for purposes of filing material for that laboratory in the Department. Such identification number is not a license or permit. A license or permit is issued only after an inspection of the facility finds compliance with all pertinent requirements, except for a registered or a class I permit laboratory where an inspection is not

Section 450.5(b)(5) (continued)

B) The "Licensed" laboratory must obtain a license annually from with the Department on the form set forth as Appendix A of this Part. Generally the other major requirements are as follows:

i) the minimum level for the qualifications of the laboratory director includes a physician licensed to practice medicine in all its branches who is Board certified or eligible or who possesses acceptable qualifications as set forth in this Part, or a person with at least a master's degree with a major in chemical or biological sciences.

ii) the minimum level for the qualifications of laboratory personnel include a general supervisor. Section 450.410 of this Part specifies that a general supervisor may be any physician with additional qualifications, a medical technologist, a person with a master's degree in medical laboratory science or other similarly qualified individuals.

iii) the minimum level of proficiency testing requires proficiency testing for all tests conducted by the laboratory.

iv) the minimum level of quality control requires such testing for all tests conducted by the laboratory.

C) The Department expects physicians, corporations, individuals, local health authorities, and others to seek "Licensed" Laboratory status. Health screening activities under Section 1-103 and 2-120 of the Act may be conducted by a licensed laboratory at locations other than the location or locations set forth in the permit or licensure application, however such health screenings must be conducted in accordance with Sections 450.1300, 450.1310, 450.1320, and 450.1330.

(Source: Amended at 15 Ill. Reg. _____, effective _____)

Section 450.20 Registration, Permit and License Application

a) A LABORATORY THAT IS REQUIRED TO OBTAIN A LICENSE OR PERMIT PURSUANT TO THIS ACT BY JULY 1, 1989, BUT WAS PREVIOUSLY EXEMPT FROM SUCH REQUIREMENT, SHALL SUBMIT AN APPLICATION TO THE DEPARTMENT, BUT WILL HAVE UNTIL DECEMBER 31, 1989, TO COMPLY

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Section 450.30(a) (continued)

required.

- 1) ~~An exempt A-registered laboratory~~ meets the criteria set forth in Section 1-103(c) of the Act, and Sections 450.30(c)(3) and 450.35(a) of this Part.
 - 2) A class I permit laboratory meets the criteria set forth in Section 2-108 of the Act; Section 6-101(2)(a) of the Act; and Sections 450.30(b) and 450.35(b) of this Part.
 - 3) A class II permit laboratory meets the criteria set forth in Section 2-109 of the Act; Section 6-101(2)(b) of the Act; and Sections 450.30(b) and 450.35(c) of this Part.
 - 4) A class III permit laboratory meets the criteria set forth in Section 2-110 of the Act; Section 6-101(2)(c) of the Act; and Sections 450.30(b) and 450.35(d) of this Part.
 - 5) A licensed laboratory meets the criteria set forth in Section 2-111 of the Act; Section 6-101(2)(d) of the Act; and Sections 450.30(b) of this Part with no testing limitations, provided the director qualifies.
- b) The following are required to obtain a permit or be licensed pursuant to the Act:
- 1) All clinical laboratories and Blood Banks located within the State of Illinois except as otherwise provided in Section 450.30(c). This includes facilities which issue reports resulting from laboratory examinations, but do not perform laboratory examinations at that facility. (See Section 2-103 of the Act).
 - 2) Laboratories located in hospitals licensed under the Hospital Licensing Act but where the laboratory is not operated by the governing authority of such hospital, including laboratories operating under a lease arrangement with another person or entity.
 - 3) Laboratories outside of Illinois receiving specimens referred from laboratories located in Illinois which are required to obtain a license or permit ~~or register~~ under this Act.
- c) The following are not required to obtain a permit or be licensed under the Clinical Laboratory Act:
- 1) Clinical laboratories operated by the United States Government.

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Section 450.30(c) (continued)

- 2) Clinical laboratories located in hospitals licensed under the Hospital Licensing Act which are under the control of the governing board of such hospitals owned by the exact same entity identified as owner/operator of the hospital as indicated on the last hospital license application filed with the Department; located at the same site and contiguous with the hospital; subject to the regulations and hospital by-laws; and where the entity which receives payment for the laboratory services is the same entity that owns the hospital.
- 3) Exempt Laboratories: LABORATORIES WHICH FIT THE DEFINITION OF CLASS I PERMIT LABORATORIES BUT PERFORM A SMALL NUMBER OF MINOR TESTS AS COMPARED TO OTHER CLASS I PERMIT LABORATORIES AS SET FORTH BY REGULATIONS PROMULGATED PURSUANT TO THIS ACT (See Section 450.35(a)), OR ANY TESTS PERFORMED BY THE PHYSICIAN, PODIATRIST OR DENTIST FOR THE BENEFIT OF HIS OR HER PATIENTS, DO NOT REQUIRE A LICENSE OR PERMIT, ~~PROVIDED EACH LABORATORY REGISTERS WITH THE DEPARTMENT ON AN ANNUAL BASIS ON FORMS PRESCRIBED BY THE DEPARTMENT.~~ (Section 1-103(c) of the Act).
- 4) LABORATORIES WHICH ONLY PERFORM HEALTH SCREENINGS IN ACCORDANCE WITH SECTION 2-120 OF ~~THE THIS ACT~~ and Sections 450.1300, 450.1310, 450.1320, and 450.1330 of this Part, ON A NOT-FOR-PROFIT OR FREE-OF-CHARGE BASIS ARE EXEMPT FROM ALL OTHER PROVISIONS OF THIS ACT. (Section 1-103(d) of the Act)
- 5) LAW ENFORCEMENT AGENCIES AND PROBATION AND COURT SERVICES DEPARTMENTS PERFORMING URINALYSIS AND BLOOD TESTS TO DETERMINE DRUG AND ALCOHOL USE BY HUMANS. (Section 1-103(c) of the Act)

(Source: Amended at 15 Ill. Reg. _____, effective _____)

Section 450.35 Testing Limitations for Exempt, Registration, Permit and Licensed Laboratories

This Section ~~The following~~ explains the tests as defined in Section 2-117 of the Act which can be performed by each of the laboratories regulated by the Act.

- a) Exempt Registration-Class ~~Registration-Class~~ Laboratories as defined in Section 1-103(c) of the Act may perform the following tests:

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Section 450.35(a) (continued)

4) RPR tests for syphilis may be performed by exempt laboratories operated by local health departments under the following conditions:

A) The Department has determined that the area served by the laboratory has a high incidence of early syphilis;

B) The laboratory has a written procedure for the performance of RPR syphilis testing which complies with Section 450.1140 and Section 450.1150(1) of this Part and maintains documentation of compliance with this procedure;

C) The laboratory has written procedures for training of personnel who perform the tests;

D) The laboratory successfully participates in an approved proficiency testing program for syphilis serology;

E) All specimens tested are submitted to a laboratory operated by the Department for confirmation of the test results; and

F) The laboratory is subject to inspection by the Department and agrees to immediately cease RPR syphilis testing if the Department determines that the laboratory is not in compliance with these conditions.

b) Class I Permit Laboratories as defined in Section 2-108 of the Act may perform the following tests:

1) All tests that can be performed by ~~Exempt the Registration Class Laboratories;~~

2) Any SIMPLE TESTS as defined in Section 450.10 (Section 2-108 of the Act); and

3) AND THOSE TESTS OR CATEGORIES OF TESTS SET FORTH BY THE REGULATIONS PROMULGATED PURSUANT TO THE THIS ACT. The Department may give approval to a Class I permit laboratory to perform up to three tests which do not fall within the definition of a simple test, when the laboratory director submits documentation describing the purpose of each test, how it is performed, the specific training and experience of the personnel performing the test(s) and necessary quality control procedures appropriate to the test(s), and the extent of supervision provided by the laboratory director. The Department shall grant approval based upon the following criteria:

- 1) Specific tests and test procedures permissible are the following:
 - A) Urinalysis measured by the use of a chemically impregnated strip (dipstick) or tablet;
 - B) Hematocrit by centrifugation;
 - C) Occult blood;
 - D) Urine pregnancy testing (semi-quantitative chorionic gonadotropin);
 - E) Hemoglobin;
 - F) Red Blood Cell (RBC) sickle cell screen using dithionite, sodium hydrosulfite;
 - G) Wet mounts for Yeast or Trichomonas;
 - H) Blood cholesterol;
 - I) Blood glucose;
 - J) Erythrocyte protophyrin using a hemathuorometer;
 - K) Screening for drugs of abuse by latex agglutination or any other method which meets the simple test definition; and
 - L) Gonorrhea limited to cultures for growth or no growth, oxidase and lactidase, Gram staining;
 - M) Microscopic examination of pinworm preparation; and
 - N) STREP SCREENING TESTS: Rapid group A strep antigen tests. (Section 1-103(c) of the Act)
- 2) ANY TESTS PERFORMED (i.e. conducted and interpreted) BY A PHYSICIAN, PODIATRIST OR DENTIST FOR THE BENEFIT OF HIS OR HER PATIENTS. (Section 1-103(c) of the Act);
- 3) Any tests and test procedures approved by the United States Food and Drug Administration for over the counter sale.

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Section 450.35(a) (continued)

1) Specific tests and test procedures permissible are the following:

A) Urinalysis measured by the use of a chemically impregnated strip (dipstick) or tablet;

B) Hematocrit by centrifugation;

C) Occult blood;

D) Urine pregnancy testing (semi-quantitative chorionic gonadotropin);

E) Hemoglobin;

F) Red Blood Cell (RBC) sickle cell screen using dithionite, sodium hydrosulfite;

G) Wet mounts for Yeast or Trichomonas;

H) Blood cholesterol;

I) Blood glucose;

J) Erythrocyte protophyrin using a hemathuorometer;

K) Screening for drugs of abuse by latex agglutination or any other method which meets the simple test definition; and

L) Gonorrhea limited to cultures for growth or no growth, oxidase and lactidase, Gram staining;

M) Microscopic examination of pinworm preparation; and

N) STREP SCREENING TESTS: Rapid group A strep antigen tests. (Section 1-103(c) of the Act)

2) ANY TESTS PERFORMED (i.e. conducted and interpreted) BY A PHYSICIAN, PODIATRIST OR DENTIST FOR THE BENEFIT OF HIS OR HER PATIENTS. (Section 1-103(c) of the Act);

3) Any tests and test procedures approved by the United States Food and Drug Administration for over the counter sale.

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Section 450.35(b)(3) (continued)

- A) the test(s) is unique to a specific healthcare practice and not readily available from a licensed clinical laboratory (e.g. not performed by a licensed clinical laboratory or hospital laboratory within 50 miles); or
- B) on-site prompt results (e.g. results are required in less time than sending a specimen to a reference laboratory) are necessary for the treatment or care of the patients of the healthcare provider because of the nature of the practice.

- c) Class II permit Laboratories as defined in Section 2-109 of the Act may perform the following tests:
 - 1) All tests that can be performed by ~~Exempt the Registration Class Laboratories;~~
 - 2) All tests that can be performed by the Class I laboratory as detailed in subsection (b).
 - 3) Any complex tests.
- d) Class III Permit Laboratories as defined in Section 2-110 of the Act may perform the following tests: Any health screening tests as defined in Section 450.1300(a).
- e) Licensed Clinical Laboratories as defined in Section 2-111 of the Act may perform the following tests:
 - 1) All tests that can be performed by ~~Exempt the Registration Class Laboratories;~~
 - 2) All tests that can be performed by the Class I laboratory as detailed in subsection (b).
 - 3) Any complex tests.

(Source: Amended at 15 Ill. Reg. _____, effective _____)

Section 450.60 Administrative Hearings

- a) Department decisions concerning ~~exemptions from the Act registration,~~ permits and licenses may be reviewed in an administrative hearing.
- b) All administrative hearings shall be conducted in accordance with the Act and the

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Section 450.60(b) (continued)

Department's ~~rules~~ Rules of Practice and Procedures in Administrative Hearings (77 Ill. Adm. Code. 100).

(Source: Amended at 15 Ill. Reg. _____, effective _____)

Appendix C ~~Exempt Registration,~~ Permit, and License Requirements -- An Overview

	EXEMPT REGISTRATION	CLASS I PERMIT	CLASS II PERMIT	CLASS III PERMIT	HEALTH SCREENING (PROTOCOL)	LICENSE
ELIGIBILITY CRITERIA	Single practice medicine, podiatry, dentistry or local health authority or designated agency Single practice medicine includes: M.D.s, D.O.s, D.C.s [See Section 450.5(b)(1)]	Single practice medicine, podiatry, dentistry or local health authority or designated agency Single practice medicine includes: M.D.s, D.O.s, D.C.s [See Section 450.5(b)(2)]	Owner where lab operated exclusively for patients of physicians, podiatrists, or dentists who own or are employed by the owner or local health authority or designated agency or Class I [See Section 450.5(b)(3)]	Owner where lab operated exclusively for health screening for-profit basis either directly or indirectly [See Section 450.5(b)(4)]	Any laboratory [See Section 450.1300(b)]	Owner to operate lab to accept specimens from any persons authorized to submit such specimens [See Section 450.5(b)(5)]
DIRECTOR REQUIREMENTS	None	M.D., D.O., D.D.S., D.P.M., D.C., Ph.D., M.S., or Grandfathered who meets regulations [See Section 450.210(b)(1)]	M.D., D.O., Ph.D., M.S., or Grandfathered who meets regulations [See Section 450.210(b)(2)]	M.D., D.O., Ph.D., M.S., or Grandfathered who meets regulations [See Section 450.210(b)(3)]	Non-profit testing no requirements except a protocol For-profit testing Class III permit	M.D., D.O., Ph.D., M.S., or Grandfathered who meets regulations [See Section 450.210(b)(4)]
PERSONNEL OTHER THAN DIRECTOR (Minimum)	None	Laboratory assistant, if any [See Section 450.210(b)(1)]	Technician or Technologist [See Section 450.210(b)(2)]	Technician or Laboratory Assistant [See Section 450.210(b)(3)]	None	General supervisor (if director not present full time) [See Section 450.210(b)(4)]
FEES	None Annual Registration	Annual Initial \$50 Renewal \$25	Annual Initial \$100 Renewal \$ 50	Annual Initial \$200 Renewal \$100	None	Annual Initial \$300 Renewal \$150
IDPH INSPECTION FREQUENCY	None	None	2 1/2 years	2 years	None	1 year
PROFICIENCY TESTING	None	Required for tests offered [See Section 450.720]	Required for tests offered [See Section 450.720]	None Required for tests offered [See Section 450.720]	None	Required for tests offered [See Section 450.720]

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part:

Illinois Water Well Construction Code

2) Code Citation:

77.111, Adm. Code 920

3) Section Numbers:

920.10

Amendment

920.15

Amendment

920.20

Amendment

920.30

Amendment

920.40

Amendment

920.50

Amendment

920.60

Amendment

920.70

Amendment

920.80

Amendment

920.90

Amendment

920.100

Amendment

920.110

Amendment

920.120

Amendment

920.130

Amendment

920.170

New Section

920.180

New Section

920.Table A

Amendment

920.Table B

Amendment

920.Illustration H

New Section

Illinois Water Well Construction Code Law

Ill. Rev. Stat. 1989, ch. 111 1/2, par. 116.111 et seq.

4) Statutory Authority:

5) A Complete Description of the Subjects and Issues Involved:

Section 920.10. Definitions. The definitions of abandoned well, closed loop well and driven wells are added to clarify what is meant by the use of these terms.

Section 920.15. A standard for pitless adapters has been added and is incorporated in this section.

Section 920.20 and 920.30 (b). This amendment will expand the scope of this Part to include monitoring and closed loop heat pump wells.

Section 920.40 (f). This amendment adopts alternative standards for pitless well adapters.

NOTICE OF PROPOSED AMENDMENTS

Section 450, Appendix C (continued)

HEALTH	SCREENING	(PROTOCOL)	LICENSE
CLASS I	CLASS II	CLASS III	PERMIT
PERMIT	PERMIT	PERMIT	PERMIT
Minor Registered and simple tests	Minor Registered simple and complex tests	Cholesterol and glucose	Any tests as long as Director qualifies
[See Section 450.35(b)]	[See Section 450.35(c)]	[See Sections 450.35(d) and 450.300(a)]	[See Section 450.35(e)]
last of minor tests	minor tests	minor tests	minor tests
REGISTRATION	CLASS I	CLASS II	CLASS III
PERMIT	PERMIT	PERMIT	PERMIT
PERMISSIBLE	PERMISSIBLE	PERMISSIBLE	PERMISSIBLE

(Source: Amended at 15 Ill. Reg. effective _____)

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Section 920.40 (g). This amendment prohibits modification of a water well cap to allow contaminants to enter the top of the cap.

Section 920.50 (b). This amendment requires a minimum distance between water wells and certain sources of contamination.

Section 920.60 (b) and 920.70 (a). This amendment allows bentonite to be used as a grout. This is a common material used in grouting water wells.

Section 920.80 (d). This amendment adopts standards which further explain the requirements for driven wells. These should clear up and answer many questions which these four added items address in this Section.

Section 920.90 (g). This amendment allows for bentonite grouting. This will clarify this Section since bentonite grouting is allowed in all other Sections of the Code.

Section 920.100 (b). The caution statement is being removed in this Section since such a statement is not a rule.

Section 920.110. This amendment eliminates the requirement that the Department be notified when a modification to a well is made or a well is sealed. The Code currently has a notification requirement when a well is sealed. That requirement is included in Section 920.120 (e).

Section 920.120. This amendment would require the sealing rules to be applied to monitoring wells and boring. These are both sources of groundwater contamination and must be sealed and reported in the same manner as water wells.

Section 920.130 (b). A permit is currently required for all water wells. The amendment would require that the applicant for the permit indicate if the well is to be used as a non-potable well. The Department needs to know if the well is to be used as a potable well since more stringent requirements would apply.

Section 920.170. This new Section establishes requirements for the construction of monitoring wells.

Section 920.180. This new Section establishes requirements for the construction and operation of closed loop heat pump wells.

920.Table A. This amendment reflects current standards for driven well metallic casing.

920.Table B. This amendment reflects current standards for plastic casing and liner pipe.

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920.Illustration H. This new Section illustrates the installation of a driven well.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect?

Yes ___ No X

7) Does this Rulemaking Contain an Automatic Repeal Date? Yes ___ No X

If "yes," please specify the date: _____

8) Does this Rulemaking Contain Any Incorporations By Reference?

Yes X No ___

If "yes," please specify type: 6.02(a) ___ or 6.02(b) X

9) Are there any other Proposed Amendments Pending on this Part?

Yes ___ No X

If Yes:

Section Numbers

Proposed Action

Ill. Reg. Citation

10) Statement of Statewide Policy Objectives:

Adopt standards for the construction of closed loop heat pump wells and monitoring wells and assure their proper construction.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking:

Interested persons may present their comments concerning these rules by writing to Gail M. DeVito, Division of Governmental Affairs, Illinois Department of Public Health, 535 West Jefferson, Fifth Floor, Springfield, Illinois 62761 within 45 days after this issue of the Illinois Register.

These rules may have an impact on small businesses. In accordance with Sections 3.01 and 4.03 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail DeVito at the above address.

Any small business (as defined in Section 3.10 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

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NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

Section 920.10 Definitions

"Abandoned Well" means a water or monitoring well which is no longer used for the purpose for which it was intended or is no longer used to supply water, or which is in such a state of disrepair that the well or boring has the potential for transmitting contaminants into an aquifer or otherwise threatens the public health or safety.

"Act" means the Illinois Water Well Construction Code (Ill. Rev. Stat. 1989~~5~~, ch. 111 1/2, par. 116.111 et seq., as amended).

"Annular Space" means the opening between a well-hole excavation and the well casing or between a casing pipe and a liner pipe.

"Aquifer" means a water bearing formation that transmits water in sufficient quantity to supply a well.

"Boring" means an excavation that is drilled, cored, driven, dug, or otherwise constructed which penetrates an aquifer or which may degrade the quality of the aquifer.

"Chemical Injection System" means any device or combination of devices having hose, pipe or other methods of conveyance which connect directly to any water well through which a mixture of water, pesticides and fertilizers are mixed or are drawn and applied to land, crops, and/or plants at agricultural, nursery, turf, golf course, or greenhouse sites.

"Clay Slurry" means a mixture of water and clay.

"Closed-Loop Heat Pump Well" means a sealed, watertight loop of pipe buried outside of a building foundation which is intended to recirculate a liquid solution through a heat exchanger.

"COMMUNITY WATER SYSTEM" MEANS A PUBLIC WATER SYSTEM WHICH SERVES AT LEAST 15 SERVICE CONNECTIONS USED BY RESIDENTS OR REGULARLY SERVES AT LEAST 25 RESIDENTS FOR AT LEAST 60 DAYS PER YEAR. (Illinois Groundwater Protection Act, (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 7459) ~~Public Act 85-863, effective September 24, 1987~~, (Section 9(a)(1)).

"Consolidated Formation" means a geological formation which is firm such as rock.

"Construction" means all acts necessary to obtaining ground water by wells, including excavation of the well, but excluding the

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installation of permanent pumps and pumping equipment.

"CONTAMINANT" MEANS ANY PHYSICAL, CHEMICAL, BIOLOGICAL, OR RADIOLOGICAL SUBSTANCE OR MATTER IN WATER. (Illinois Groundwater Protection Act, Public Act 85-0863, effective September 24, 1987), (Section 9(a)(2)).

"Department" means the Illinois Department of Public Health.

"Driven Well" means a well constructed by joining a drive point with lengths of pipe and then driving the assembly into the ground with percussion equipment or by hand.

"Environmental Protection Act" means the Environmental Protection Act, Ill. Rev. Stat. 1989~~5~~, ch. 111 1/2, par. 1001 et seq."

"Established Ground Surface" means the elevation of the ground surface at the site of the well.

"Finished Ground Surface" means the final or permanent elevation of the ground surface at the site of the well.

"Modification" means any change, replacement, or other alteration of a water well. This includes, but is not limited to deepening of a well, replacing or repairing a casing, repair or replacement of well screen, installation of a pitless adapter and any other changes of a well structure.

"Monitoring Well" means a water well intended for the purpose of determining groundwater quality or quantity.

"Neat Cement" means a mixture consisting of one bag of cement (94 pounds) to not more than six gallons of clean water. Additives such as bentonite or aquajel or similar materials may be added up to 6% by weight to increase fluidity or to control shrinkage.

"NON-COMMUNITY WATER SYSTEM" MEANS A PUBLIC WATER SYSTEM WHICH IS NOT A COMMUNITY WATER SYSTEM, AND HAS AT LEAST 15 SERVICES CONNECTIONS USED BY NONRESIDENTS, OR REGULARLY SERVES 25 OR MORE NONRESIDENT INDIVIDUALS DAILY FOR AT LEAST 60 DAYS PER YEAR. (Illinois Groundwater Protection Act, Public Act 85-863, effective September 24, 1987) (Section 9(a)(4)).

"POTENTIAL PRIMARY SOURCE" MEANS ANY UNIT AT A FACILITY OR SITE NOT CURRENTLY SUBJECT TO A REMOVAL OR REMEDIAL ACTION WHICH:

IS UTILIZED FOR THE TREATMENT, STORAGE, OR DISPOSAL OF ANY HAZARDOUS OR SPECIAL WASTE (as defined in Section 3 of the

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Environmental Protection Act) NOT GENERATED AT THE SITE: OR

IS UTILIZED FOR THE DISPOSAL OF MUNICIPAL WASTE NOT GENERATED AT THE SITE, OTHER THAN LANDSCAPE WASTE (as defined in Section 3 of the Environmental Protection Act) AND CONSTRUCTION AND DEMOLITION DEBRIS: OR

IS UTILIZED FOR THE LANDFILLING, LAND TREATING, SURFACE

IMPOUNDING OR PILING OF ANY HAZARDOUS OR SPECIAL WASTE (as

defined in Section 3 of the Environmental Protection Act) THAT

IS GENERATED ON THE SITE OR AT OTHER SITES OWNED, CONTROLLED OR

OPERATED BY THE SAME PERSON: OR

STORES OR ACCUMULATES AT ANY TIME MORE THAN 75,000 POUNDS ABOVE

GROUND, OR MORE THAN 7,500 POUNDS BELOW GROUND, OF ANY HAZARDOUS

SUBSTANCES.

(Environmental Protection Act, 111. Rev. Stat. 1989, ch. 111 1/2, par. 1003.59 added by (Public Act 85-983, effective September 24, 1987).

"POTENTIAL SECONDARY SOURCE" MEANS ANY UNIT AT A FACILITY OR A SITE NOT CURRENTLY SUBJECT TO A REMOVAL OR REMEDIAL ACTION, OTHER THAN A POTENTIAL PRIMARY SOURCE, WHICH:

IS UTILIZED FOR THE LANDFILLING, LAND TREATING, OR SURFACE

IMPOUNDING OF WASTE THAT IS GENERATED ON THE SITE OR AT OTHER

SITES OWNED, CONTROLLED OR OPERATED BY THE SAME PERSON, OTHER

THAN LIVESTOCK AND LANDSCAPE WASTE, AND CONSTRUCTION AND

DEMOLITION DEBRIS: OR

STORES OR ACCUMULATES AT ANY TIME MORE THAN 25,000 BUT NOT MORE

THAN 75,000 POUNDS ABOVE GROUND, OR MORE THAN 2,500 BUT NOT MORE

THAN 7,500 POUNDS BELOW GROUND, OF ANY HAZARDOUS SUBSTANCES: OR

STORES OR ACCUMULATES AT ANY TIME MORE THAN 25,000 GALLONS ABOVE

GROUND, OR MORE THAN 500 GALLONS BELOW GROUND, OF PETROLEUM,

INCLUDING CRUDE OIL OR ANY FRACTION THEREOF WHICH IS NOT

OTHERWISE SPECIFICALLY LISTED OR DESIGNATED AS A HAZARDOUS

SUBSTANCE: OR

STORES OR ACCUMULATES PESTICIDES, FERTILIZERS, OR ROAD OILS FOR

PURPOSES OF COMMERCIAL APPLICATION OR FOR DISTRIBUTION TO RETAIL

SALES OUTLETS; OR STORES OR ACCUMULATES AT ANY TIME MORE THAN

50,000 POUNDS OF ANY DE-ICING AGENT: OR

IS UTILIZED FOR HANDLING LIVESTOCK WASTE OR FOR TREATING

DOMESTIC WASTEWATERS OTHER THAN PRIVATE SEWAGE DISPOSAL SYSTEMS

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AS DEFINED IN THE "PRIVATE SEWAGE DISPOSAL LICENSING ACT" (111. Rev. Stat. 1989, ch. 111 1/2, par. 116.301)

(Environmental Protection Act, 111. Rev. Stat. 1989, ch. 111 1/2, par. 1003.60 added by (Public Act 85-863, effective September 24, 1987).

"POTENTIAL ROUTE" MEANS ABANDONED AND IMPROPERLY PLUGGED WELLS OF ALL KINDS, (i.e. those wells not plugged in accordance with the provision of this part) DRAINAGE WELLS, ALL INJECTION WELLS, INCLUDING CLOSED LOOP HEAT PUMP WELLS, AND ANY EXCAVATION FOR THE DISCOVERY,

DEVELOPMENT OR PRODUCTION OF STONE, SAND OR GRAVEL. (Environmental

Protection Act, 111. Rev. Stat. 1989, ch. 111 1/2, par. 1003.58

added by (Public Act 85-863, effective September 24, 1987).

"PRIVATE WATER SYSTEM" MEANS ANY SUPPLY WHICH PROVIDES WATER FOR

DRINKING, CULINARY, AND SANITARY PURPOSES AND SERVES AN

OWNER-OCCUPIED SINGLE FAMILY DWELLING. (111 Rev. Stat. 1989, ch. 111 1/2, par. 7459)

(Public Act 85-863, effective September 24, 1987) (Section 9(a)(5)).

"PUBLIC WATER SYSTEM" MEANS A SYSTEM FOR THE PROVISION TO THE PUBLIC OF PIPED WATER FOR HUMAN CONSUMPTION, IF THE SYSTEM HAS AT LEAST 15 SERVICE CONNECTIONS OR REGULARLY SERVES AN AVERAGE OF AT LEAST 25

INDIVIDUALS DAILY AT LEAST 60 DAYS PER YEAR. THE TERM "PUBLIC WATER

SYSTEM" INCLUDES ANY COLLECTION, TREATMENT, STORAGE OR DISTRIBUTION

FACILITIES UNDER CONTROL OF THE OPERATOR OF SUCH SYSTEM AND USED

PRIMARILY IN CONNECTION WITH SUCH SYSTEM AND ANY COLLECTION OR

PRETREATMENT STORAGE FACILITIES NOT UNDER SUCH CONTROL WHICH ARE USED

PRIMARILY IN CONNECTION WITH SUCH SYSTEM. (111 Rev. Stat. 1989, ch. 111 1/2, par. 7459)

(Public Act 85-863, effective September 24, 1987) Section 9(a)(6)).

"Pumping Water Level" means the elevation of the water surface in a well when water is discharged by pumping.

"SEMI-PRIVATE WATER SYSTEM" MEANS A WATER SUPPLY WHICH IS NOT A

PUBLIC WATER SYSTEM, YET WHICH SERVES A SEGMENT OF THE PUBLIC OTHER

THAN AN OWNER-OCCUPIED SINGLE FAMILY DWELLING. (111 Rev. Stat. 1989, ch. 111 1/2, par. 7459)

(Public Act 85-863, effective September 24, 1987) Section 9(a)(7)).

"SITE" MEANS ANY LOCATION, PLACE, TRACT OF LAND, AND FACILITIES, INCLUDING BUT NOT LIMITED TO BUILDINGS, AND IMPROVEMENTS USED FOR PURPOSES SUBJECT TO REGULATION UNDER THE ENVIRONMENTAL PROTECTION

ACT. (Environmental Protection Act, 111. Rev. Stat. 1989, ch. 111 1/2, par. 1003.)

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"Unconsolidated Formation" means a geological formation above bedrock such as sand or gravel which is caving in nature.

"UNIT" MEANS ANY DEVICE, MECHANISM, EQUIPMENT, OR AREA (EXCLUSIVE OF LAND UTILIZED ONLY FOR AGRICULTURAL PRODUCTION). (Environmental Protection Act, Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1003.62 added by Public Act 85-863, effective September 24, 1987).

"Well Cap" means that portion of the pitless adapter used to enclose the atmospheric termination of the casing, which shall overlap the top of the casing extension with a downward flange.

"Water Well" means any excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed when the intended use of such excavation is for the location, diversion, artificial re-charge, or acquisition of ground water, except monitoring wells.

"Well Seal" means an arrangement or device used to cap a well or establish a watertight closure at the junction of a well pump or piping with the well casing cover at the upper terminal of the well the purpose of which is to prevent contaminated water or other material from entering the well. The top plate of the seal shall have a lip that rests on top of and extends to the outer edge of the casing for support.

Source: Amended at 15 Ill. Reg. _____, effective _____)

Section 920.15 Incorporated Materials

a) The following federal and state regulations, standards, and statutes are incorporated or referenced in various sections of this Part:

1) National Sanitation Foundation, Standard 56, Pitless Well Adapters (November, 1986) and published by:

The National Sanitation Foundation
3475 Plymouth Road, P.O. Box 1468
Ann Arbor, Michigan 48106

2) National Sanitation Foundation, Standard 14-199080, Plastic Piping System Components and Related Materials and published by:

The National Sanitation Foundation
3475 Plymouth Road, P.O. Box 1468
Ann Arbor, Michigan 48106

3) American Society for Testing and Materials (ASTM) required

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standards are listed under Sections 920.90 and 920.130. List of approved steel and plastic well casing standards may be obtained from;

American Society for Testing and Materials
1916 Race Street
Philadelphia, PA 19103

4) Environmental Protection Act, Title IV, Public Water Supplies (Ill. Rev. Stat. 1989, ch. 111 1/2 pars. 1014-1019)

5) Illinois Water Well and Pump Installation Contractor's License Act (Ill. Rev. Stat. 1989, ch. 111, pars. 7101 et seq.)

6) Pitless Adapter Standard Number 1, March 1987 Edition

Water Systems Council
600 South Federal Street
Chicago, Illinois 60605

b) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.

c) All materials incorporated by reference are available for inspection and copying at the Department's Central Office, Division of Environmental Health, 525 West Jefferson - Third Floor, Springfield, Illinois 62761.

(Source: Added at 15 Ill. Reg. _____, effective _____)

Section 920.20 Scope

The Part hereby prescribed, provides minimum standards for location, construction and modification of water wells, monitoring wells and closed loop wells which are not otherwise subject to regulation under the Environmental Protection Act, Title IV, Public Water Supplies (Ill. Rev. Stat. 1989, ch. 111 1/2 pars. 1014-1019). After the effective date of adoption of this Part, no water well, monitoring well or closed loop well as defined above shall be constructed or modified contrary to the provisions of this Part.

(Source: Amended at 15 Ill. Reg. _____, effective _____)

Section 920.30 General Requirements

a) Authorized Constructor. Water wells subject to this Part shall be constructed only by persons having a valid license under the Illinois

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(Source: Amended at 15 Ill. Reg. _____, effective _____)

Section 920.40 Design Factors

The design of each well shall include the following:

a) Natural Protection. Location of the well shall include utilization of every natural protection available to promote sanitary conditions.

b) Geological Formations. The well construction shall be adapted to the geological formations and ground water conditions at the site.

c) Undesirable Geological Formations. Water bearing formations shall be excluded by installing casing or a liner and properly sealing when such formations contain undesirable water or when the primary purpose for the well is to withdraw water from a deeper formation.

d) Capacity. Capacity of the well to produce as much of the desired water quantity as the aquifer or aquifers can safely furnish.

e) Durability. Construction methods and materials shall provide a durable well capable of maintaining safe water and protecting the aquifer.

f) Pitless Well Adapters. No well casing shall be cut off or cut into below ground surface except to install a pitless well adapter.

Pitless well adapters shall be pressurized at the point of attachment with the well casing unless the pitless unit is threaded into a well casing coupling, shall comply with the requirements of the National Sanitation Foundation (NSF) Standard Number 56 entitled Pitless Well Adapters, and shall bear the NSF seal; or shall comply with the requirements of the Pitless Adapter Standard Number 1 dated March 1987 as published by the Water Systems Council and shall be tested and approved as meeting this standard by Allied Laboratories, 716 North Iowa Avenue, Villa Park, Illinois, and shall be listed by the Water Systems Council indicating conformance with the Pitless Adapter Standard Number 1. Pitless well adapters approved by this Department prior to July 1, 1983, shall continue to be approved until January 1, 1992 after which they shall be approved in accordance with this subsection. A list of approved pitless well adapters will be periodically updated and a copy of this list may be obtained from the Department.

g) Well Caps. There shall be no openings through the well cap except for a factory-installed vent, air line connection and power supply wiring unless a proposal is submitted to and approved by the Department. The proposal must show that any entrance into the well cap is water tight. In addition, well caps shall:

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(Source: Amended at 15 Ill. Reg. _____, effective _____)

Section 920.40 Design Factors

The design of each well shall include the following:

5) Reports. Within 30 days after a water well has been constructed or modified, the contractor shall submit a report of construction and pump installation to the Department on such forms as are prescribed and furnished by the Department.

6) Variance. If conditions exist at a proposed installation site which preclude compliance with the requirements of this Part, the contractor may request a variance by submitting to the Department a written request outlining a specific proposal to be used in lieu of compliance with this Part. The request shall include a plot plan of the property showing lot size, the location of sewers, septic tanks, buildings, seepage fields, and other sources of contamination on the property and adjacent property with distances shown to the proposed well. A description of geological and soil conditions shall also be included. The Department will notify the applicant in writing of its decision either to grant or deny the variance. A variance shall be requested and approved before well construction begins.

7) After a well has been drilled for which a variance has been issued, the contractor shall submit two water samples to the Department laboratory for analysis after the well is completed. The first sample shall be submitted within 30 days; and the second sample shall be submitted within 60 days following completion of the well but not less than 30 days following collection of the first sample. The Department shall approve the variance if the proposal is in accord with accepted public health and sanitary engineering principle and practices, and if the resulting water well pump installation can be expected to provide a continuously safe and sanitary water supply.

8) Examples of location problems which would preclude compliance with this part would be the proposed location of a well too close to septic tanks, buildings, sewer lines, or barnyards. Examples of public health and engineering principles that would be considered in issuing a variance would be ground surface conditions, depth of the water table, the location of sources of contamination, the ability of the existing soil to remove bacteria, and geologic conditions.

9) Examples of public health and engineering principles that would be considered in issuing a variance would be ground surface conditions, depth of the water table, the location of sources of contamination, the ability of the existing soil to remove bacteria, and geologic conditions.

10) Examples of location problems which would preclude compliance with this part would be the proposed location of a well too close to septic tanks, buildings, sewer lines, or barnyards.

11) Examples of public health and engineering principles that would be considered in issuing a variance would be ground surface conditions, depth of the water table, the location of sources of contamination, the ability of the existing soil to remove bacteria, and geologic conditions.

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- 1) Prevent surface water from entering the water supply.
 - 2) Be secured in position.
 - 3) Be removable with tools only.
 - 4) Be resistant to weathering and corrosion.
 - 5) Be watertight.
- h) Chemical Injection System. Where a chemical injection system is directly connected to a water well used for irrigation, a backflow device shall be installed in accordance with Section 925.40 of the Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925)

(Source: Amended at 15 Ill. Reg. _____, effective _____)

Section 920.50 Location

- a) General. In establishing the location of a well, the constructor shall give consideration to sources of contamination which exist on or adjacent to the premises where the well is to be located. As far as possible, the well shall be located on ground which is higher than sources of contamination and shall have ready access for repairs, maintenance, treatment and inspection. All water wells, except monitoring wells, shall be located in accordance with the minimum distances in ~~subsection~~ Section 920.50(b) and shall be constructed in accordance with the requirements of this Part.
- b) Relation to Sources of Contamination. Determination of minimum lateral distances to locate a well from potential sources of contamination, involves evaluation of the character and location of the sources of contamination, types of geologic formations present, depth to the aquifer, direction of ground water flow, effect on the ground water movement by well pumping and possibilities of flooding of the site by surface waters. Based on practice and experience, accepted minimum lateral distances for some common sources of pollution with respect to a well have been established. The lack of specific distances for other possible sources of contamination such as streams, refuse disposal sites, excavations, waste treatment facilities, buried oil and gasoline storage tanks, improperly constructed wells and cisterns, does not minimize their potential hazards. These must be evaluated in each particular situation and a distance arrived at based on the pertinent facts. The Department may be called on for assistance in determining a proper distance.
 - 1) The following minimum lateral distances shall apply for the common sources of contamination listed:

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SOURCES OF CONTAMINATION	MINIMUM LATERAL DISTANCES FOR CLAY AND LOAM SOILS
Cess Pools	150 Feet
SOURCES OF CONTAMINATION	MINIMUM LATERAL DISTANCES FOR CLAY AND LOAM SOILS
<u>Closed-Loop Heat Pump Wells</u>	<u>200 Feet</u>
<u>Closed-Loop Heat Pump Wells (Private Well Only. Where the owner of both the private water well and the closed-loop heat pump well is the same)</u>	<u>75 Feet</u>
Leaching Pit	100 Feet
Pit Privy	75 Feet
Subsurface Seepage Tile	75 Feet
Manure Piles	75 Feet
Septic Tank	50 Feet
<u>Barnyard or Animal Confinement Lot</u>	<u>50 Feet</u>
<u>Sewers A well or suction piping may be located to within 10 feet of a sewer provided the sewer consists of cast iron pipe with water tight mechanical joints or schedule 40 PVC pipe or heavier with water tight joints.</u>	<u>50 Feet</u>
Footing Drains (No connection to a sewer or a sump handling sewage)	10 Feet
Pump House Floor Drain	2 Feet
<u>Pits, Crawl Spaces or Basements</u>	<u>5 Feet</u>
Lakes, Ponds, or Streams	25 Feet
<u>Potential Primary Source, Potential Secondary Source, or Potential Route</u>	<u>200 Feet</u>

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d) Relation to Building. With respect to buildings, pits, and basements the location of a well shall be as follows:

- 1) Adjacent to Building. When a well must be located adjacent to a building, it shall be so located that the center line of the well extended vertically will clear any projection from the building by not less than two feet.
- 2) Pits and Basements. New wells shall not be constructed in pits or basements.

(Source: Amended at 15 Ill. Reg. _____, effective _____)

Section 920.60 Drilled Wells in Unconsolidated Formations

a) General. Unconsolidated formations such as sand and gravel may extend to or near the ground surface. Generally, however, they lie below the ground surface at varying depths and are covered by an overburden of earth. The kind, nature, and depth of the overburden are factors in determining how a well shall be constructed.

b) Unconsolidated Formations with Non-Stable Overburden. Wells constructed in unconsolidated formations which extend the full depth of the well shall have a permanent casing installed governed by the pumping level in the finished well. For pumping levels greater than 20 feet below the ground surface, the casing shall extend 5 feet below the pumping level. For pumping levels 20 feet or less below the ground surface, the casing shall extend 10 feet below the pumping level. Under no conditions shall there be less than 20 feet of permanent casing installed. (See Illustration A.)

c) Unconsolidated Formations with Stable Overburden. Wells constructed in geological formations such as sand and gravel lie below clay, glacial till or other relatively stable soil shall have a casing installed governed by the pumping level. For pumping levels greater than 20 feet, and the casing shall extend 5 feet below the pumping level. For pumping levels 20 feet or less, the casing shall extend 10 feet below the pumping level. Under no conditions shall there be less than 20 feet of permanent casing installed. Since the stable overburden cannot be expected to form a continuous contact seal with the casing, sealing of the annular opening between the casing and the drill hole must be effected. This can be accomplished by constructing an upper drill hole having a diameter four inches greater than the inner diameter of the casing to be installed and extending to a depth of at least 20 feet. The upper drill hole shall be sealed with drill cuttings, clay slurry, bentonite grout or cement grout after the casing is in place. (See Illustration B.)

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Potential Primary Source, Potential Secondary Source, or Potential Route where the owner of the source or route is the same as the private well.

Abandoned Wells	200 Feet
	75 Feet

2) When the upper formations are more pervious, the lateral distances shall be increased (i.e. double the distance for highly pervious gravel formations.) (See Section 920.50(b)(3) and (4) for additional requirements)

3) Prohibitions. Beginning January 1, 1990, no new water well may be located within 200 feet of any potential primary or potential secondary source or any potential route, unless some other distance is allowed or required in subsection Section 920.50 (b)(1). Where the owner is the same for both the well to serve the private water system and a potential secondary source or a potential route, the well shall be no closer than 75 feet from the potential route or potential secondary source, unless some other distance is allowed or required in Section 920.50(b)(1).

4) Where the owner of a water well is the same owner of a potential primary source, potential secondary source, or a potential route, the department shall allow a variance to the minimum separation distances required between a water well and a potential primary source, potential secondary source or a potential route if a demonstration is provided by the owner of the potable water well that applicable protective measures will be utilized to minimize the potential for contamination of the well, and if the resulting well installation can be expected to provide a continuously safe and sanitary water supply in compliance with the Act, this Part and the Department's Drinking Water Systems Code (77 Ill. Adm. Code 900). Applicable protective measures may include ensuring sources of contamination are down grade from the water source or isolation of the potential source of contamination in such a manner as to prevent a route of contamination of the ground water, or isolating the potential source of contamination to prevent accidental introduction of contaminants into ground water. In order to obtain a variance the owner must comply with Section 920.30(c). (Section 6(a) of the Act).

c) Flood Water. Locations subject to flooding shall be avoided. If no reasonable alternate site exists, wells may be constructed in flood zones providing special protective construction is included. The casing of the well shall terminate not less than two feet above the maximum known flood water elevation.

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- d) Gravel Wall Construction. When an over-sized drill hole is constructed to permit the placement of a gravel wall around the well screen, the annular opening between the casing and drill hole shall be sealed in the top 20 feet or 20 feet below the point of pitless adapter attachment with concrete, neat cement or bentonite grout. If a permanent outer casing is installed, it shall extend to a depth of at least 20 feet and depending on the formations present, the annular opening between the drill hole and the outer casing shall be sealed with drill cuttings, clay slurry, bentonite, or cement grout. The annular opening between inner and outer casings shall be sealed with concrete, bentonite or cement grout in the upper 20 feet or 20 feet below the point of pitless adapter attachment. (See Illustration C.)
- 1) All gravel placed in the well shall be clean, washed and disinfected prior to placement or provisions made for disinfection in place.
 - 2) Gravel refill pipes may be installed if they terminate above ground surface and are provided with watertight caps.
 - 3) Wells designed for placement of an artificial gravel pack shall be provided with an adequate screen having openings sized on the basis of the grain size of the gravel. The well shall be developed to insure free entry of water without sediment.

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

Section 920.70 Drilled Well Construction in Consolidated Formations

- a) Creviced Formations - Earth Cover Less Than 30 Feet. Creviced or cracked limestone or dolomite which is the upper bedrock formation and is overlain by a mantle of earth having a thickness less than 30 feet, shall be used as a source of ground water supply when constructed by one of the following methods:
- 1) Where the earth mantle is less than 30 feet in thickness, the well casing shall extend to a depth of at least 40 feet below ground level. The diameter of the drill hole shall be a minimum of two inches greater than the inner diameter of the casing. The annular space shall be pressure cement grouted as provided for in Section 920.90(g), or pressure bentonite grouted.
 - 2) Where the well is drilled to obtain water from a lower formation the casing shall extend at least through the creviced formation and be seated in firm rock. The diameter of the drill hole through the creviced formation shall be a minimum of two inches greater than the inner diameter of the casing. The annular space shall be pressure cement grouted as provided in Section 920.90(g). When an outer casing is left in place, the annular

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- space between the casings shall be pressure cement grouted and the annular opening around the outer casing shall be sealed with drill cuttings, clay slurry, bentonite, or cement grout. (See Illustration D.)
- b) Earth Mantle Over 30 Feet in Thickness. Where the earth mantle is greater than 30 feet in thickness, the casing shall be fitted with a drive shoe and be driven to a firm seat in the limestone or dolomite and the annular space around the casing through the earth mantle sealed with drill cuttings, clay slurry, bentonite or cement grout. Plastic casing shall be installed as required in Section 920.70(d) (See Illustration E.)
 - c) Flowing Artesian Well. Initial drilling operations shall extend into but not through the formation confining the water. The casing shall be installed and the annular opening between drill hole and casing pressure sealed with cement or bentonite grout and allowed to set. The hole shall then be extended into the artesian formation. Flow control from the well shall be provided by valved pipe connections, watertight pump connections, or receiving reservoirs set at an altitude corresponding to the artesian head.
 - d) Plastic Casing Installations. When plastic well casing is installed, the drill hole shall be a minimum of two inches greater than the inner diameter of the casing. The pipe spigot and socket shall be cleaned and treated with a cleaner-primer. Joints shall be solvent cemented with a quick setting cement. Other types of joints may be evaluated and approved by the Department. There shall be no penetrations through the inner casing. A coupling shall be cemented on the bottom of the casing to stabilize it in the hole. A steel nipple five to ten feet long may be used on the bottom of the casing in lieu of the coupling. In rock wells, the casing shall be set into the rock a minimum of three feet to prevent leaking around the end of the casing. In areas where the water is obtained at the rock surface, the casing shall be set just above the rock. A formation packer shall be installed just above the bottom of the casing. The annular opening between the casing and wall of the drill hole shall be sealed with bentonite slurry or neat cement grout for both rock and drift wells.

(Source: Amended at 15 Ill. Reg. _____, effective _____)

Section 920.80 Special Type Wells

- a) General. Wells in this classification are dug, bored, driven, and radial collector. The choice of any one of these as opposed to a drilled well is largely dictated by the characteristics of the water bearing formations or aquifers in the local areas.

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in Table A.

- 2) Plastic well casing and liners shall meet the requirements of ASTM Standard F480-90E187 and the National Sanitation Foundation Standard Number (NSF) 14-199089, Plastic Piping System Components and Related Materials. Evidence of compliance shall be inclusion in the current NSF listing and display of the NSF seal in each section of casing, and marking the casing in accordance with the requirements of ASTM Standard F-480-90E187.
 - 3) Plastic well casing and liners must be Standard Dimension Ratio (SDR) rated, have a Impact Classification of IC-1 in accordance with ASTM Standard F480-90E187 as a minimum, and conform to the minimum requirements given in Table B.
- b) Outer Casing. Casing intended for construction purposes only shall be of weight and design as necessary to be watertight and permit installation without distortion or rupture to the specified depth, and shall be removed upon completion of the well.
 - c) Joints. All casing and liner pipe joints shall be watertight. When the water well casing is to be extended, the joint shall be a threaded coupling or welding if the casing is metal, or the joint shall be solvent welded if the casing material is plastic.
 - d) Screens. Screen openings shall provide the maximum amount of open area consistent with strength of screen and the grading of the water bearing formation or gravel pack. The openings shall permit maximum transmitting ability without clogging or jamming. Screens shall be made of non-corrosive material.
 - e) Drive Shoe. Pipe that is to be driven shall be equipped with a drive shoe.
 - f) Grouting Guides. Protective casing that is to be grouted in the drill hole or annular opening shall be provided with a centering shoe and shall have sufficient guides or centralizers to permit the unobstructed flow and deposition of the thickness of grout specified.
 - g) Pressure Cement Grouting. Procedures and materials for grouting shall be as follows:
 - 1) Concrete Grout. The mixture shall consist of cement, sand and water, in the proportion of one bag of cement (94 pounds), and an equal volume of dry sand to not more than 6 (six) gallons of clean water.
 - 2) Neat Cement Grout. The mixture shall consist of one bag of

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cement (94 pounds) to not more than six gallons of clean water. Additives such as bentonite or aquajel or similar materials may be added up to 6% by weight to increase fluidity and to control shrinkage.

- 3) Application. All cement or bentonite grouting shall be performed by adding the mixture from the bottom of the annular opening upward in one continuous operation until the annular opening is filled or to the point of pitless adapter attachment. Bentonite, aquajel, or similar materials may be added to the annular opening in the manner indicated for grouting, prior to the cement grouting, to seal any small crevices or fissures and assure that the annular space is open.
- 4) Setting Time. Drilling operations shall not be resumed until the cement grout has set and hardened for at least 48 hours when hi-early strength cement is used and at least 72 hours when regular cement is used. Setting time may be reduced from 48 hours with hi-early strength cement and 72 hours with regular cement by addition of manufacturers' approved chemicals and following manufacturers' recommendations for setting time.
- h) Plumbness and Alignment. The bore of the hole shall be sufficiently plumb and straight to receive the casing without binding. The casing shall be sufficiently plumb and straight that it will not interfere with installation and operation of the pump.
- i) Construction Water. Water used in the drilling process shall be obtained from a source which will not result in contamination of the well. All such water shall be treated so as to maintain a free chlorine residual as an extra precaution.

(Source: Amended at 15 Ill. Reg. _____, effective _____)

Section 920.100 Finishing and Testing

- a) Upper Terminal. The casing or riser pipe shall be terminated at a height above ground surface consistent with proposed plans for a pump house and pump installation but not less than 8 inches above ground surface or 24 inches above maximum high water level where flooding occurs. The well shall be capped watertight until pump installation is made.
- b) Disinfection. The well contractor shall be responsible for properly disinfecting the well upon completion. Disinfection shall also be done after the pump installation is completed. Sufficient chlorine shall be introduced to give a dosage of 100 parts per million to the water in the well. (CAUTION:--When working with chlorine, persons

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F) After standing, operate the pump, discharging water from all outlets until all chlorine odor disappears. Faucets on fixtures discharging to septic tank systems should be throttled to a low flow to avoid overloading the disposal system.

2) Dug wells. The disinfection of dug wells shall be accomplished in accordance with the following:

Diameter of well (in feet)	Amount of 5.25% laundry bleach to use per foot of water (in cups)	Amount of 70% Hypochlorite granules to use per foot of water (in ounces)
3	1 1/2	1
4	3	2
5	4 1/2	3
6	6	4
7	9	6
8	12	8
10	18	12

A) The amount of disinfectant required is determined primarily by the amount of water in the well. The table above shows the amount of chlorine to use for each foot of water in the well, according to its diameter.

B) To determine the exact amount of bleach to use, multiply the amount of disinfectant indicated as determined by the well's diameter times the number of feet of water. This total amount of bleach shall be added to approximately 10 gallons of water, and splashed around the lining, or wall of the well. Be certain that the solution has contacted all parts of the well, using the entire amount of disinfectant. Seal the top of the well.

D) When this is done, pump enough water so the strong chlorine odor is evident. When the odor is detected, stop the pumping and allow the solution to remain in the well overnight.

E) After standing, operate the pump, discharging water from all outlets until all chlorine odor disappears. Faucets on fixtures discharging to septic tank systems shall be

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1) Drilled wells. The disinfection of drilled wells shall be accomplished in accordance with the following:

should be in a well-ventilated place--the powder-or-strong-liquid should not come in contact with skin-or-clothing--Solutions-are best-handled-in-wood-plastic-or-earthenware-because-metals are-eroded-by-strong-chlorine-solutions--

DIAM. WELL IN INCHES	GALLONS PER FT.	AMOUNT OF DISINFECTANT REQUIRED FOR EACH 100 GALLONS OF WATER
3	.37	LAUNDRY BLEACH (5.25% CHLORINE) 2 OUNCES
4	.65	HYPPOCHLORITE GRANULES (70% CHLORINE)
5	1.0	
6	1.5	
8	2.6	
10	4.1	
12	6.0	

1 cup = 8 oz. measuring cup (2 cups = 1 pt.; 4 cups = 1 qt.)
 1 oz. = 1 heaping tablespoon granules (16 oz. = 1 lb.)

A) Determine the amount of water in the well by multiplying the gallons per foot by the number of feet of water in the well.

B) For each 100 gallons of water in the well, use the amount of chlorine liquid or compound given in the above tables. Mix this total amount in about 10 gallons of water. If dry granules or tablets are used, they may be added directly to drilled wells.

C) Pour this solution into the top of the well before the seal is installed.

D) Connect one or more hoses from faucets on the discharge side of the pressure tank to the top of the well casing and start the pump, recirculating the water back into the well for at least 15 minutes. Then open each faucet in the system until a chlorine smell appears. Close all faucets. Seal the top of the well.

E) Let stand for several hours, preferably overnight.

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throttled to a low flow to avoid overloading the disposal system.

- 3) Water Samples. Upon completion of a new well or modification of an existing well, the contractor shall give the owner information prepared by the Department explaining the importance of water well sampling, procedures for sampling, and how the water can be tested to assure a safe supply of water.

(Source: Amended at 15 Ill. Reg. _____, effective _____)

Section 920.110 Modification of Wells

- a) General. Wells constructed prior to the adoption of this Part may not meet the criteria established. When a well is to undergo modification, reconstruction, or repair, the work shall include those changes necessary to make the well conform to this Part. Where existing wells have buried well seals, the seal shall be replaced with a pitless well adapter or the casing shall be extended above the ground surface in accordance with Section 920.90(c) when the existing well seal is removed.
- b) Well Pits.
- 1) No new well pits shall be allowed. ~~Existing well pits shall not be altered or changed.~~
 - 2) Existing pits will be accepted if the following conditions exist:
 - A) The pit shall be structurally sound and watertight. The casing shall extend at least twelve (12) inches above the pit or basement floor and have a well seal to prevent contaminants from entering the well.
 - B) A watertight manhole and cover must be provided for the pit.
 - 3) No existing well pit shall be modified to comply with Section 920.110(b)(2) above. Existing pits which are not in compliance with Section 920.110(b)(2) shall be eliminated and the floor or one wall of the pit shall be broken or removed and the pit shall be filled with compacted earth.
- c) ~~Notification--Within 30 days after modification of a well, notification shall be sent to the Department giving the following information:~~
- 1) ~~Name and address of owner of well or person for whom work was performed.~~

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- 2) ~~Address of property where work was performed.~~
- 3) ~~Name, address and license number of person who did the work.~~
- 4) ~~Description of changes made including how the well was sealed and disinfected.~~

(Source: Amended at 15 Ill. Reg. _____, effective _____)

Section 920.120 Abandoned Wells

- a) Abandonment of Wells.
- 1) The owner of a water well, boring, or monitoring well shall assure that such well is sealed within thirty (30) days after it is abandoned and no longer used for the purpose for which it was intended. The Department shall grant an extension of this time provided the owner submits a written request to the Department indicating the reasons for the request and an estimate of time in which the well will be either sealed or reused. In granting an extension, the Department must be assured that applicable protective measures will be taken and the methods and materials will be in compliance with the Act and this Part. Applicable protective measures may include ensuring sources of contamination are down grade from the water source or isolation of the potential source of contamination in such a manner as to prevent a route of contamination of the ground water, or isolating the potential source of contamination to prevent accidental introduction of contaminants into ground water.
 - 2) Wells shall be sealed by a licensed water well driller pursuant to the Water Well and Pump Installation Contractor's License Act or by drillers registered with the Department to drill monitoring wells in accordance with Section 920.170(h). A person who is not so licensed may seal a well, provided a request is made to the Department prior to the commencement of sealing indicating how the well is to be sealed and the materials to be used. The Department shall grant approval when requested prior to the commencement of sealing if the methods and materials are in compliance with this Section.
- b) Sealing Requirements. Wells, borings, or monitoring wells which are abandoned shall be sealed by placing the sealing materials from the bottom of the well to the surface by methods that will avoid segregation or dilution of material in accordance with the following requirements:
- 1) Non-creviced, Consolidated formations. Wells extending into

- 5) Artesian wells. In such wells, a cement retainer shall be used with pressure grouting equipment utilized to place cement grout. Neat cement shall be placed for a minimum of 10 feet above the water bearing formation. A clay slurry or other impervious materials shall be used to fill the upper part of the well to the surface.
- 6) Where the well casing consists of brick, stone, concrete blocks, porous tile, or other porous material, the casing shall be removed to a depth of at least three (3) ten-foot feet below the surface.
- 7) In lieu of any of the requirements in Section 920.120(b) (1) through (6), wells may be sealed by grouting from the bottom up by using bentonite in any form, neat cement, aquafel or similar materials from 2% to 6% by weight or combination thereof. This material shall be applied the full depth of the well and shall terminate within three feet of the ground surface.

- c) Non-Producing well. Where a water well is drilled and a water bearing formation is not located, the water well shall be filled with clay, drill cuttings, or neat cement containing bentonite, aquafel or similar materials from 2% to 6% by weight, or pure bentonite in any form by the water well driller not more than ten (10) calendar days after the well has been drilled.
- d) The well casing shall be removed to at least 3 feet below final grade, except where the well terminates with a concrete slab. The pump and drop pipe shall be removed.
- e) Notification.
- 1) The Department, approved local health department, or approved unit of local government shall be notified by telephone or in writing at least 48 hours prior to the commencement of any work to seal a water, or monitoring well.
- 2) The Department shall be notified when a water, boring, or monitoring well is sealed by the owner of the water well not more than 30 days after the water well is sealed. The following shall be submitted on forms provided by the Department:
- A) The date the water, boring or monitoring well was drilled.
- B) Depth of the water, boring or monitoring well and diameter.
- C) Location of the water, boring or monitoring well.

- non-creviced sandstone, or other water bearing consolidated formations shall be sealed by filling the well with disinfected clean sand free of mud or dirt, or pea gravel to the top of the water bearing formation or to within 10 feet of the casing, whichever is less. Disinfection shall be accomplished by treating the area of the well which penetrates the aquifer in accordance with Section 920.100(b). Neat cement containing bentonite, aquafel or similar materials from 2% to 6% by weight or pure bentonite in any form shall be placed for a minimum of 10 feet above this point or to the top of the water bearing formation, whichever is greater. A clay slurry or impervious material shall be used to fill the upper part of the well to the surface.

- 2) Creviced formations. Wells extended into creviced formations shall be sealed by filling with disinfected clean pea gravel to the top of the water bearing formation or to within 10 feet of the casing whichever is less. Neat cement containing bentonite, aquafel or similar materials from 2% to 6% by weight, or pure bentonite in any form shall be placed for a minimum of 10 feet above this point or to the top of the aquifer, whichever is greater. A clay slurry or impervious material shall be used to fill the upper part of the well to the surface.
- 3) Unconsolidated formations. In the event the water bearing formation consists of coarse gravel and producing wells are located nearby, the well shall be sealed by filling with disinfected clean pea gravel to the top of the water bearing formation. Neat cement containing bentonite, aquafel, or similar materials from 2% to 6% by weight, or pure bentonite in any form shall be placed for a minimum of 10 feet above this point. Clay or impervious material shall be used to fill the remaining upper part of the well to the surface. Abandoned wells extending only into unconsolidated formations near the surface can be sealed by completely filling with concrete, cement grout, neat cement or clay.
- 4) More than one water bearing formation. Where wells extend into more than one water bearing formation, each water bearing formation shall be sealed independently in the manner described in this Section depending upon the type of formation encountered. A neat cement plug shall be placed a minimum of 10 feet above and below all intermittent water bearing formations. Disinfected clean pea gravel shall be placed in each water bearing formation between plugs. A clay slurry or other impervious materials shall be used to fill all other parts of the well between plugs and the upper part of the well to the surface.

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- D) Type of sealing method used.
- E) Original water well permit number if available.
- F) Date the water, boring or monitoring well was sealed.
- G) Type of well (boring, dug, or drilled).
- H) Whether the formation is clear of obstructions.
- I) Casing Record (explanation of the required removal).
- J) Water Well Drillers License number and name.

(Source: Amended at 15 Ill. Reg. _____, effective _____)

Section 920.130 Permit Requirements

- a) Permit. Effective January 1, 1990, a permit to construct or deepen a water well must be obtained from the Department prior to construction.
- b) Application. Application for a permit shall be made on the forms provided by the Department. All applications for permit shall include a plan and drawing of the proposed construction. At a minimum the plan must include:
 - 1) A drawing indicating lot size with dimensions to septic tanks, location of any abandoned wells, property lines, seepage fields, sewers, and all other sources of contamination and an indication of the type of contamination source.
 - 2) Water well driller's license number and name.
 - 3) Estimated daily pumping capacity.
 - 4) The location of the water well including, county, city, street address or lot number, township, range, directions to the site (i.e., subdivision lot number, highway number, secondary roads, signs to follow, etc.), and section.
 - 5) Name and address of the owner of the well.
 - 6) Type of well to be constructed (bored, dug; or drilled).
 - 7) An estimate of the depth of the well.
 - 8) Type of well (i.e., non-potable use well, agricultural well, private water well, semi-private water well, or non-community

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- public water well.
- c) Expiration. A permit is void if construction has not commenced within one year of date of issuance.
- d) Water Well Fee. The fee to be paid for a permit to construct or deepen a water well shall be \$75.00.
- e) The Department shall grant permit requests which meet the requirements of the Act and this Part. The Department's standards for denial of a permit request are set forth in subsection Section 920.130(f):
- f) Groundwater Contamination.
 - 1) The Department shall deny the approval of a permit request when available information indicates that the groundwater aquifer contains contamination which renders the water unsafe under the Department's Drinking Water Systems Code (77 Ill. Adm. Code 900). A potential public health problem may be detected on the basis of a sanitary survey, laboratory analyses, location of known sources of pollution, condition of water supply, type of construction or information from previous well owners which might indicate the water would be too hazardous to drink.
 - 2) The Department shall grant approval of a request for a permit when approved treatment is shown to reduce contaminant levels below the levels of recognized health advisories or established by the Department and the federal government and referenced below. Such treatment includes, but is not limited to, sampling for additional contaminants, more frequent sampling for contaminants, or imposing of maximum contaminant levels specified in the Department's Drinking Water Systems Code (77 Ill. Adm. Code 900), National Primary Drinking Water Regulations (40 CFR 141 and 142, July 8, 1987 52 Fed. Reg. 25690 through 25717), or in recognized public health advisories concerning the safety of drinking water issued by the Department or U.S.E.P.A.
- g) Notification. Effective January 1, 1990, any person who constructs or deepens a water well for which a permit has been issued under this Part, shall notify the Department, or approved local health department, or approved unit of local government by telephone or in writing at least two days prior to commencement of the work.

(Source: Amended at 15 Ill. Reg. _____, effective _____)

Section 920.170 Monitoring Wells

This Section shall apply to all monitoring wells except those wells installed to monitor chemicals leaking from underground storage tanks which are installed within the excavation made for the installation of the underground storage tank.

- a) Casting. All monitoring wells shall have casing which meets the requirements of Section 920.90(a), except where the design specifications require the use of another material. Threaded joints shall be required where plastic casing is used. Casting must be clean, free of rust, grease, oil or contaminants and be composed of materials, including but not limited to steel and plastic, that will not affect on the quality of the water sample. All casing shall be watertight. The casing shall be centered in the borehole, be free of any obstructions and allow sampling devices to be lowered into the well.
- b) Well Screen. All monitoring well screens shall be constructed of non-corrosive and non-reactive material. All well screens shall be permanently joined to the well casing and shall be centered in the borehole.
- c) Filter Packs. All monitoring wells installed in unconsolidated material shall be constructed with filter packs. When used, the filter pack shall be the only material in contact with the well screen.

- 1) The filter pack shall consist of sand or gravel. The sand or gravel used for filter packs shall have an average specific gravity of not less than 2.50. The filter pack material shall be sized to match the screen slot size and the surrounding formation to prevent the formation materials from entering the screen. The sand or gravel shall be free of clay, dust and organic matter. Crushed limestone, dolomite or any material containing clay or any other material that will adversely affect the performance of the monitoring well shall not be used as filter pack.
- 2) Installation. The filter pack shall extend a maximum of 6 inches below the bottom of the screen to 2 feet above the top of the screen. For water table observation wells constructed in areas where the depth to the water table is less than 5 feet, the required filter pack height above the top of the well screen may be reduced to 6 inches to allow for the required amount of annular space sealant to be placed.

d) Grouting Requirements. All materials and procedures used in the installation of annular seals for groundwater monitoring wells shall meet the requirements of this section. The annular sealing material

above the filter pack shall prevent the migration of fluids from the surface and between aquifers. Sealing material shall be chemically compatible with anticipated contaminants.

- 1) Annular Space Seal. All monitoring wells shall be installed with an annular space seal. The annular seal shall extend from the top of the filter pack to the surface.
- 2) Above Ground Surface Completion. Where the monitoring well does not terminate flush with the ground surface in accordance with Section 920.170(d)(3), the casing shall extend at least 8 inches above the ground surface. The top of the casing shall be provided with a locking cap. If the monitoring well is located in a floodplain, the cap shall be watertight. Protective devices, such as rings of brightly colored posts around the well, shall be installed in areas where the casing is likely to be struck by farm vehicles or by individuals who are unaware of the existence of the well.
- 3) Ground Surface Completion. Monitoring well casing may terminate at the ground surface provided a flush-mounted well completion pipe is installed over the casing. The flush-mounted completion pipe shall consist of a metal casing at least four inches larger in diameter than the well casing. Monitoring wells terminating at the surface may be allowed only in areas traveled by vehicles. The flush-mounted well completion pipe shall have a water tight seal and the annular seal around the well completion pipe shall be grouted. The well casing shall be sealed with a watertight locking cap.

e) Drilling Methods and Fluids. The drilling method shall introduce the least possible amount of foreign material into the borehole, produce construction and development of the required diameter well. Water from a source free of bacterial and chemical contamination shall be used in the drilling fluid mixture.

- f) Disposal and Decontamination.
- 1) All drill cuttings and fluids and surge and wash waters from borehole and monitoring well construction and development shall be disposed of in a manner which will not result in contamination of the immediate area or result in a hazard to individuals who may come in contact with these materials.
- 2) All monitoring well construction equipment shall be decontaminated by washing and triple rinsing or high pressure heat cleaning to prevent cross-contamination of monitoring wells

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or in accordance with design specifications, whichever is more stringent.

- 3) Drill cuttings shall be disposed of in a manner which complies with state and local laws.

g) Special Circumstances and Exceptions.

- 1) The Department may require more restrictive or alternative well material, assembly or installation if the contaminant concentrations or geologic setting require alternative construction.
- 2) Variances to the requirements of this subsection may be approved by the Department prior to installation or abandonment. A variance request shall state the reasons why compliance with the rule is impractical or impossible. The Department shall approve a variance when it can be shown that the particular contaminant or drilling method requires alternative materials or procedures to safeguard against contamination of the groundwater.

- h) Abandonment or Decommissioning of Monitoring Wells. All abandoned monitoring wells shall be sealed in accordance with Section 920.120. Drillers of monitoring wells registered with the Department shall be allowed to seal monitoring wells in accordance with Section 920.120.

- i) Reporting. Within 30 days after a monitoring well has been constructed or abandoned, the owner, designer or consulting firm shall submit a report of construction or abandonment to the Department on such forms as are prescribed and furnished by the Department.

- j) Contractors Installing Monitoring Wells. Individuals installing monitoring wells in the state who are not licensed by the Department as water well drillers in accordance with the Illinois Water Well and Pump Installation Contractor's License Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 7101 et seq.) shall register with the Department annually on July first of each year.

(Source: Added at 15 Ill. Reg. _____, effective _____)

Section 920.180 Closed-Loop Heat Pump Wells.

- a) Construction. Each closed loop heat pump well shall be grouted from the bottom of the well upward in one continuing pour. Grouting shall consist of the materials listed and be performed in accordance with Section 920.120(b). Closed-loop heat pump wells shall not be located closer than 200 feet from a water well, except when the well is a

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private water system well and when the owner is the same for both the water well and the closed-loop heat pump well, in which case the water well shall not be closer than 75 feet from the closed-loop heat pump well.

- b) Piping Pressure. The liquid in the closed loop piping shall be maintained under pressure. The equipment shall be designed to shut down if there is any pressure loss in the system. The system must be pressure tested at a minimum pressure of 20 pounds per square inch by the installer after installation to ensure that there are no leaks in the piping or in the equipment system.
- c) Coolant. The solution used as coolant or the liquid which is pumped through the closed-loop heat pump well piping must be methanol, ethanol, propylene glycol, calcium chloride or ethylene glycol. These chemicals may be used only in concentrations of 20% or less.
- d) Piping. All piping shall be watertight and shall conform to ASTM D2666-89, D2447-89, D3035-89A.
- e) Abandonment. All vertical piping in closed-loop heat pump wells which is abandoned shall be physically disconnected from the horizontal piping and filled with bentonite or cement grout by pressure grouting. All joints in piping shall be heat fusion welded. All horizontal piping which is abandoned shall be removed or the coolant must be drained from the piping and disposed of off-site in accordance with state and local laws.
- f) Horizontal Piping Distances to Water Wells. Horizontal piping in a closed looped heat pump system shall not be closer than 25 feet to any water well.
- g) Distances to Sources of Contamination. Closed-loop heat pump wells shall not be closer to the sources of contamination listed in Section 920.50(b)(1) than the distances to water wells specified in this Section.

(Source: Added at 15 Ill. Reg. _____, effective _____)

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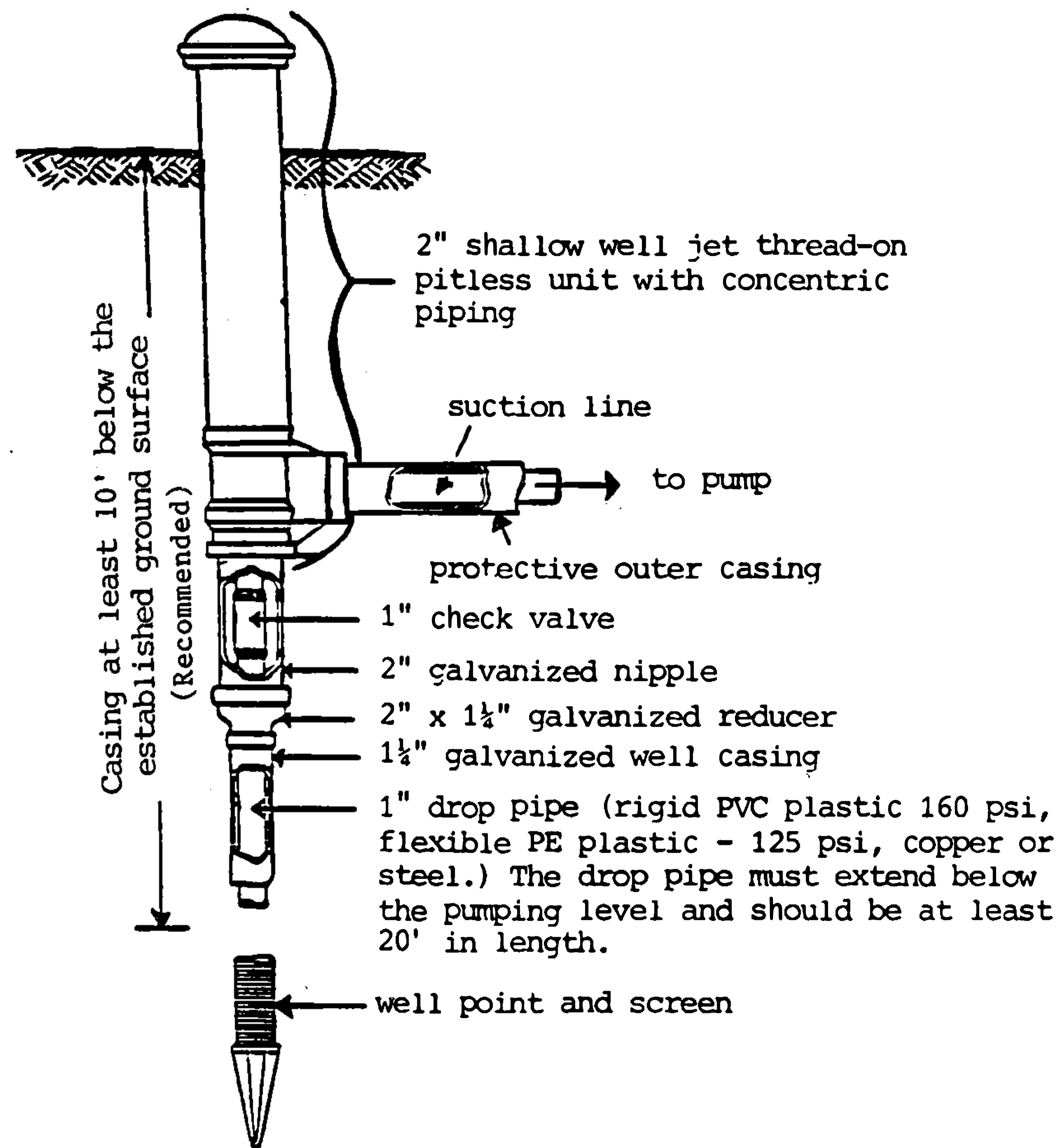
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Illustration H - Installation of a Driven Well



(Source: Added at 15 Ill. Reg. _____, effective _____)

1) Heading of the Part:

Illinois Water Well Pump Installation Code

2) Code Citation:

77 Ill. Adm. Code 925

3) Section Numbers:

Proposed Action:

925.10	Amendment
925.15	Amendment
925.20	Amendment
925.30	Amendment
925.40	Amendment
925.50	Amendment
925.Illustration A	New Section

4) Statutory Authority:

Ill. Rev. Stat. 1989, ch. 111 1/2, par. 116.151 et seq.

5) A Complete Description of the Subjects and Issues Involved:

Section 925.10. The definition of chemical system is added because the Department is proposing to require backflow prevention devices to be placed in piping where these systems are used to prevent chemicals from being accidentally pumped into a water well. This will clearly define what the Department means when this term is used.

Section 925.15. This amendment will incorporate standards referenced in Section 925.40.

Section 925.20. This amendment will exclude monitoring wells from this rule. Monitoring wells are special types of wells which typically are used to obtain hazardous chemicals or other purposes much different than water supply wells. Requirements concerning monitoring wells are being developed for addition to the Water Well Construction Code (77 Ill. Adm. Code 920).

Section 925.30. This amendment will reflect the current statute date.

Section 925.40(c). This amendment adopts additional standards which have been written for the approval of pitless well adapters.

Section 925.40(i). This amendment requires backflow prevention devices where a chemical system is connected to a water well to prevent groundwater contamination.

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Illinois Department of Public Health, 535 West Jefferson, Fifth Floor, Springfield, Illinois 62761 within 45 days after this issue of the Illinois Register.
These rules may have an impact on small businesses. In accordance with Sections 3.01 and 4.03 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail Devito at the above address.
Any small business (as defined in Section 3.10 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.
12) Initial Regulatory Flexibility Analysis:
A) Date Rulemaking was Submitted to the Business Assistance Office of the Department of Commerce and Community Affairs:
B) Type of Small Businesses Affected:
C) Reporting, Bookkeeping or Other Procedures Required for Compliance:
D) Types of Professional Skills Necessary for Compliance:
None.
N/A

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

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Section 925.40(j). This amendment requires piping material to meet standards of the Illinois Plumbing Code (77 Ill. Adm. Code 890).
Section 925.50(b). This amendment deletes the caution statement concerning chlorine. Chlorine safety statements are already attached to chlorine disinfection products. These statements are not considered to be rules.
Section 925.50(b)(2). This amendment replaces dug wells with bored wells. Large diameter wells are now bored instead of dug. This terminology needs to reflect the current construction practice.
Section 925.111 Illustration A. This new Section illustrates a backflow preventer check valve for agricultural wells.
6) Will this Rulemaking Replace an Emergency Rule Currently in Effect?
Yes No

7) Does this Rulemaking Contain an Automatic Repeal Date? Yes No
If "yes," please specify the date: _____

8) Does this Rulemaking Contain Any Incorporations By Reference?
Yes No
If "yes," please specify type: 6.02(a) _____ or 6.02(b) _____

9) Are there any other Proposed Amendments Pending on this Part?
Yes No

If Yes: _____

Section Numbers
Proposed Action
Ill. Reg. Citation

10) Statement of Statewide Policy Objectives:

A well code must be updated to prevent groundwater contamination and to incorporate new pump standards as technology changes.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking:

Interested persons may present their comments concerning these rules by writing to Gail M. Devito, Division of Governmental Affairs,

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER r: WATER AND SEWAGEPART 925
ILLINOIS WATER WELL PUMP INSTALLATION CODE

Section

- 925.10 Definitions
 925.15 Incorporated Materials
 925.20 Scope
 925.30 General Requirements
 925.40 Pump Installation
 925.50 Disinfection and Samples
925. Illustration A Backflow Preventer Check Valve for Agricultural Wells

AUTHORITY: Implementing and authorized by the Illinois Water Well Pump Installation Code (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 116.151 et. seq.).

SOURCE: Adopted September 12, 1973; amended at 2 Ill. Reg. 42, p. 35, effective October 16, 1978; rules repealed, new rules adopted and codified at 7 Ill. Reg. 9562, effective August 1, 1983; amended at 13 Ill. Reg. 11816, effective July 1, 1989; amended at 15 Ill. Reg. _____, effective _____.

Section 925.10 Definitions

"Approved Basement" means a room below ground surface, under a building and having adequate drainage not subject to backflow of liquid waste.

"Casing" means the pipe installed in a drilled hole to give unobstructed access to a water-bearing formation and includes the riser pipe of a buried slab type dug or bored well.

"Chemical Injection System" means any device or combination of devices having hose, pipe or other methods of conveyance which connect directly to any water well through which a mixture of water, pesticides and fertilizer are mixed or are drawn and applied to land, crops, and/or plants at agricultural, nursery, turf, golf course, or greenhouse sites.

"Contamination" means a change of the biological, chemical, or physical quality of a water so that it is actually or potentially injurious or harmful to the health of the user.

"Department" means the Illinois Department of Public Health.

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"Pipe Sleeve" means a pipe cast in the cover slab of a dug or bored well to provide an entrance for pump components or use for venting, disinfection, or water level determination.

"Pitless Well Adapter" means an assembly of parts which will permit water to pass through the wall of the well casing or extension thereof; provides access to the well and to the parts of the water system within the well; and provides for the transportation of the water and the protection of the well and water therein, from surface or near surface contamination. Parts or appurtenances to a pitless well adapter include, but are not limited to, the vent, the device(s) on or in the wall of the casing, and the cap or cover on the top of the casing or casing extension.

"Pump Installation" means the procedure employed in the placement and preparation for operation of equipment and materials utilized in withdrawing or obtaining water from a well, including all construction involved in making entrance into the well and establishing such seals and safeguards as may be necessary to protect such water from contamination.

"Well Cap" means that portion of the pitless adapter used to enclose the atmospheric termination of the casing, which shall overlap the top of the casing extension with a downward flange.

"Water Well" means any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of such excavation is for the location, diversion, artificial recharge, or acquisition of ground water, except monitoring wells.

"Water Well Pumps and Equipment" means any equipment or materials utilized or intended for use in withdrawing or obtaining water from a well including pumps, seals, pressure tanks, fittings, and controls.

"Well Seal" means an arrangement or device used to ~~cap a well or to~~ establish a watertight closure ~~at~~ of the junction of a well pump or piping with the well casing cover at the upper terminal of the well, the purpose of which is to prevent contaminated water or other material from entering the well. ~~The top plate of the seal shall have a lip that rests on top of and extends to the outer edge of the casing for support.~~

"Well Vent" means an opening at the upper terminal of a well to provide for equalization of air pressure in the well or the release of gases.

(Source: Amended 15 Ill. Reg. _____, effective _____)

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Laws of the State. This Part shall apply when they are incorporated by reference in other state rules and regulations.

(Source: Amended at 15 Ill. Reg. _____, effective _____)

Section 925.30 General Requirements

a) Installation Contractor. Installation of pumps or equipment shall be made only by or under supervision of persons, firms or corporations holding a valid license under the Illinois Water Well and Pump Installation Contractor's License Act (Ill. Rev. Stat. 1987, ch. 111, pars. 7101 et seq.) unless exempt from the provisions of that Act.

b) Variance. If conditions exist at a proposed installation site which preclude compliance with the requirements of this Part, the contractor may request a variance by submitting to the Department a written request outlining a specific proposal to be used in lieu of compliance with this Part. The Department shall approve the variance if the proposal is in accord with accepted public health and sanitary engineering principles and practices, and if the resulting water well pump installation can be expected to provide a continuously safe and sanitary water supply. The Department shall notify the applicant in writing of its decision either to grant or deny the variance.

Factors to be considered in the approval of variance proposals will include location of pump installation, sources of potential contamination, depth to water table, past sampling history of the well, the type and location of the pump and other geological conditions at individual installations.

c) Well seals. Where existing wells have buried well seals, the seal shall be replaced with a pitless well adapter, or the casing shall be extended above the ground surface in accordance with Section 920.90(c) of the Illinois Water Well Construction Code (77 Ill. Adm. Code 920) when the existing well seal is removed.

(Source: Amended at 15 Ill. Reg. _____, effective _____)

Section 925.40 Pump Installation

a) Upper Well Terminal. Well casing and pitless well adapters shall terminate not less than eight (8) inches above the finished ground surface or pump house floor and at least 24 inches above maximum high water level in areas where flooding is likely to occur. No casing shall be cut off or cut into below ground level except to install a pitless well adapter.

b) Well pits

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Section 925.15 Incorporated Materials

a) The following federal and state regulations, standards, and statutes are incorporated or referenced in various sections of this Part:

- 1) Illinois Water Well and Pump Installation Contractor's License Act (Ill. Rev. Stat. 1987, ch. 111, pars. 7101 et seq.);

- 2) Pitless Well Adapters National Sanitation Foundation (NSF) Standard Number 56, November, 1986

- 3) National Electric Code 1987 edition, National Fire Protection Association Battery March Park, Quincy, Mass. 02269

- 4) Illinois Plumbing Code (77 Ill. Adm. Code 890) Illinois Department of Public Health

- 5) Pitless Adapters Standard Number 1, March 1987 Edition Water Systems Council 600 South Federal Street Chicago, Illinois 60605

b) All incorporations by reference for federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.

c) All materials incorporated by reference are available for inspection and copying at the Department's Central Office, Division of Environmental Health, 525 West Jefferson - Third Floor, Springfield, Illinois 62761.

(Source: Added at 15 Ill. Reg. _____, effective _____)

Section 925.20 Scope

a) This Part, hereby prescribed, provides minimum standards for installation of water-well pumps or equipment employed in withdrawing or obtaining water from a well for any use, except monitoring wells, and includes such seals and safeguards as may be necessary to protect from contamination the water in the well and water being pumped from the well.

b) The provisions of this Part do not apply to installation of pumps or equipment on water wells which are subject to regulation under other

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- 1) ~~No new well pits shall be allowed. Existing well pits shall not be altered or changed.~~
- 2) Existing pits will be accepted if the following conditions exist:
 - A) The pit shall be structurally sound and watertight. The casing shall extend at least twelve (12) inches above the pit or basement floor and have a well seal to prevent contaminants from entering the well.
 - B) A watertight manhole and cover must be provided for the pit.
- 3) No existing well pit shall be modified to comply with Section 925.40(b)(2) above. Existing pits which are not in compliance with Section 925.40(b)(2), shall be eliminated and the floor or one wall of the pit shall be broken or removed and the pit shall be filled with compacted earth.
- c) Pitless Well Adapter.
 - 1) Installation and approval. No well casing shall be cut off or cut into below ground surface except to install a pitless well adapter below the frost level. Pitless well adapters shall be pressurized at the point of attachment with the casing, shall comply with the requirements of the National Sanitation Foundation (NSF) Standard Number 56 entitled Pitless Well Adapters, November, 1986 edition and shall bear the NSF seal; or shall comply with the requirements of the Pitless Adapter Standard Number 1 dated March 1987 as published by the Water Systems Council and shall be tested and approved as meeting this standard by Allied Laboratories, 716 North Iowa Avenue, Villa Park, Illinois, and shall be listed by the Water Systems Council indicating conformance with the Pitless Adapter Standard Number 1. Pitless well adapters approved by this Department prior to July 1, 1983 shall continue to be approved until January 1, 1992 after which they shall be approved in accordance with this subsection. A list of approved pitless well adapters will be periodically updated and a copy of this list may be obtained from the Department. The annular opening between the well casing and the well bore hole or any excavation made to install the pitless adapter shall be filled with compacted earth to minimize settling and mounded to provide drainage away from the well. The contractor shall be responsible for the installation of the earth backfill.
 - 2) Well Caps. There shall be no openings through the well cap except for a factory installed vent, air line and power supply wiring, unless a proposal is submitted to and approved by the

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Department. To be approved, the proposal must show that any entrance into the well cap is watertight and meet the following conditions:

- 1) Prevent surface water from entering the water supply.
 - 2) Be secured in position.
 - 3) Be removable with tools only.
 - 4) Be resistant to weathering and corrosion.
 - 5) Be watertight.
- d) Hand Pumps. Hand pumps shall be of the force type equipped with a packing gland around the pump rod, a delivery spout which is closed and downward directed, and a one-piece bell type base which is part of the pump stand or is attached to the pump column in a watertight manner. The bell base of the pump shall be securely attached to the casing or pipe sleeve.
 - e) Power Driven Pumps. The design and operating principles of each type of power driven pump determines where each may be located with respect to a well. The location selected for the pump determines what factors must be considered to make an acceptable installation.
 - 1) Location Above Well. Any power driven pump located over a well shall be so mounted on the well casing, pipe sleeve, pump foundation or pump stand that a watertight closure is or can be made for the open end of the casing or sleeve. The pump base bolted with a neoprene or rubber gasket or equivalent watertight seal to a foundation or plate provides an acceptable seal. On large pump installations, the bolting may be omitted when the weight of pump and column is sufficient to make a watertight contact with the gasket. If the pump unit is not located over the casing or pipe sleeve, but the pump delivery or suction pipe emerges from the top of the well, a well seal or equivalent shall be installed between the well casing and pipe to provide a watertight closure.
 - 2) Location in Well. This type of location is permissible for submersible pumps only. When the discharge line leaves the well at the top of the casing, the opening between the discharge line and casing or pipe sleeve shall be sealed watertight with a well seal or equivalent device. When an underground discharge is desired, a pitless well adapter shall be installed. A check valve shall not be permitted between the well and the inlet side of the pressure tank.

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A) Valving so that water can be drained from the system to prevent freezing.

B) A vacuum relief valve to prevent backsiphoning of chemicals into the well.

C) An automatic low pressure drain at least 3/4 inches in diameter, positioned so that when draining occurs liquid will run away from the well. At new installations, the low pressure drain shall be at least six inches above grade. The automatic low pressure drain shall quickly drain the check valve body of water when operation of the water well pump is discontinued.

D) A watertight seal around the check valve.

E) An inspection port four inches in diameter to allow inspection of the operation of the check valve.

F) The check valve shall withstand a minimum hydraulic pressure of 1/5 psi without leaking.

2) Existing chemical injection systems connected directly to a water well shall be brought into compliance with this Section by January 1, 1996. When modifications, reconstruction, or repairs to the chemical system are made or where removal of the pump takes place, the chemical system and well shall conform to this Section.

3) The water well pump and the chemical injection pump shall be electrically connected so that when the water well pump stops, the chemical pump will shut off automatically.

4) The Department shall establish and make available a list of all backflow devices which meet the requirements of Section 925.40(1)(1) and are approved for this purpose.

j) Piping Material. All piping from the pitless adapter of a potable water well to the pressure tank shall be watertight and shall conform to the materials required for water service pipe or water distribution pipe as listed in Exhibit G, Table D of the Illinois Plumbing Code (77 Ill. Adm. Code 890). All piping used in the chemical injection system shall be chemically compatible with the chemical product being applied.

(Source: Amended at 15 Ill. Reg., effective _____)

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3) Offset From Well. Pumps offset from the well, if not located in an above ground pump house or other building, may be located in an approved basement provided the pump and all suction pipes are elevated at least 12 inches above the floor. All portions of suction lines buried below the ground surface between the well and the pump shall be enclosed in a pressure discharge line maintained at system pressure.

f) Vents. Vent piping shall be of adequate size to allow equalization of air pressure in the well and shall be not less than one-half inch in diameter. Vent openings shall be located in such a manner as to prevent contamination of the well. The vent opening shall terminate at least 8 inches above the finished grade and shall be turned down, secured in position, reasonably tamper proof, and be screened with not less than 24-mesh durable screen or filtered in such a manner as to prevent the entry of insects. Particular attention shall be given to proper venting of wells in areas where toxic or inflammable gases are known to be a characteristic of the water. If determined that either of these types of gases are present, all vents when located in buildings shall be extended to discharge outside of the building at a height where they will not be a hazard. Venting is required.

g) Pump Bearing Lubrication. Lubrication of bearings of power driven pumps shall be with water or oil which will not adversely affect the quality of the water to be pumped.

1) Water Lubrication. If a storage tank is required for lubrication water, it shall be designed to protect the water from contamination.

2) Oil Lubrication. The reservoir shall be designed to protect the oil from contamination. The oil shall not contain substances which will cause odor or taste to the water pumped.

h) Electrical Installations. All electrical installations shall be performed and maintained in accordance with the National Electric Code 1987 edition.

i) Backflow Prevention For Chemical Injection Systems.

1) Non-Potable Water Wells. Where a chemical injection system is connected directly to a water well used for irrigation and which is not used as a potable water supply, a single check spring loaded backflow preventer shall be installed between the point of chemical injection on the pump discharge piping and the water well in accordance with the manufacturer's instructions. The backflow device (See Illustration A) shall be provided with the following:

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Section 925.50 Disinfection and Samples

a) General. When a pump or equipment installation is made on a well which has a use which results that the water meet bacterial quality standards for human consumption, the well, pump, piping and pressure tank shall be disinfected by the contractor. Sufficient chlorine shall be introduced to give a dosage of 100 parts per million to the water in the well.

b) Disinfection. Oil, grease, dirt, and other foreign matter shall be removed from the well and pump, piping and other equipment before installation and the introduction of chlorine. Quantities of household chlorine bleach or dry granules hypochlorite to produce a 100 part per million dosage are given in the following tables.
(CAUTION:--When working with chlorine, persons should be in a well ventilated place.--The granules or strong liquid should not come in contact with skin or clothing.--Solutions are best handled in wood or crockery or plastic containers because metals are corroded by strong chlorine solutions.)

1) Drilled wells. The disinfection of drilled wells shall be accomplished in accordance with the following:

DIA. WELL IN INCHES	GALLONS PER FT.	AMOUNT OF DISINFECTANT REQUIRED FOR EACH 100 GALLONS OF WATER	
3	.37	LAUNDRY BLEACH	HYPOCHLORITE
4	.65	(5.25% Chlorine)	GRANULES
5	1.0		(70% Chlorine)
6	1.5		
8	2.6	3 cups	2 ounces
10	4.1		
12	6.0	1 cup = 8 oz. measuring cup (2 cups = 1 pt. 4 cups = 1 pt.)	
		1 oz. = 1 heaping tablespoon granules	

- A) Determine the amount of water in the well by multiplying the gallons per feet by the number of feet of water in the well.
- B) For each 100 gallons of water in the well, use the amount of chlorine liquid or compound given in the above tables. Mix this total in about 10 gallons of water. If dry granules or tablets are used, they may be added directly to drilled wells.

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- C) Pour this solution into the top of the well before the seal is installed.
- D) Connect one or more hoses from faucets on the discharge side of the pressure tank to the top of the well casing and start the pump, recirculating the water back into the well for at least 15 minutes. Then open each faucet in the system until a chlorine smell appears. Close all faucets. Seal the top of the well.
- E) Let stand for several hours, preferably overnight.
- F) After standing operate the pump, discharging water from all outlets until all chlorine odor disappears. Faucets on fixtures discharging to septic tank systems should be throttled to a low flow to avoid overloading the disposal system.

2) Boredug Wells. The disinfection of boredug wells shall be accomplished in accordance with the following:

DIAMETER OF WELL (IN FEET)	3	4	5	6	7	8	10
AMOUNT OF 5.25% LAUNDRY BLEACH TO USE PER FOOT OF WATER (IN CUPS)							
	1 1/2	3	4 1/2	6	9	12	18
AMOUNT OF 70% CHLORINE GRANULES OR POWDER TO USE PER FOOT OF WATER (IN OUNCES)							
	1	2	3	4	6	8	12

- A) The amount of disinfectant required is determined primarily by the amount of water in the well. The table above shows the amount of chlorine to use for each foot of water in the well, according to its diameter.
- B) To determine the exact amount of bleach to use, multiply the amount of disinfectant indicated as determined by the well's diameter times the number of feet of water.
- C) This total amount of bleach shall be added to approximately 10 gallons of water, and splashed around the lining, or wall of the well. Be certain that the solution has contacted all parts of the well, using the entire amount of disinfectant. Seal the top of the well.
- D) When this is done, pump enough water so the strong chlorine odor is evident. When the odor is detected, stop the pumping and allow the solution to remain in the well

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ABANDONED MINED LANDS RECLAMATION COUNCIL

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: ABANDONED MINED LANDS RECLAMATION
- 2) Code Citation: 62 Ill. Adm. Code 2501
- 3) Section Numbers Adopted Action

2501.7	Amendment
2501.10	Amendment
2501.13	Amendment
2501.16	Amendment
2501.19	Amendment
2501.25	Amendment
- 4) Statutory Authority:

Authorized by Section 3.01 of the Abandoned Mined Lands and Water Reclamation Act (Ill. Rev. Stat. 1989, ch. 96½, par. 8003.01)
- 5) Effective Date of Adopted Amendments: May 3, 1991
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do the proposed amendments contain any incorporations by reference? Yes; 2501.19; 2501.25
 - a) The requirements for State Reclamation Grants are set forth in 30 CFR 886.
 - b) Appraisal format and content as recommended in Regulation 10 of the American Institute of Real Estate Appraisers of the National Association of Realtors, Code of Professional Ethics, as amended November 4, 1989, are incorporated in Section 2501.25 a).
- 8) Date Filed in Agency's Principal Office: April 21, 1991
- 9) Notice of Proposal Published in Illinois Register: January 11, 1991; 15 Ill. Reg. 141
- 10) Has JCAR issued a Statement of Objections to the Adopted Amendments? No

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- 11) Differences Between Proposal and Final Version:
 - a) To satisfy requirements of the Administrative Code Division, left-hand parentheses were removed in 2501.10 b), before numbers 1, 2, 3, 4 and 5. The same applies in 2501.16 a) and b), and numbers thereafter.
 - b) Pursuant to agreement with JCAR:

the edition date of the Illinois Revised Statutes was changed to 1989 in the Authority note;

in the Table of Contents, the title of Section 2501.16 was changed to "Project Deferment" to correspond with the title to that section in the text;

in Section 2501.25 b) 2), the word "total" was added before "fair market value of less than \$8,000.00";

in Section 2501.25 b) 3), the sentence "The statement shall state the priority claimed for the lien." was inserted to conform to previously adopted text; and

throughout the text, abbreviations for "chapter" contained in citations to the Illinois Revised Statutes have been changed from "Ch." to "ch."
- 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 the Adopted Amendments replace Emergency Amendments currently in effect? No
- 14) Are there any Amendments pending on this Part? No
- 15) Summary and Purpose of Adopted Amendments:

The rules in this Part implement the Abandoned Mined Lands and Water Reclamation Act (Ill. Rev. Stat. 1989, ch. 96½, par. 8001.01 et seq.), which provides for the reclamation of mined lands that were abandoned prior to August 3, 1977. This Illinois law is complementary to Title IV of the Federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.). Under the Federal Act, a portion of the money collected by the federal government from a fee imposed on coal mining operations can be provided through cooperative agreements or grants to states which have a federally approved State Reclamation Plan. The rules

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TITLE 62: MINING

CHAPTER II: ABANDONED MINED LANDS RECLAMATION COUNCIL

PART 2501

ABANDONED MINED LANDS RECLAMATION

Section

2501.1

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Definitions

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Objectives and Priorities

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Land Acquisition, Management and Disposal

2501.34

Emergency Abatement Activities

2501.37

Advisory Committee (Repealed)

2501.40

Public Participation (Repealed)

In the Part constitute a part of the State Reclamation Plan. The adopted amendments bring the State abandoned mine lands program into greater consistency with recent federal policy directives.

A subsection (d) is added to Section 2501.7, and Section 2501.10 is amended to fully implement P.A. 86-145 concerning non-coal reclamation. Sections 2501.13, 2501.16 and 2501.19 are amended to clarify and improve project selection criteria. Section 2501.25 is amended to clarify the criteria for determining what constitutes a significant increase in market value of reclaimed property for purposes of waiving potential reclamation liens.

16) Information and questions regarding these Adopted Amendments shall be directed to:

Kevin H. Kahl, Legal Counsel
Abandoned Mined Lands Reclamation Council
928 South Spring Street
Springfield, Illinois 62704

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

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Section 2501.7 Objectives and Priorities

a) It is the policy of this State to provide for the conservation and reclamation of lands and water affected by mining which have been abandoned, in order to restore these abandoned lands and waters to such productive use, in accordance with this State's conservation and land reclamation policies, as will aid in maintaining or improving the property tax base, protect the health, safety and general welfare of the people, promote the natural beauty and aesthetic values of this State and enhance the environment, and correct and prevent soil erosion, stream pollution, water, air and land pollution, and other injurious effects to persons, property, wildlife and natural resources. (Ill. Rev. Stat. 1989, ch. 96 1/2, par. 8001.02(a)) The goal of the state reclamation program described in this Part is to alleviate adverse environmental effects of abandoned mines and, whenever possible, to improve those abandoned lands to support a suitable land use.

b) It is the expressed intent of the General Assembly that the Council,

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in implementing these policies, administer the reclamation program in a way which satisfies the requirements of the Federal Act. Accordingly, the provisions of this Part shall be construed, if possible, in a manner which is consistent with the requirements of the Federal Act and the regulations promulgated thereunder.

c) Expenditures of money on abandoned coal mined lands for the purposes of the reclamation program shall reflect the following priorities in the order stated:

- 1) The protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices;
- 2) The protection of public health, safety, and general welfare from adverse effects of coal mining practices;
- 3) The restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices including measures for the conservation and development of soil, water (excluding channelization), woodland, fish and wildlife, recreation resources, and agricultural productivity;
- 4) Research and demonstration projects relating to the development of surface mining reclamation and water quality control program methods and techniques;
- 5) The protection, repair, replacement, construction, or enhancement of public facilities such as utilities, roads, recreation, and conservation facilities adversely affected by coal mining practices;
- 6) The development of publicly owned land adversely affected by coal mining practices including land acquired as provided in the Federal Act for recreation and historic purposes, conservation, and reclamation purposes and open space benefits. (Ill. Rev. Stat. 1983 1989, ch. 96 1/2, par. 8001.03(a))

d) The Council may make expenditures on lands mined for substances other than coal for the protection of the public health and safety; provided, however, that annual expenditures for non-coal reclamation shall not exceed 2% of the Council's annual budget for mine land reclamation; and provided further that all obligations for such expenditures shall be made by August 14, 1994.

(Source: Amended at 15 Ill. Reg. 6513, effective May 3, 1991)

Section 2501.10 Eligible Lands and Water

- a) Lands Coal lands and water are eligible for reclamation activities with federal funds provided pursuant to the Federal Act if:
- 1) They were mined for coal or affected by such mining coal mining processes;
 - 2) They were abandoned--or--left--in--either--an--unreclaimed--or--inadequately--reclaimed--condition--prior--to--August--3,--1977 mined prior to August 3, 1977, and left or abandoned in either an

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unreclaimed or inadequately reclaimed condition; and

3) There is no continuing responsibility for reclamation by the operator, permittee, or agent of the permittee under State--or--Federal--laws--or--regulations statutes of the State or Federal Government, or as a result of bond forfeiture. Bond forfeiture will render lands or water ineligible only if the amount forfeited is sufficient to pay the total cost of the necessary reclamation. In cases where the forfeited bond is insufficient to pay the total cost of reclamation additional federal funding may be sought.

b) ~~Lands Non-coal lands and water are eligible for reclamation activities if: they were non-coal mined lands and water abandoned or left in an inadequate reclamation status and which pose extreme danger to public health, safety, general welfare and property:~~

- 1) They were mined or affected by mining processes;
- 2) They were mined prior to August 3, 1977, and left or abandoned in either an unreclaimed or inadequately reclaimed condition;
- 3) There is no continuing responsibility for reclamation by the operator, permittee, or agent of the permittee under statutes of the State or Federal Government as a result of bond forfeiture, which will render lands or water ineligible only if the amount forfeited is sufficient to pay the total cost of the necessary reclamation or, in cases where the forfeited bond is insufficient to pay the total cost of reclamation, additional federal funding may be sought;
- 4) The Governor concurs that reclamation is necessary and submits a letter of request to the Federal Office; and
- 5) The reclamation is necessary for the protection of the public health and safety, or all coal related reclamation has been accomplished.

(Source: Amended at 15 Ill. Reg. 6513, effective May 3, 1991)

Section 2501.13 Project Selection

- a) ~~The Council shall select projects for reclamation from the inventory in the manner prescribed by Section 2501.16. The Council will select only high priority sites for reclamation until all such sites in Illinois have been reclaimed.~~
- b) ~~The term "high priority sites" shall include those eligible lands which must be reclaimed for:~~
- 1) ~~The protection of public health, safety, general welfare, and property from extreme danger of adverse effects of mining practices; and~~
 - 2) ~~The protection of public health, safety, and general welfare from adverse effects of coal mining practices.~~
- ~~as set forth in subsections (c) and (d):~~
- c) ~~For underground coal mines, sites which include one or more of the~~

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to determine the probable benefits to be derived from reclamation:

- 1) Relative degree of continued impacts if left unreclaimed;
- 2) Proximity of site to populated areas or public use areas;
- 3) Additional site benefits including improvements in land use and development of public lands; protection of public facilities; and, research or demonstration of new techniques;
- 4) Technology available to assume reasonable probability of success; and?
- 5) Cost-effectiveness of the necessary action.

(Source: Amended at 15 Ill. Reg. 6513, effective May 3, 1991.)

Section 2501.16 Priority-Ranking-of-Reclamation-Sites Project Deferment

Depending-upon-avaialable-funding-high-priority-sites-shall-be-chosen-for-reclamation-using-the-criteria-listed-below-the-procedure-for-requesting-annual-grants-of-federal-funds-for-selected-reclamation-projects-is-set-forth-in-Section-2501.19:

a) When-avaialable-funding-or-state-capabilities-are-insufficient-to-address-at-high-priority-sites-high-priority-sites-meeting-one-or-more-of-the-following-conditions-shall-be-estimated-from consideration-for-funding-for-a-particular-year-when:

- 1) The-mining-industry-is-planning-or-is-conducting-or-has-the-responsibility-for-conducting-reclamation-to-attavate-problem-conditions-at-a-site?
- 2) There-exists-ongoing-user-and-responsibility-for-reclamation-to-attavate-problem-conditions-associated-with-active-handfill-stacks-savage-yards-material-storage-yards-or-other-uses-of-mined-lands?
- 3) Where-is-an-ongoing-or-planned-reminting-operation-interested-in-the-site-in-such-cases-a-permit-under-Title-V-of-the-Federal Act-is-required-to-insure-that-the-area-is-reclaimed?
- 4) Where-is-ongoing-or-anticipated-reclamation-with-be-effective-and-efficient-so-that-natural-reclamation-will-be-effective-and-efficient-considering-such-factors-as-cost-and-potential-or-existing-hazards-to-human-life-the-environment-or-public-or-private-property?
- 5) Where-is-ongoing-or-planned-reclamation-at-a-site-by-the-Federal Offecer-the-Soil-Conservation-Service-the-Council-or-other-public-or-private-agencies?
- 6) Where-exists-the-financial-capability-of-the-owner-to-assume-the-reclamation-responsibility-where-the-sites-currently-have-commercial-value-or
- 7) Where-is-a-planned-or-currently-operating-secondary-coal-recovery operation-provided-however-that-only-the-areas-within-the-site-which-will-be-affected-by-such-operation-shall-be-estimated-from consideration-

b) Remaining-high-priority-sites-will-be-objectively-evaluated-based-on

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following-problem-conditions-are-considered-high-priority-sites:

- 1) Mine-openings-which-are-open-or-are-partially-open-so-as-to present-a-danger-of-physical-access-or-escaping-mine-gas?
- 2) Escaping-mine-gases?
- 3) Surface-or-underground-mine-fires?
- 4) Exposed-gob-or-sturry?
- 5) Abandoned-tppte-areas?
- 6) Water-impoundments-with-a-ph-less-than-5.0?
- 7) Damaging-mine-drainage-to-adjacent-ditches-streams-and/or rivers-
- 8) Subsidence-or-sinks-

For-surface-coal-mines-sites-which-include-one-or-more-of-the-following-problem-conditions-are-considered-high-priority-sites:

a) The-Council-shall-select-projects-for-reclamation-from-an-abandoned-mine-site-database-which-contains-all-known-abandoned-mine-sites-in-the-state-that-were-affected-prior-to-August-3, 1977-and-which-contained-problem-conditions. This-database-includes-sites-reported-in-the-Resource-Documnet-of-the-original-State-Plan, all-high-priority-sites-included-in-the-Phase-II-National-Abandoned-Mine-Land-Inventorly, and-additional-sites-which-may-periodically-be-brought-to-the-attention-of-the-Council-by-landowners-or-other-concerned-citizens.

b) The-Council-shall-review-the-AML-database-each-year-to-identify-the-unreclaimed-or-inadequately-reclaimed-sites-containing-the-most-significant-remaining-problem-conditions. Problem-conditions-include-in-order-of-relative-significance:

- 1) Surface-openings-resulting-from-improperly-sealed-mine-portals-or-caused-by-underground-mine-subsidence?
- 2) Escaping-mine-gases?
- 3) Surface-or-underground-mine-fires?
- 4) Hazardous-equipment-or-facilities-left-behind-by-the-mining-operation?
- 5) Dangerous-impoundments-constructed-by-the-mine?
- 6) Dangerous-unprotected-highwalls-in-close-proximity-to-populated-areas-or-public-use?
- 7) Polluted-water-used-for-consumption?
- 8) Dangerous-refuse-piles-or-embankments?
- 9) Exposed-coal-refuse-material-or-spoilbanks-contributing-to-off-site-pollution?
- 10) Acid-water-impoundments.

c) Sites-identified-as-containing-significant-problem-conditions-shall-be-further-prioritized-based-upon-an-evaluation-of-the-following-criteria

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available information, to determine the actual benefits to be derived from reclamation. Three categories of benefits will be evaluated:

- 1) Elimination of adverse environmental effects:
 - A) Surface chemical drainage considering the severity and percent contribution of the problem site source in relation to current water quality and the effectiveness of proposed reclamation on a watershed basis;
 - B) Erosion/siltation considering the potential for additional off-site damage relative to the damage that has already occurred, and the quality and value of additional resources that might be affected;
 - C) Ground water contamination considering the size and type of source affected;
 - D) Surface and structure stability considering the degree of surface and structure problem relative to other environmental problems, as well as site location and accessibility. This includes mine openings, tipple structures, subsidence areas and highwalls. Highwalls considering the degree of high wall problem relative to immediate onsite environmental problems, with emphasis given to sites with past records of serious problems;
 - E) Threatened areas considering the potential threat to environmental, economic, cultural, and historical areas and resources relative to the probability of occurrence as well as the restorative capabilities of the affected resource.
 - 2) Improvement of land use:
 - A) Increase useability;
 - B) Enhance surrounding land use;
 - C) Allow public use.
 - 3) Achievement of other reclamation objectives:
 - A) Restoration of other eligible land and water;
 - B) Research and demonstration considering the feasibility and amount of application the project may have;
 - C) Protection/repair of public facilities;
 - D) Development of public lands considering the potential for public use and ability of the public entity to develop and maintain the site following reclamation;
- c) Each subcategory within the three categories described in subsection (b) of this section will be assigned points based on the anticipated benefits. No benefits -- 0 points; minimal benefits -- 1 point; moderate benefits -- 2 points; extensive benefits -- 3 points. As used in this section, "minimal", "moderate", and "extensive" indicate the degree of benefits to be derived from reclamation of a particular site relative to the benefits to be derived from all other potential sites.
- d) Those high priority sites with the highest numerical values from subsection (c) of this section will then be addressed. For each site a basic reclamation technique will be selected, and an estimate of reclamation costs will be developed. Based on anticipated available funds, reasonable geographic distribution, and the perceived needs of

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local citizens, sites will be selected for reclamation planning.

- e) Project development
 - 1) Reclamation planning for each site will include an evaluation of the following elements in relation to all other potential reclamation sites:
 - A) Technology available to assure reasonable probability of successful reclamation;
 - B) Public acceptability of land use(s) which are reasonably achievable;
 - C) Public acceptability of adverse impacts;
 - D) Probability of management necessary to maintain successful reclamation, including development compatible with post-reclamation site conditions, monitoring to identify emerging site problems, and maintenance to correct identified problems;
 - E) Cost effectiveness.
 - 2) Public participation and input will be actively solicited during the planning process as provided in Section 2501.19.
 - 3) If any of the criteria of subsection (e)(1) of this Section are not met for any site, project development will stop until all criteria are met.
- f) Project design will be initiated for sites meeting all of the criteria of subsection (e)(1) of this Section. The Council will prepare environmental assessments and develop construction drawings and specifications. Projects will be bid and reclamation will occur as provided in Section 2501.22.

From the most significant abandoned mine sites identified in accordance with Section 2501.13, projects will be developed for inclusion in the annual grant application which have the highest probability for successful reclamation within the upcoming three year grant period based upon the criteria and considerations listed below.

- a) Sites must exhibit a high probability for achievement of successful reclamation, including:
 - 1) Satisfactory funding levels for the immediate grant year;
 - 2) Availability of Design and Technical Staff, assigned to three regions of the State (northern, central, and southern), for project design and/or monitoring;
 - 3) Existence of a technically feasible design solution to existing problems; and
 - 4) Evidence that a timely Consent for Entry can be obtained from the owner(s) of the project site.
- b) Significant sites exhibiting one or more of the following conditions shall be eliminated from consideration for funding for a particular year, when:
 - 1) There exists ongoing use and responsibility for reclamation to alleviate problem conditions, associated with active landfill sites, slavage yards, material storage yards, or other uses of mined lands;
 - 2) There is an ongoing or planned remining operation interested in

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- 3) There is a planned or currently operating secondary coal recovery operation; provided, however, that only the areas within the site which will be affected by such operation shall be eliminated from consideration;
- 4) There is ongoing or planned reclamation or development of a site by any federal office, the Soil Conservation Service, or other public or private agencies or individuals; or
- 5) There is ongoing or anticipated successful stabilization by natural processes so that natural reclamation will be effective and efficient considering such factors as cost and potential or existing hazards to human life, the environment, or public or private property.
- 6) The Executive Director shall present the proposed projects for the grant application to the Council members for preliminary approval at a Council meeting. A list of approved projects will be advertised for public comment as part of the annual grant process. Thereafter the proposed project list shall be subject to final approval of the Council members at the next Council meeting. The approved project list shall be included in the annual grant submission.

(Source: Amended at 15 Ill. Reg. 6513, effective May 3, 1991)

Section 2501.19 Annual Grant Process

For projects selected for reclamation pursuant to Section 2501.16, the Council will submit an annual grant application to the Federal Office. It is the Council's policy, in developing proposed annual grant applications, to encourage public input, and project recommendations from local officials, organizations, and citizens will be considered. Any interested person may submit information and comments regarding AML programs, projects, and Council Activities as set forth in 2 Ill. Adm. Code 1500.60. Copies of the annual grant application will be provided to the public upon written request to the Council, First-Peak-Azima-Bidding-100-North-First-Street-928 South Spring Street, Springfield, Illinois 62704. In addition, notice of annual grant applications will be circulated through the Illinois State Library System and the Illinois State Clearinghouse. The Council shall comply fully with the requirements of 30 CFR 886 (1988) with respect to all annual grant applications. (No incorporation by reference in this part includes any later amendments or editions.)

(Source: Amended at 15 Ill. Reg. 6513, effective May 3, 1991)

Section 2501.25 Reclamation on Private Lands

Reclamation may be carried out on private land if consent is obtained as provided in Section 2501.28(a), or if the requisite findings are made and

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notice given pursuant to Section 2501.28(b). When reclamation is to be carried out on private land, the Council shall adhere to the following procedures concerning appraisals, liens, and satisfaction of liens:

- a) Appraisals
 - 1) A notarized appraisal of private land to be reclaimed which may be subject to a lien under subsection (b) shall be obtained from an independent professional appraiser. Such appraisal shall meet the quality of appraisal practices found in Regulation 10 of the American Institute of Real Estate Appraisers of the National Association of Realtors, Code of Professional Ethics, as amended November 4, 1984 1989. The appraisal shall state:
 - A) The estimated market value of the property in its unreclaimed condition; and
 - B) The estimated market value of the property as reclaimed.
 - 2) This appraisal shall be made prior to the start of reclamation activities, except as provided in subsection (a)(3). The Council shall furnish to the appraiser information of sufficient detail in the form of plans, factual data, specifications, etc., to make such appraisals. When reclamation requires more than six months to complete, an updated appraisal of the estimated market value of the property as reclaimed shall be made to determine if the increase in value as originally appraised has actually occurred. Such updated appraisal shall not include any increase in value of the land as unreclaimed. If the updated appraisal value results in lower increase in value, such lower increase shall be used as the basis for the lien. However, an increase in value resulting from the updated appraisal shall not be considered in determining a lien.
 - 3) When any abandoned mine condition presents a high probability of substantial physical harm to the health, safety, or general welfare of people, as set forth in Section 2501.34, before the danger can be abated under normal program operations procedures, reclamation activities or abatement procedures shall not be delayed in order to obtain any necessary appraisal. In such instances, the appraisal shall be obtained at the earliest practical time after reclamation activities or abatement procedures have been commenced.
- b) Liens
 - 1) The Council shall place a lien against land reclaimed if the reclamation results in a significant increase in fair market value, except that:
 - A) A lien shall not be placed against the property of a surface owner who owned the property prior to May 2, 1977, and who did not consent to, participate in, or exercise control over the mining operation which necessitated the reclamation work, (Ill. Rev. Stat. 1985 1989, ch. 96 1/2, par. 8002.09(b))?
 - B) A lien shall be waived if findings made prior to construction indicate that the reclamation work to be

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performed on private land shall primarily benefit the health, safety, or environmental values of the greater community or area in which the land is located; or if the reclamation is necessitated by an unforeseen occurrence, and the work performed to restore that land will not result in a significant increase in the market value of the land as it existed immediately before the unforeseen occurrence; and

C) The Council shall waive the lien if the cost of filing it, including indirect costs to the State, exceeds the increase in fair market value as a result of the reclamation activities.

2) The determination of what constitutes a significant increase in market value ~~shall be based upon the following relevant considerations: the actual cost of the reclamation, the benefit of the reclamation to the public and the greater environment, aesthetic benefits, the possible uses for the land before and after reclamation, and the actual increase in property value of~~ land subject to a potential lien, or what factual situation justifies a waiver of lien, will be made to assure that AML program funds are used to benefit the health, safety, or environmental values of the greater community and avoid windfall profits to owners of reclaimed land. The manner in which the subject property was acquired shall be considered. An increase in total fair market value of less than \$8,000.00, or less than 20 percent of total fair market value before reclamation, shall not be considered significant.

3) If a lien is to be filed, the Council shall, within six months after the completion of the reclamation work, file a statement in the Office of the Recorder of Deeds in the County wherein the reclaimed land is located. Such statement shall consist of notarized copies of the appraisal obtained under subsection (a) and shall include an account of moneys expended for the reclamation work. The statement shall state the priority claimed for the lien. The amount reported to be the increase in value of the property shall constitute the lien to be recorded. Provided, however, that prior to the time of the actual filing of the proposed lien, the landowner shall be notified of the amount of the proposed lien and shall be allowed a reasonable time to repay that amount instead of allowing the lien to be filed against the property involved.

4) Within 60 days after the lien is filed, the landowner may petition the Council, through the Executive Director, for a hearing to determine the increase in market value of the land as a result of reclamation work. Any party aggrieved by the decision of the Council may seek appropriate judicial relief at the Circuit Court.

c) Satisfaction of Liens

1) A lien placed on private property shall be satisfied, to the extent of the value of the consideration received, at the time of

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transfer of ownership. Any unsatisfied portion shall remain as a lien on the property.

2) The Council shall maintain or renew each lien from time to time as may be required.

3) Monies derived from the satisfaction of liens established under this Section shall be deposited in the State fund currently entitled "Abandoned Mined Lands Reclamation Council Federal Trust Fund."

(Source: Amended at 15 Ill. Reg. 6513, effective May 3, 1991)

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POLLUTION CONTROL BOARD

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 SUBTITLE G: WASTE DISPOSAL
 CHAPTER I: POLLUTION CONTROL BOARD
 SUBCHAPTER d: UNDERGROUND INJECTION CONTROL
 AND UNDERGROUND STORAGE TANK PROGRAMS

PART 731
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 731.102 Interim prohibitions (Repealed)
 731.103 Notification Requirements (Repealed)
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 731.166 Corrective Action Plan
 731.167 Public Participation

SUBPART G: OUT-OF-SERVICE SYSTEMS AND CLOSURE

Section
 731.170 Temporary Closure
 731.171 Permanent Closure and Changes-in-Service
 731.172 Assessing Site at Closure or Change-in-Service
 731.173 Previously Closed Systems
 731.174 Closure Records

SUBPART H: FINANCIAL RESPONSIBILITY

Section
 731.190 Applicability
 731.191 Compliance Dates
 731.192 Definitions
 731.193 Amount and Scope of Required Financial
 Responsibility
 731.194 Allowable Mechanisms and Combinations
 731.195 Financial Test of Self-insurance
 731.196 Guarantee
 731.197 Insurance or Risk Retention Group Coverage
 731.198 Surety Bond
 731.199 Letter of Credit
 731.200 UST State Fund
 731.202 Trust Fund
 731.203 Standby Trust Fund
 731.204 Substitution of Mechanisms
 731.205 Cancellation or Nonrenewal by Provider
 731.206 Reporting
 731.207 Recordkeeping
 731.208 Drawing on Financial Assurance
 731.209 Release from Financial Assurance Requirement
 731.210 Bankruptcy or other Incapacity
 731.211 Replenishment
 731.900 Incorporation by reference (Repealed)
 731.901 Compliance Date (Repealed)

Appendix A Notification Form

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

with the performance standards in Section 731.143 and 731.144 indicates a release may have occurred, owners and operators shall notify ES&A in accordance with Subpart E.

Owners and operators of UST systems shall comply with the release detection requirements of this subpart in accordance with the following schedule:

- 1) For all pressurized piping in accordance with as defined in Section 731.141(b)(1) and ~~731.142(b)(4)~~, by December 22, 1990.
- 2) For tanks and suction piping in accordance with Section 731.141(a), 731.141(b)(2) and 731.142 for tanks:

A) With an unknown installation date, by December 22, 1989.

B) Installed before 1965, by December 22, 1989.

C) Installed in 1965 through 1969, by December 22, 1990.

D) Installed in 1970 through 1974, by December 22, 1991.

E) Installed in 1975 through 1979, by December 22, 1992.

F) Installed in 1980 through December 22, 1988, by December 22, 1993.

G) Installed after December 22, 1988, immediately upon installation.

d) Any existing UST system that cannot apply a method of release detection that complies with the requirements of this subpart must complete the closure procedures in Subpart G by the date on which release detection is required for that UST system under subsection (c).

(Source: Amended at 15 Ill. Reg. 6527, effective April 22, 1991)

SUBPART H: FINANCIAL RESPONSIBILITY

Section 731.191 Compliance Dates

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

AUTHORITY: Implementing and authorized by Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1022.4, 1022.13 and 1027 (Sections 22.4(d), 22.13(d) and 27 of the Environmental Protection Act).

SOURCE: Adopted in R86-1 at 10 Ill. Reg. 14175, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6220, effective March 24, 1987; amended in R88-27 at 13 Ill. Reg. 9519, effective June 12, 1989; amended in R89-4 at 13 Ill. Reg. 15010, effective September 12, 1989; amended in R89-10 at 14 Ill. Reg. 5797, effective April 10, 1990; amended in R89-19 at 14 Ill. Reg. 9454, effective June 4, 1990; amended in R90-3 at 14 Ill. Reg. 11964, effective July 10, 1990; amended in R90-12 at 15 Ill. Reg. 6527, effective April 22, 1991.

NOTE: Capitalization denotes statutory language.

SUBPART D: RELEASE DETECTION

Section 731.140 General Requirements for all Systems

a) Owners and operators of new and existing UST systems shall provide a method, or combination of methods, of release detection that:

1) Can detect a release from any portion of the tank and the connected underground piping that routinely contains product:

2) Is installed, calibrated, operated and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition; and

3) Meets the performance requirements in Sections 731.143 or 731.144, with any performance claims and their manner of determination described in writing by the equipment manufacturer or

December 22, 1990, except for methods permanently installed prior to that date, must be capable of detecting the leak rate or quantity specified for that method in Section 731.143(b), (c) and (d) or Section 731.144(a) and (b), with a probability of detection of 0.95 and a probability of false alarm of 0.05.

b) When a release detection method operated in accordance

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Owners of petroleum underground storage tanks are required to comply with the requirements of this Subpart by the following dates:

- a) All petroleum marketing firms owning 1,000 or more USTs and all other UST owners that report a tangible net worth of \$20 million or more to the U.S. Securities and Exchange Commission (SEC), Dun and Bradstreet, the Energy Information Administration or the Rural Electrification Administration: January 24, 1989, except that compliance with Section 730.194(b) is required by: July 24, 1989.
- b) All petroleum marketing firms owning 100 through 999 USTs: October 26, 1989.
- c) All petroleum marketing firms owning 13 through 99 USTs at more than one facility: April 26, ~~1990~~ 1991.
- d) All petroleum UST owners not described in subsections (a), (b) or (c), including units of local government: October 26, 1990.

(Source: Amended at 15 Ill. Reg. 6527 , effective April 22, 1991)

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENT

- 1) The Heading of the Part: MEDICAL PAYMENT
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: Adopted Action:
140.569 Amendment
- 4) Statutory Authority: Sections 5-5.1 et seq. and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, Ch. 23, Pars. 5-5.1 et seq. and 12-13)
- 5) Effective Date of Adopted Amendment: April 30, 1991
- 6) Does this rulemaking contain an automatic repeal date?
 Yes No
- 7) Does this Adopted Amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: April 30, 1991
- 9) Notice of Proposal Published in Illinois Register: May 30, 1990 (14 Ill. Reg. 7834)
- 10) Has JCAR issued a Statement of Objections to this Adopted Amendment? Yes
 - A) Statement of Objection: April 5, 1991 (15 Ill. Reg. 5115)
 - B) Agency Response: May 3, 1991 (15 Ill. Reg. 6789)
 - C) Date Agency Response Submitted for Approval to JCAR: April 17, 1991
- 11) Differences between proposal and final version: In 140.569(a)(1) the statutory citation was changed to "1989" and in the last line the word "Section" was added before "140.525(b)".
- 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 Adopted Amendment replace an Emergency Amendment currently in effect? No
- 14) Are there any Amendments pending on this Part? Yes

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DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
 CHAPTER I: DEPARTMENT OF PUBLIC AID
 SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
 MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section	
140.1	Incorporation By Reference
140.2	Medical Assistance Programs
140.3	Covered Services Under The Medical Assistance Programs for AFDC, AFDC-MANG, AABD, AABD-MANG, RRP, Individuals Under Age 18 Not Eligible for AFDC, Pregnant Women Who Would Be Eligible if the Child Were Born and Pregnant Women and Infants Under Age One Year Who Do Not Qualify As Mandatory Categorically Needy
140.4	Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
140.5	Covered Medical Services Under GA and AMI
140.6	Medical Services Not Covered
140.7	Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Six
140.8	Medical Assistance For Qualified Severely Impaired Individuals
140.9	Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
140.10	Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION/DRUG MANUAL

Section	
140.11	Enrollment Conditions for Medical Providers
140.12	Participation Requirements for Medical Providers
140.13	Definitions
140.14	Denial of Application to Participate in the Medical Assistance Program
140.15	Recovery of Money
140.16	Termination of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.17	Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENT

Section	
140.18	Effect of Termination on Individuals Associated with Vendor
140.19	Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
140.20	Submittal of Claims
140.21	Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)
140.22	Magnetic Tape Billings
140.23	Payment of Claims
140.24	Payment Procedures
140.25	Overpayment or Underpayment of Claims
140.26	Payment to Factors Prohibited
140.27	Assignment of Vendor Payments
140.28	Record Requirements for Medical Providers
140.30	Audits
140.35	False Reporting and Other Fraudulent Activities
140.40	Prior Approval for Medical Services or Items
140.41	Prior Approval in Cases of Emergency
140.42	Limitation on Prior Approval
140.43	Post Approval for items or Services When Prior Approval Cannot Be Obtained
140.71	Drug Manual (Recodified)
140.72	Drug Manual (Recodified)
140.73	Drug Manual Updates (Recodified)

SUBPART C: HOSPITAL SERVICES

Section	
140.94	Hospital Services (Recodified)
140.95	Participation (Recodified)
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)
140.98	Covered Hospital Services (Recodified)
140.99	Hospital Services Not Covered (Recodified)
140.100	Limitation On Hospital Services (Recodified)
140.101	Transplants (Recodified)
140.102	Heart Transplants (Recodified)
140.103	Liver Transplants (Recodified)
140.104	Bone Marrow Transplants (Recodified)
140.110	Disproportionate Share Hospital Adjustments (Recodified)
140.116	Payment for Inpatient Services for GA (Recodified)
140.117	Hospital Outpatient and Clinic Services (Recodified)
140.200	Payment for Hospital Services During Fiscal Year 1982 (Recodified)
140.201	Payment for Hospital Services After June 30, 1982 (Repealed)

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENT

140.418	Section	Department of Corrections Laboratory
140.420	140.420	Dental Services
140.421	140.421	Limitations on Dental Services
140.422	140.422	Requirements for Prescriptions and Dispensing Items of Pharmacy Items - Dentists
140.425	140.425	Podiatry Services
140.426	140.426	Limitations on Podiatry Services
140.427	140.427	Requirement for Prescriptions and Dispensing of Pharmacy Items - Podiatry
140.428	140.428	Chiropractic Services
140.429	140.429	Limitations on Chiropractic Services (Repealed)
140.430	140.430	Independent Laboratory Services
140.431	140.431	Services Not Covered by Independent Laboratory
140.432	140.432	Limitations on Independent Laboratory Services
140.433	140.433	Payment for Laboratory Services
140.434	140.434	Record Requirements for Independent Laboratories
140.435	140.435	Nurse Services
140.436	140.436	Limitations on Nurse Services
140.440	140.440	Pharmacy Services
140.441	140.441	Pharmacy Services Not Covered
140.442	140.442	Prior Approval of Prescriptions
140.443	140.443	Filling of Prescriptions
140.444	140.444	Compounded Prescriptions
140.445	140.445	Prescription Items (Not Compounded)
140.446	140.446	Over-the-Counter Items
140.447	140.447	Reimbursement
140.448	140.448	Returned Pharmacy Items
140.449	140.449	Payment of Pharmacy Items
140.450	140.450	Record Requirements for Pharmacies
140.452	140.452	Mental Health Clinic Services
140.453	140.453	Definitions
140.454	140.454	Types of Mental Health Clinic Services
140.455	140.455	Payment for Mental Health Clinic Services
140.456	140.456	Hearings
140.460	140.460	Clinic Services
140.461	140.461	Clinic Participation Requirements (Emergency Expired)
140.462	140.462	Covered Services in Clinics (Emergency Expired)
140.463	140.463	Encounter Rate Clinic Payment (Emergency Expired)
140.464	140.464	Psychiatric Clinics (Hospital-based)
140.465	140.465	Speech and Hearing Clinics
140.466	140.466	Rural Health Clinics
140.467	140.467	Independent Clinics
140.469	140.469	Hospice
140.470	140.470	Home Health Services
140.471	140.471	Home Health Covered Services
140.472	140.472	Types of Home Health Services
140.473	140.473	Prior Approval for Home Health Services
140.474	140.474	Payment for Home Health Services

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENT

140.202	Section	Payment for Hospital Services During Fiscal Year 1983 (Recodified)
140.203	140.203	Limits on Length of Stay by Diagnosis (Recodified)
140.300	140.300	Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
140.350	140.350	Copayments (Recodified)
140.360	140.360	Payment Methodology (Recodified)
140.361	140.361	Non-Participating Hospitals (Recodified)
140.362	140.362	Pre July 1, 1989 Services (Recodified)
140.363	140.363	Post June 30, 1989 Services (Recodified)
140.364	140.364	Prepayment Review (Recodified)
140.365	140.365	Base Year Costs (Recodified)
140.366	140.366	Restructuring Adjustment (Recodified)
140.367	140.367	Inflation Adjustment (Recodified)
140.368	140.368	Volume Adjustment (Repealed)
140.369	140.369	Groupings (Recodified)
140.370	140.370	Rate Calculation (Recodified)
140.371	140.371	Payment (Recodified)
140.372	140.372	Review Procedure (Recodified)
140.373	140.373	Utilization (Repealed)
140.374	140.374	Alternatives (Recodified)
140.375	140.375	Exemptions (Recodified)
140.376	140.376	Utilization, Case-Mix and Discretionary Funds (Repealed)
140.390	140.390	Subacute Alcoholism and Substance Abuse Services (Recodified)
140.391	140.391	Definitions (Recodified)
140.392	140.392	Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
140.394	140.394	Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
140.396	140.396	Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
140.398	140.398	Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

140.400	Section	Payment to Practitioners, Nurses and Laboratories
140.410	140.410	Physicians' Services
140.411	140.411	Covered Services By Physicians
140.412	140.412	Services Not Covered By Physicians
140.413	140.413	Limitation on Physician Services
140.414	140.414	Requirements for Prescriptions and Dispensing of Pharmacy Items - Physicians
140.416	140.416	Optometric Services and Materials
140.417	140.417	Limitations on Optometric Services

DEPARTMENT OF PUBLIC AID
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Section	
140.475	Medical Equipment, Supplies and Prosthetic Devices
140.476	Medical Equipment, Supplies and Prosthetic Devices for Which Payment Will Not Be Made
140.477	Limitations on Equipment, Supplies and Prosthetic Devices
140.478	Prior Approval for Medical Equipment, Supplies and Prosthetic Devices
140.479	Approval of Medical Supplies
140.480	Equipment Rental Limitations
140.481	Payment for Medical Equipment, Supplies and Prosthetic Devices
140.482	Family Planning Services
140.483	Limitations on Family Planning Services
140.484	Payment for Family Planning Services
140.485	Healthy Kids Program
140.486	Limitations on Medichek Services (Repealed)
140.487	Healthy Kids Program Timeliness Standards
140.488	Periodicity Schedule, Immunizations and Diagnostic Laboratory Procedures
140.490	Medical Transportation
140.491	Limitations on Medical Transportation
140.492	Payment for Medical Transportation
140.495	Psychological Services
140.496	Payment for Psychological Services
140.497	Hearing Aids

SUBPART E: GROUP CARE

Section	
140.500	Group Care Services
140.502	Cessation of Payment at Federal Direction
140.503	Cessation of Payment for Improper Level of Care
140.504	Cessation of Payment Because of Termination of Facility
140.505	Continuation of Payment Because of Threat To Life
140.506	Provider Voluntary Withdrawal
140.507	Continuation of Provider Agreement
140.510	Determination of Need for Group Care
140.511	Services Provided Without Charge
140.512	Utilization Control
140.513	Utilization Review Plan
140.514	Certifications and Recertifications of Care
140.515	Management of Recipient Funds--Personal Allowance Funds
140.516	Recipient Management of Funds
140.517	Correspondent Management of Funds
140.518	Facility Management of Funds
140.519	Use or Accumulation of Funds

DEPARTMENT OF PUBLIC AID
NOTICE OF ADOPTED AMENDMENT

Section	
140.520	Management of Recipient Funds--Local Office Responsibility
140.521	Room and Board Accounts
140.522	Reconciliation of Recipient Funds
140.523	Bed Reserves
140.524	Cessation of Payment Due to Loss of License
140.525	Eligibility For Quality Incentive Program (QUIP)
140.526	Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP)
140.527	Quality Incentive Survey
140.528	Payment of Quality Incentive
140.529	Reviews
140.530	Basis of Payment for Group Care Services
140.531	General Service Costs
140.532	Health Care Costs
140.533	General Administration Costs
140.534	Ownership Costs
140.535	Costs for Interest, Taxes and Rent
140.536	Organization and Pre-Operating Costs
140.537	Payments to Related Organizations
140.538	Special Costs
140.539	Nurse's Aide Training and Testing
140.540	Costs Associated With Nursing Home Care Reform Act and Implementing Regulations
140.541	Salaries Paid to Owners or Related Parties
140.542	Cost Reports--Filing Requirements
140.543	Time Standards for Filing Cost Reports
140.544	Access to Cost Reports (Repealed)
140.545	Penalty for Failure to File Cost Reports
140.550	Update of Operating Costs
140.551	General Service Costs
140.552	Nursing and Program Costs
140.553	General Administrative Costs
140.554	Component Inflation Index
140.555	Minimum Wage
140.560	Components of the Base Rate Determination
140.561	Support Costs Components
140.562	Nursing Costs
140.563	Capital Costs
140.565	Incentive Payments for Quality Care (Repealed)
140.566	Level I Incentive Payments (Repealed)
140.567	Level II Incentive Payments (Repealed)
140.568	Duration of Incentive Payments (Repealed)
140.569	Clients With Exceptional Care Needs
140.570	Capital Rate Component Determination
140.571	Fair Rental Value (FRV) Calculation
140.572	Total Capital Rate
140.573	Other Capital Provisions

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DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENT

Section	
140.962	Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)
140.964	Contract Monitoring (Recodified)
140.966	Transfer of Recipients (Recodified)
140.968	Validity of Contracts (Recodified)
140.970	Termination of ICARE Contracts (Recodified)
140.972	Hospital Services Procurement Advisory Board (Recodified)
TABLE A	Medichek Recommended Screening Procedures (Repealed)
TABLE B	Health Service Areas
TABLE C	Capital Cost Areas
TABLE D	Schedule of Dental Procedures
TABLE E	Time Limits for Processing of Prior Approval Requests
TABLE F	Podiatry Service Schedule
TABLE G	Travel Distance Standards
TABLE H	Areas of Major Life Activity
TABLE I	Staff Time and Allocation for Training Programs (Recodified)
TABLE J	HSA Grouping

AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 6503-1 et seq.) and implementing and authorized by Articles III, IV, V, VI, VII and Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, ch. 23, pars. 3-1 et seq., 4-1 et seq., 5-1 et seq., 6-1 et seq., 7-1 et seq., and 12-13)

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; recodified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg.

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENT

7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum

NOTICE OF ADOPTED AMENDMENT

effective March 6, 1989; amended at 13 111. Reg. 3917, effective March 17, 1989; amended at 13 111. Reg. 5115, effective April 3, 1989; amended at 13 111. Reg. 5718, effective April 10, 1989; Sections 140.850 thru 140.896 recodified to 89 111 Adm. Code 146.5 thru 146.225 at 13 111. Reg. 7040; amended at 13 111. Reg. 7025, effective April 24, 1989; amended at 13 111. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 111. Adm. Code 148.10 thru 148.390 at 13 111. Reg. 9572; emergency amendment at 13 111. Reg. 11516, effective July 3, 1989; amended at 13 111. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 111. Adm. Code 148.120 at 13 111. Reg. 12118; amended at 13 111. Reg. 12562, effective July 17, 1989; amended at 13 111. Reg. 14391, effective August 31, 1989; emergency amendment at 13 111. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 14 111. Reg. 1692, effective October 16, 1989; amended at 14 111. Reg. 190, effective December 21, 1989; amended at 14 111. Reg. 2564, effective February 9, 1990; emergency amendment at 14 111. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 111. Reg. 4543, effective March 12, 1990; emergency amendment at 14 111. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 111. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 111. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 111. Reg. 7141, effective April 27, 1990; emergency amendment at 14 111. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 111. 10062, effective June 12, 1990; amended at 14 111. Reg. 10409, effective June 19, 1990; emergency amendment at 14 111. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 111. Reg. 13262, effective August 6, 1990; emergency amendment at 14 111. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 111. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 111. Reg. 14826, effective August 31, 1990; amended at 14 111. Reg. 15366, effective September 12, 1990; amended at 14 111. Reg. 15981, effective September 21, 1990; amended at 14 111. Reg. 17279, effective October 12, 1990; amended at 14 111. Reg. 18057, effective October 22, 1990; amended at 14 111. Reg. 18508, effective October 30, 1990; amended at 14 111. Reg. 18813, effective November 6, 1990; amended at 14 111. Reg. 20478, effective December 7, 1990; amended at 14 111. Reg. 20729, effective December 12, 1990; amended at 15 111. Reg. 298, effective December 28, 1990; emergency amendment at 15 111.

of 150 days; amended at 10 111. Reg. 18808, effective October 24, 1986; amended at 10 111. Reg. 21784, effective December 15, 1986; amended at 11 111. Reg. 698, effective December 19, 1986; amended at 11 111. Reg. 1418, effective December 31, 1986; amended at 11 111. Reg. 2323, effective January 16, 1987; amended at 11 111. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 111. Adm. Code 141 at 11 111. Reg. 4302; amended at 11 111. Reg. 4303, effective March 6, 1987; amended at 11 111. Reg. 7664, effective April 15, 1987; emergency amendment at 11 111. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 111. Reg. 9169, effective April 28, 1987; amended at 11 111. Reg. 10903, effective June 1, 1987; amended at 11 111. Reg. 11528, effective June 22, 1987; amended at 11 111. Reg. 12011, effective June 30, 1987; amended at 11 111. Reg. 12290, effective July 6, 1987; amended at 11 111. Reg. 14048, effective August 14, 1987; amended at 11 111. Reg. 14771, effective August 25, 1987; amended at 11 111. Reg. 16758, effective September 28, 1987; amended at 11 111. Reg. 17295, effective September 30, 1987; amended at 11 111. Reg. 18696, effective October 27, 1987; amended at 11 111. Reg. 20909, effective December 14, 1987; amended at 12 111. Reg. 916, effective January 1, 1988; emergency amendment at 12 111. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 111. Reg. 5427, effective March 15, 1988; amended at 12 111. Reg. 6246, effective March 16, 1988; amended at 12 111. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140. Table H and 140. Table I recodified to 89 111. Adm. Code 147.5 thru 147.205 and 147. Table A and 147. Table B at 12 111. Reg. 6956; amended at 12 111. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 111. Adm. Code 149.5 thru 149.325 at 12 111. Reg. 7401; amended at 12 111. Reg. 10497, effective June 3, 1988; amended at 12 111. Reg. 10717, effective June 14, 1988; emergency amendment at 12 111. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 111. Reg. 12509, effective July 15, 1988; amended at 12 111. Reg. 14271, effective August 29, 1988; emergency amendment at 12 111. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 111. Reg. 16738, effective October 5, 1988; amended at 12 111. Reg. 17879, effective October 24, 1988; amended at 12 111. Reg. 18198, effective November 4, 1988; amended at 12 111. Reg. 19396, effective November 6, 1988; amended at 12 111. Reg. 19734, effective November 15, 1988; amended at 13 111. Reg. 2475, effective January 1, 1989; amended at 13 111. Reg. 3069, effective February 14, 1989; amended at 13 111. Reg. 3351, effective February 28, 1989; amended at 13 111. Reg. 3351,

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Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; Section 140.569 withdrawn at 15 Ill. Reg. 1174; amended at 15 Ill. Reg. 6534, effective April 30, 1991.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

SUBPART E: GROUP CARE

Section 140.569 Clients With Exceptional Care Needs

a) Exceptional Care Program

- 1) Pursuant to Section 5-5A of the Illinois Public Aid Code (Ill. Rev. Stat. 1987 1989, ch. 23, par. 5-5A), the Department may make payments to nursing facilities which substantially meet licensure and certification requirements as may be prescribed by the Department of Public Health. For purposes of this Section, substantial compliance shall mean compliance with eligibility standards required of providers under the Department's QUIP program, Section 140.525(b).
- 2) The Department may, but is not required to, enter into contracts with facilities offering exceptional medical services, referred to herein as Providers.
- 3) Exceptional medical care is defined as the level of medical care required by persons who are medically stable and ready for discharge from a hospital but who require a multi-disciplinary level of care for physician, nurse and ancillary specialist services with exceptional costs related to extraordinary equipment and/or supplies that have been determined to be a medical necessity. This includes but is not limited to persons with acquired immune deficiency syndrome (AIDS) or related condition, head-injured persons, and ventilator dependent persons. Consideration may be given to those residents currently residing in a facility who require a multi-disciplinary level of care and meet criteria as stated in subsection (j)(2).
- 4) The Department shall negotiate with nursing home providers and enter into a contract with

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Section. 140.569 Clients With Exceptional Care Needs (Cont'd)

Providers. The rate of payment will be reasonable and adequate to meet the costs incurred by the facilities providing exceptional care. ~~The rate of payment shall not exceed the amount the Department determines would be paid under Medicare principles of reimbursement.~~ Providers may negotiate separate facility wide rates for separate types of care. In determining the rate of payment to a facility, the Department shall take into account cost information submitted by the facility.

b) Exceptional Care Contract Requirements

The Department may enter into a contract for exceptional care services only if the Provider agrees to the following conditions:

- 1) The Provider will maintain separate records regarding costs related to the care of the exceptional care residents, reporting them in the ancillary section of the Department Long Term Care Facility Cost Reports.
- 2) The facility must demonstrate the capacity and capability to provide exceptional care as documented by Department of Public Health and Department of Public Aid records.
- 3) The Provider must maintain and provide documentation demonstrating:
 - A) Adherence to staffing requirements as set out in subsection (c);
 - B) Adherence to staff training requirements as set out in subsection (d);
 - C) Validity of written agreements as required in subsection (e);
 - D) Presence of emergency policy and procedures as set out in subsection (f);
 - E) Medical condition of the resident; and

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NOTICE OF ADOPTED AMENDMENT

Section 140.569 Clients With Exceptional Care Needs (Cont'd)

- 1) A medical equipment and supply provider which must include a service contract for ventilator equipment when accepting ventilator dependent residents;
- 2) A local emergency transportation provider;
- 3) A local hospital capable of providing the necessary care for equipment dependent residents, when appropriate; and
- 4) ~~A respiratory-therapist certified respiratory therapy technician or registered respiratory therapist~~, (unless a respiratory therapist is on staff within the facility) when accepting ventilator dependent residents or residents requiring respiratory therapy services.

f) Exceptional Care Emergency Policy and Procedures Requirements

The Provider must have specific written policies and procedures addressing emergency needs for residents requiring exceptional care.

g) Accessibility to Records

The Provider must make accessible to IDPA and/or IDPH all facility, resident and other records necessary to determine that the needs of the resident are being met and to determine the appropriateness of exceptional care services.

h) Contract Negotiations

- 1) A Provider shall notify the Department of its interest in participating in the Exceptional Care Program in writing by certified or registered mail, return receipt requested.
- 2) Negotiations between the Provider and the Department shall be conducted solely on an individual facility basis. Multiple facility negotiations shall not be permitted.
- 3) Prior to the beginning of negotiations, the Provider shall submit to the Department a

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NOTICE OF ADOPTED AMENDMENT

Section 140.569 Clients With Exceptional Care Needs (Cont'd)

completed Exceptional Care Data Sheet. The Department shall furnish such Data Sheet. The Exceptional Care Data Sheet shall require:

- A) Identification of the types, quantities and costs of services which the Provider intends to offer;
- B) A staffing plan for the area of the facility serving exceptional care residents; and
- C) Documentation of the qualifications of staff serving exceptional care residents.

- 4) The Department shall provide each Provider which has notified the Department of its interest in participation in the Exceptional Care Program with a copy of the proposed contract provisions by mailing such proposed contract provisions to the provider. Each contract shall be for a period of one year.

i) Renewal/Nonrenewal of Exceptional Care Contracts

- 1) Providers desirous of renewing exceptional care contracts must contact the Department in writing sixty (60) days prior to the expiration date of the contract to express their intent to renew the contract.
- 2) Upon receipt of the Providers' intent to renew their contract, the Department shall open negotiations as set forth in subsection (h).
- 3) Providers desiring to terminate or not renew their contract shall notify the Department sixty (60) days prior to the date of termination or contract expiration. Payment for new admissions at an exceptional care rate will not be made to those Providers who do not have a valid exceptional care contract. Payment for exceptional care residents in facilities which terminate or do not renew their contracts will remain at the previous exceptional care rate until such time as the resident no longer requires exceptional care as determined by the

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NOTICE OF ADOPTED AMENDMENT

Section 140.569 Clients With Exceptional Care Needs (Cont'd)

- 1) All utilization controls applied to exceptional care by the Department in accordance with the approved plan for medical services under Section 5-2 of the Illinois Public Aid Code (111. Rev. Stat. §9871282, ch. 23, par. 5-2), and Title XIX of the Federal Social Security Act (42 U.S.C. 1396a) shall continue to apply to exceptional care provided under the Exceptional Care Program (111. Rev. Stat. §9871989, ch. 111 1/2 par. 6503-5; Section 3-5 of the Health Finance Reform Act).
- 2) The Department shall provide for a program of delegated utilization review and quality assurance. The Department may contract with Medical Peer Review organizations to provide utilization review and quality assurance under any contract negotiated for exceptional care.
- 3) The Department shall review exceptional care residents' utilization of services every ninety (90) days.
- 4) In the event that it is determined that the resident is no longer in need of exceptional care services, the Department shall reduce the rate of payment to the Provider to the facility's standard Medicaid per diem rate.

(Source: Amended at 15 Ill. Reg. 6534, effective April 30, 1991)

Section 140.569 Clients With Exceptional Care Needs (Cont'd)

- 4) It is the responsibility of a nursing home Provider to effect appropriate discharge planning for exceptional care residents when terminating or not renewing its contract. The Department agrees to assist Providers with any information available regarding appropriate placement settings.
- j) Determining eligibility for exceptional care payment.
- 1) All persons must be approved by an authorized Department representative prior to placement in a facility to be eligible for exceptional care payment. Excluding those residents currently enrolled in the negotiated rate program.
- 2) In order for a person to be approved for exceptional care placement the cost of the person's care must be at least 50% more than the proposed admitting facility's per diem rate (capital, support and nursing components). Eligible items which may be used in computing the cost of the person's care include nursing services costs, therapy services costs, and medical equipment and supply costs. Computations for determining cost of care shall be based upon maximum allowable costs for service equipment and supplies and HSA wage rates for the proposed admitting facility as determined by the Department.
- k) Provision for Patients for which a Long Term Care Placement is Unavailable
- l) Contract Monitoring

Provision for Patients for which a Long Term Care Placement is Unavailable

In the event placement for a patient in need of exceptional care services or skilled nursing services cannot be located, the Department shall approve payment to the hospital in which the patient is receiving services. The rate of payment to the hospital shall not exceed the average statewide long term care facility per diem rate for the level of services provided.

1) Contract Monitoring

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

- 1) The Heading of the Part: RULES OF PRACTICE IN ADMINISTRATIVE HEARINGS
- 2) Code Citation: 89 Ill. Adm. Code 104
- 3) Section Numbers: Adopted Action:

104.250	Amendment
104.272	Amendment
104.304	Amendment
104.330	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, Ch. 23, Par. 12-13)
- 5) Effective Date of Adopted Amendments: April 30, 1991
- 6) Does this rulemaking contain an automatic repeal date?
 Yes No
- 7) Do these Adopted Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: April 30, 1991
- 9) Notices of Proposal Published in Illinois Register:
January 4, 1991 (15 Ill. Reg. 15)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version: No changes were made to these amendments.
- 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 these Adopted Amendments replace Emergency Amendments currently in effect? No
- 14) Are there any Amendments pending on this Part? No
- 15) Summary and Purpose of Adopted Amendments: This rulemaking makes technical changes to these rules by deleting redundant language and correcting obsolete cross-references.

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Name: Daniel Leikvold, Staff Attorney
Office of the General Counsel

Address: Illinois Department of Public Aid
Jesse B. Harris Building II
100 South Grand Avenue East, 3rd Floor
Springfield, Illinois 62762

Telephone: (217) 782-1233

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

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DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

SUBPART E: FOOD STAMP ADMINISTRATIVE
DISQUALIFICATION HEARINGS

Section	
104.400	Suspected Intentional Violation of the Program
104.410	Advance Notice of Administrative Disqualification Hearing
104.420	Postponement of Hearing
104.430	Administrative Disqualification Hearing Procedures
104.440	Failure to Appear
104.450	Participation While Awaiting a Hearing
104.460	Consolidation of Administrative Disqualification Hearing with Fair Hearing
104.470	Administrative Disqualification Hearing Decision and Notice of Decision
104.480	Appeal Procedure

SUBPART F: INCORPORATION BY REFERENCE

Section	
104.800	Incorporation By Reference

AUTHORITY: Implementing Sections 11-8 et seq., 12-4.9 and 12-4.25 and authorized by Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, ch. 23, pars. 11-8 et seq., 12-4.9, 12-4.25 and 12-13)

SOURCE: Filed and effective December 30, 1977; emergency rule at 2 Ill. Reg. 11 pg. 151 effective March 9, 1978 for a maximum of 150 days; amended at 2 Ill. Reg. 33, p. 57, effective August 17, 1978; peremptory amendment at 3 Ill. Reg. 11, p. 38 effective March 1, 1979; amended at 4 Ill. Reg. 21, p. 80, effective May 8, 1980; peremptory amendment 5 Ill. Reg. 1197, effective January 23, 1981; amended at 5 Ill. Reg. 10753 effective October 1, 1981; amended at 6 Ill. Reg. 894, effective January 7, 1982; codified at 7 Ill. Reg. 5706; amended at 8 Ill. Reg. 5274, effective April 9, 1984; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 16979; amended at 8 Ill. Reg. 18114, effective September 21, 1984; amended at 10 Ill. Reg. 10129, effective June 1, 1986; amended at 11 Ill. Reg. 9213, effective April 30, 1987; amended at 12 Ill. Reg. 9142, effective May 16, 1988; amended at 13 Ill. Reg. 3944, effective March 10, 1989; amended at 13 Ill. Reg. 17013, effective October 16, 1989; amended at 14 Ill. Reg. 18836, effective November 9, 1990; amended at 15 Ill. Reg. 5320, effective April 1, 1991; amended at 15 Ill. Reg. 6557, effective April 30, 1991.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

SUBPART C: MEDICAL VENDOR HEARINGS

Section 104.250 Official Notice

a) Official notice may be taken of:

- 1) Matters of which the Circuit Courts of this State may take judicial notice.
- 2) ~~In addition, official notice may be taken of matters~~ Matters in prior administrative hearings within and without the agency relating to the vendor or individuals associated with the vendor (including findings and evidence made in hearings initiated prior to the effective date of these rules).

~~A) persons with management responsibility for the vendor;~~

~~B) an officer or person owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporate vendor;~~

~~C) an owner of a sole proprietorship which is a vendor; or~~

~~D) a partner in a partnership which is a vendor.~~

- 3) Generally recognized technical or scientific facts within the agency's specialized knowledge;
- 4) Generally recognized technical, scientific or customary and ordinary procedures and operation without the agency.

b) For purposes of this Section, "individuals associated with the vendor" shall mean:

- 1) persons with management responsibility for the vendor;
- 2) an officer or person owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporate vendor;

NOTICE OF ADOPTED AMENDMENTS

Section 104.250 Official Notice (Cont'd.)

3) an owner of a sole proprietorship which is a vendor or

4) a partner in a partnership which is a vendor.

c) Parties shall be notified either before or during a hearing, or by reference in preliminary reports, or otherwise, of the material noticed, including any staff memoranda or data to be offered as evidentiary matter during the course of the hearing, and they shall be afforded an opportunity to contest the material so noticed. Testimony of the agency's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

(Source: Amended at 15 Ill. Reg. 6557, effective April 30, 1991)

Section 104.272 Withholding of Payments During Pendency of Proceedings

a) Payments on pending and subsequently submitted bills may be withheld during the pendency of the administrative proceeding, except that a final administrative decision has not been issued within 120 days of service of the notice of intent to terminate, unless delay has been caused by the vendor, payment can no longer be withheld.

b) This 120 day limit may be extended if:

1) The extension is mutually agreed to by the Department and the vendor.

2) If delay has been caused by the vendor, the 120 day limit will be extended by the number of days the vendor has caused the proceeding to be delayed. Whenever a request by the vendor or his authorized representative to continue or reschedule a hearing results in a hearing session being held subsequent to the date originally set by the Department for such hearing session, such request shall constitute a delay caused by the vendor equal to the number of days between the new hearing date and the date originally

NOTICE OF ADOPTED AMENDMENTS

Section 104.272 Withholding of Payments During Pendency of Proceedings (Cont'd.)

scheduled. Approval of any of the following or other similar requests will also be considered a delay caused by the vendor:

A) that a period of preparation for written submissions or oral arguments be allowed; B) that the time for filing written exceptions under the 89 Ill. Adm. Code 140.12-104.290 be extended.

c) If the vendor is terminated as a result of final agency action, payments or credit for any services rendered subsequent to receipt of the notice of intent to terminate shall be denied. The vendor will receive payment or credit for services rendered prior to receipt of the notice of intent to terminate.

(Source: Amended at 15 Ill. Reg. 6557, effective April 30, 1991)

SUBPART D: RULES FOR JOINT DEPARTMENT ACTIONS AGAINST SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES PARTICIPATING IN THE MEDICAID PROGRAM

Section 104.304 Department Actions Against Nursing Homes Facilities

a) A single administrative hearing procedure for skilled nursing facilities and intermediate care facilities will be followed in those cases where:

1) The Department of Public Aid is seeking to deny, suspend or terminate the facility's participation in the Medical Assistance Program pursuant to 89 Ill. Adm. Code 140.12-140.14 or 140.16; and

2) The Department of Public Health, seeks to deny, terminate or refuse to renew the facility's certification to participate in the Medicaid Program.

b) These rules shall not apply when the Department of Public Aid is seeking to deny, suspend or terminate

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

Section 104.304 Department Actions Against Nursing Homes
Facilities (Cont'd.)

the facility's participation in the Medical Assistance Program pursuant to 89 Ill. Adm. Code ~~140.5~~ and ~~140.6-140.14~~ or ~~140.16~~ but no action is being taken by the Department of Public Health to deny, terminate or fail to renew the facility's certification to participate in the Medicaid program.

(Source: Amended at 15 Ill. Reg. 6557, effective April 30, 1991)

Section 104.330 Facilities Certified Under Both Medicare and Medicaid

a) If a SNF is participating, or seeking to participate in both Medicare and Medicaid, and if the basis for denial, termination or non-renewal of certification and participation in Medicaid is also a basis for the denial, termination or non-renewal of participation in Medicare, the Department shall notify the facility that:

- 1) The facility is entitled to the review procedures specified or referred to in 42 CFR 405, Subpart D, in lieu of the procedures specified or referred to in these rules; and
- 2) A final decision entered under the Medicare review procedures shall be binding on the issue of certification for purposes of Medicaid participation.

b) The Department of Public Aid may continue to seek to deny, suspend or terminate participation in the Medical Assistance Program on the basis of non-certification issues for facilities participating or seeking to participate under both Medicare and Medicaid, pursuant to 89 Ill. Adm. Code ~~140.1~~ through ~~140.12-140.14~~ and ~~140.16~~.

(Source: Amended at 15 Ill. Reg. 6557, effective April 30, 1991)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part:

The Illinois Formulary for the Drug Product Selection Program

2) Code Citation:

77 Ill. Adm. Code 790

3) Section Numbers:

- 790.1127
- 790.1131
- 790.1390
- 790.1423
- 790.1685
- 790.1950
- 790.1960
- 790.2155
- 790.2465
- 790.2617
- 790.2618
- 790.2645
- 790.2655
- 790.2660
- 790.2662
- 790.3027
- 790.3220
- 790.3335
- 790.3350
- 790.3914
- 790.4384
- 790.4720
- 790.4725
- 790.4728
- 790.5030
- 790.5300
- 790.5320
- 790.6430
- 790.7160
- 790.7280
- 790.8015
- 790.9048

Adopted Action:

- Amendment
- Amendment
- New Section
- Amendment
- Amendment
- Amendment
- Amendment
- Amendment
- Amendment
- Amendment
- Amendment
- Amendment
- New Section
- New Section
- Repealer
- Amendment
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DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

790.2820	Amendment	15 Ill. Reg. 3417
790.2902	Amendment	15 Ill. Reg. 3417
790.3020	Amendment	15 Ill. Reg. 3417
790.3060	Amendment	15 Ill. Reg. 3417
790.3140	Amendment	15 Ill. Reg. 3417
790.3308	New Section	15 Ill. Reg. 3417
790.3315	Amendment	15 Ill. Reg. 3417
790.3488	New Section	15 Ill. Reg. 3417
790.3540	Amendment	15 Ill. Reg. 3417
790.3940	Amendment	15 Ill. Reg. 3417
790.4060	Amendment	15 Ill. Reg. 3417
790.4420	Amendment	15 Ill. Reg. 3417
790.4495	New Section	15 Ill. Reg. 3417
790.4580	Amendment	15 Ill. Reg. 3417
790.4660	Amendment	15 Ill. Reg. 3417
790.4740	Amendment	15 Ill. Reg. 3417
790.5220	Amendment	15 Ill. Reg. 3417
790.5312	Amendment	15 Ill. Reg. 3417
790.5420	Amendment	15 Ill. Reg. 3417
790.5483	Amendment	15 Ill. Reg. 3417
790.5660	Amendment	15 Ill. Reg. 3417
790.5820	Amendment	15 Ill. Reg. 3417
790.5830	Amendment	15 Ill. Reg. 3417
790.5900	Amendment	15 Ill. Reg. 3417
790.5924	Amendment	15 Ill. Reg. 3417
790.6300	Amendment	15 Ill. Reg. 3417
790.6505	New Section	15 Ill. Reg. 3417
790.6875	Amendment	15 Ill. Reg. 3417
790.6960	Amendment	15 Ill. Reg. 3417
790.7120	Amendment	15 Ill. Reg. 3417
790.7221	New Section	15 Ill. Reg. 3417
790.7245	New Section	15 Ill. Reg. 3417
790.7278	Amendment	15 Ill. Reg. 3417
790.7280	Amendment	15 Ill. Reg. 3417
790.7740	Amendment	15 Ill. Reg. 3417
790.7820	Amendment	15 Ill. Reg. 3417
790.8015	Amendment	15 Ill. Reg. 3417
790.8020	Amendment	15 Ill. Reg. 3417
790.8290	Amendment	15 Ill. Reg. 3417
790.8500	Amendment	15 Ill. Reg. 3417
790.8580	Amendment	15 Ill. Reg. 3417
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790.9056	Amendment	15 Ill. Reg. 3417
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790.9460	Amendment	15 Ill. Reg. 3417
790.9500	Amendment	15 Ill. Reg. 3417
790.9580	Amendment	15 Ill. Reg. 3417

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There is still an emergency in effect on Sections 790.2618, 790.7280, and 790.8015 which is not affected by this set of adopted amendments. The emergency amendments appear at 15 Ill. Reg. 3537, effective March 8, 1991, for a maximum of 150 days. The copies filed in the Administrative Code Unit reflect both the emergency amendments and these adopted amendments.

15) Summary and Purpose of Rules:

The Department proposes to amend various sections of the Illinois Formulary for the Drug Product Selection Program. These rules are promulgated on the basis of changes in the Food and Drug Administration's recommendation of these drug entities for Drug Product Selection. These changes were published in the Eleventh Edition, Second Supplement of the Illinois Formulary. In accordance with the provisions of Public Act 85-451, these changes were published in the Illinois Register as emergency amendments, effective August 10, 1990.

16) Information and Questions regarding this Adopted Rulemaking shall be directed to:

Ms. Gail DeVito, Division of Governmental Affairs, Department of Public Health, 535 West Jefferson, Fifth Floor, Springfield, Illinois 62761, 217/782-6187.

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

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ACETYLCYSTEINE	790.721
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ALCOHOL; DEXTROSE	790.756
ALCOHOL; MORPHINE	790.760
ALLOPURINOL	790.780
AMANTADINE HYDROCHLORIDE	790.788
AMILORIDE HYDROCHLORIDE	790.798
AMILORIDE HYDROCHLORIDE; HYDROCHLOROTHIAZIDE	790.799
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AMINOCAPROIC ACID	790.820
AMINOHIPPURATE SODIUM	790.830
AMINOPHYLLINE	790.860
AMITRIPTYLINE HYDROCHLORIDE	790.900
AMITRIPTYLINE HYDROCHLORIDE; CHLORDIAZEPOXIDE	790.905
AMITRIPTYLINE HYDROCHLORIDE; PERPHENAZINE	790.910
AMOXAPINE	790.920
AMOXYCILLIN TRIHYDRATE	790.940
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AMPICILLIN SODIUM	790.980
AMPICILLIN; PROBENECID	790.1020
AMPICILLIN/AMPICILLIN TRIHYDRATE	790.1060
ANISOTROPINE METHYLBROMIDE (Repealed)	790.1100
ANTAZOLINE PHOSPHATE; NAPHAZOLINE HYDROCHLORIDE	790.1107
EMERGENCY	790.1112
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ASCORBIC ACID; BIOTIN; CYANOCOBALAMIN; DEXPANTHENOL; ERGOCALCIFEROL; FOLIC ACID; NIACINAMIDE; PYRIDOXINE HYDROCHLORIDE; RIBOFLAVIN PHOSPHATE SODIUM; THIAMINE	790.1125
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ASCORBIC ACID; FLUORIDE; VITAMIN A; VITAMIN D	790.1140
ASPIRIN; BUTALBITAL; CAFFEINE	790.1140
ASPIRIN; BUTALBITAL; CAFFEINE; PHENACETIN (Repealed)	790.1180
ASPIRIN; CAFFEINE; ORPHENADRINE CITRATE (Repealed)	790.1200
ASPIRIN; CAFFEINE; PHENACETIN; PROPOXYPHENE HYDROCHLORIDE (Repealed)	790.1220

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SUBCHAPTER m: FOOD, DRUGS AND COSMETICS	
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790.1260 ASPIRIN; CAFFEINE; PHENACETIN; PROPOXYPHENE HYDROCHLORIDE
(Repealed)

790.1300 ASPIRIN; CAFFEINE; PROPOXYPHENE HYDROCHLORIDE

790.1345 ASPIRIN; CARISOPRODOL

790.1360 ASPIRIN; MEPROBAMATE

790.1380 ASPIRIN; METHOCARBAMOL

790.1386 ASPIRIN; OXYCODONE HYDROCHLORIDE; OXYCODONE TEREPHTHALATE

790.1390 ATENOLOL; CHLORTHALIDONE

790.1418 ATROPINE

EMERGENCY

790.1420 ATROPINE SULFATE; DIPHENOXYLATE HYDROCHLORIDE

EMERGENCY

790.1423 ATROPINE SULFATE; HYOSCYAMINE; PHENOBARBITAL; SCOPOLAMINE
HYDROBROMIDE

790.1425 ATROPINE SULFATE; MEPERIDINE HYDROCHLORIDE

EMERGENCY

790.1440 AZATHIOPRINE SODIUM

790.1460 BACITRACIN

790.1490 BACITRACIN ZINC; HYDROCORTISONE; NEOMYCIN SULFATE; POLYMYXIN B
SULFATE

790.1500 BACITRACIN ZINC; NEOMYCIN SULFATE; POLYMYXIN B SULFATE

790.1540 BACITRACIN ZINC; POLYMYXIN B SULFATE

790.1560 BACLOFEN

790.1570 BENZTROPINE MESYLATE

790.1577 BETAMETHASONE DIPROPIONATE

790.1580 BETAMETHASONE SODIUM PHOSPHATE

790.1620 BETAMETHASONE VALERATE

790.1660 BETHANECHOL CHLORIDE

790.1685 BRETYLIUM TOSYLATE

790.1686 BRETYLIUM TOSYLATE; DEXTROSE

790.1697 BROMODIPHENHYDRAMINE HYDROCHLORIDE; CODEINE PHOSPHATE

790.1700 BROMPHENIRAMINE MALEATE

790.1706 BROMPHENIRAMINE MALEATE; CODEINE PHOSPHATE;
PHENYLPROPANOLAMINE HYDROCHLORIDE

790.1708 BROMPHENIRAMINE MALEATE; DEXTROMETHORPHAN HYDROBROMIDE;
PSEUDOEPHEDRINE HYDROCHLORIDE

790.1710 BROMPHENIRAMINE MALEATE; PHENYLPROPANOLAMINE HYDROCHLORIDE

EMERGENCY

790.1719 BUPIVACAINE HYDROCHLORIDE

790.1721 BUPIVACAINE HYDROCHLORIDE; EPINEPHRINE BITARTRATE

790.1740 BUTABARBITAL SODIUM

EMERGENCY

790.1780 CAFFEINE; CARISOPRODOL; PHENACETIN (Repealed)

790.1820 CAFFEINE; ERGOTAMINE TARTRATE

790.1842 CALCIUM CHLORIDE; DEXTROSE; MAGNESIUM CHLORIDE; SODIUM
CHLORIDE; SODIUM LACTATE

790.1846 CALCIUM CHLORIDE; DEXTROSE; POTASSIUM CHLORIDE; SODIUM CHLORIDE

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790.1848 CALCIUM CHLORIDE; DEXTROSE; POTASSIUM CHLORIDE; SODIUM
CHLORIDE; SODIUM LACTATE

790.1856 CALCIUM CHLORIDE; POTASSIUM CHLORIDE; SODIUM CHLORIDE

790.1858 CALCIUM CHLORIDE; POTASSIUM CHLORIDE; SODIUM CHLORIDE; SODIUM
LACTATE

790.1860 CALCIUM GLUCEPTATE

790.1900 CANDICIDIN (Repealed)

790.1930 CARBAMAZEPINE

790.1940 CARBENICILLIN DISODIUM

790.1950 CARBINOXAMINE MALEATE; DEXTROMETHORPHAN HYDROBROMIDE;
PSEUDOEPHEDRINE HYDROCHLORIDE

790.1960 CARBINOXAMINE MALEATE; PSEUDOEPHEDRINE HYDROCHLORIDE

790.1980 CARISOPRODOL

790.2020 CEFADROXIL MONOHYDRATE

EMERGENCY

790.2060 CEFAZOLIN SODIUM

790.2084 CEFTAZIDIME

790.2092 CEFUROXIME SODIUM

790.2097 CEPHALEXIN

790.2100 CEPHALOTHIN SODIUM

790.2130 CEPHAPIRIN SODIUM

EMERGENCY

790.2140 CEPHRADINE/CEPHRADINE DIHYDRATE

790.2155 CHLORAL HYDRATE

790.2180 CHLORAMPHENICOL

790.2220 CHLORAMPHENICOL SODIUM SUCCINATE

790.2260 CHLORDIAZEPOXIDE HYDROCHLORIDE

790.2300 CHLORMEZANONE (Repealed)

790.2340 CHLOROQUINE PHOSPHATE

790.2380 CHLOROTHIAZIDE

790.2390 CHLOROTHIAZIDE; METHYLDOPA

790.2420 CHLOROTRIANISENE

790.2460 CHLORPHENIRAMINE MALEATE

790.2462 CHLORPHENIRAMINE MALEATE; CODEINE PHOSPHATE; PSEUDOEPHEDRINE
HYDROCHLORIDE

790.2465 CHLORPHENIRAMINE MALEATE; PHENYLEPHRINE HYDROCHLORIDE;
PHENYLPROPANOLAMINE HYDROCHLORIDE; PHENYLTOLOXAMINE CITRATE

790.2470 CHLORPHENIRAMINE MALEATE; PHENYLPROPANOLAMINE HYDROCHLORIDE

790.2485 CHLORPHENIRAMINE TANNATE; PHENYLEPHRINE TANNATE; PYRILAMINE
TANNATE

EMERGENCY

790.2500 CHLORPROMAZINE HYDROCHLORIDE

790.2510 CHLORPROPAMIDE

790.2540 CHLORTHALIDONE

790.2555 CHLORTHALIDONE; CLONIDINE HYDROCHLORIDE

790.2580 CHLORZOAZONE

EMERGENCY

790.2583 CHROMIC CHLORIDE

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790.3742 ERYTHROMYCIN STEARATE
 790.3780 ESTRADIOL CYPIONATE
 790.3800 ESTRADIOL CYPIONATE; TESTOSTERONE CYPIONATE
 790.3820 ESTRADIOL VALERATE
 790.3860 ESTRADIOL VALERATE; TESTOSTERONE ENANTHATE
 790.3900 ETHCHLORVYNOL
 790.3904 ETHINYL ESTRADIOL; LEVONORGESTREL
 790.3907 ETHINYL ESTRADIOL; NORETHINDRONE
 790.3910 FENOPROFEN CALCIUM
 790.3914 FENTANYL CITRATE
 790.3920 FLOXURIDINE
 790.3940 FLUOCINOLONE ACETONIDE
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 790.3945 FLUOCINONIDE
 790.3960 FLUOROMETHOLONE
 790.3980 FLUOROURACIL
 790.3996 FLUPHENAZINE DECANOATE
 790.4012 FLUPHENAZINE HYDROCHLORIDE
 790.4020 FLURANDRENOLIDE
 790.4040 FLURAZEPAM HYDROCHLORIDE
 790.4060 FOLIC ACID
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 790.4100 FUROSEMIDE
 790.4140 GENTAMICIN SULFATE
 790.4150 GENTAMICIN SULFATE; SODIUM CHLORIDE
 790.4173 GLUCAGON HYDROCHLORIDE
 790.4180 GLUTHETHIMIDE
 790.4200 GLYCINE
 790.4220 GLYCOPYRROLATE
 790.4260 GONADOTROPIN CHORIONIC
 790.4300 GRAMICIDIN; NEOMYCIN SULFATE; POLYMYXIN B SULFATE
 790.4340 GRISEOFULVIN MICROCRYSTALLINE
 790.4380 GRISEOFULVIN ULTRAMICROCRYSTALLINE
 790.4384 GUAIFENESIN; HYDROCODONE BITARTRATE; PSEUDOEPHEDRINE
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 790.4386 GUANETHIDINE MONOSULFATE
 790.4396 HALOPERIDOL
 790.4398 HALOPERIDOL LACTATE
 790.4420 HEPARIN SODIUM
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 790.4430 HEPARIN SODIUM; SODIUM CHLORIDE
 790.4460 HEXACHLOROPHENE
 790.4495 HOMATROPINE HYDROBROMIDE
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 790.4500 HOMATROPINE METHYLBROMIDE (Repealed)
 790.4540 HOMATROPINE METHYLBROMIDE; HYDROCODONE BITARTRATE

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790.4580 HYDRALAZINE HYDROCHLORIDE
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 790.4620 HYDRALAZINE HYDROCHLORIDE; HYDROCHLOROTHIAZIDE
 790.4660 HYDROCHLOROTHIAZIDE
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 790.4665 HYDROCHLOROTHIAZIDE; LABETALOL HYDROCHLORIDE
 790.4667 HYDROCHLOROTHIAZIDE; LISINAPRIL
 790.4670 HYDROCHLOROTHIAZIDE; METHYLDOPA
 790.4680 HYDROCHLOROTHIAZIDE; PROPRANOLOL HYDROCHLORIDE
 790.4700 HYDROCHLOROTHIAZIDE; SPIRONOLACTONE
 790.4720 HYDROCHLOROTHIAZIDE; TRIAMTERENE
 790.4725 HYDROCODONE BITARTRATE; PHENYLPROPANOLAMINE HYDROCHLORIDE
 790.4728 HYDROCODONE BITARTRATE; PSEUDOEPHEDRINE HYDROCHLORIDE
 790.4740 HYDROCORTISONE
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 790.4780 HYDROCORTISONE; NEOMYCIN SULFATE; POLYMYXIN B SULFATE
 790.4820 HYDROCORTISONE; POLYMYXIN B SULFATE
 790.4840 HYDROCORTISONE SODIUM PHOSPHATE
 790.4860 HYDROCORTISONE; UREA
 790.4900 HYDROCORTISONE ACETATE
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 790.4960 HYDROCORTISONE ACETATE; PRAMOXINE HYDROCHLORIDE
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 790.4965 HYDROCORTISONE BUTYRATE
 790.4980 HYDROCORTISONE SODIUM SUCCINATE
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 790.5140 HYDROXYZINE HYDROCHLORIDE
 790.5180 HYDROXYZINE PAMOATE
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 790.5260 IDOXURIDINE
 790.5300 IMIPRAMINE HYDROCHLORIDE
 790.5312 INDOMETHACIN
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 790.5320 IODINATED GLYCEROL
 790.5340 IRON DEXTRAN COMPLEX
 790.5380 ISOETHARINE HYDROCHLORIDE
 790.5420 ISONIAZID
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 790.5460 ISOPROTERENOL HYDROCHLORIDE
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 790.5500 KANAMYCIN SULFATE
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LINDANE	790.5660
EMERGENCY	790.5700
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METHYLDOPA	

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 790.7100 PENICILLIN V POTASSIUM
 790.7120 PENTOBARBITAL SODIUM
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 790.7130 PERPHENAZINE
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 790.7160 PHENOBARBITAL
 790.7180 PHENTERMINE HYDROCHLORIDE
 790.7181 PHENTERMINE RESIN COMPLEX
 790.7220 PHENYLBUTAZONE (Repealed)
 790.7221 PHENYLEPHRINE HYDROCHLORIDE
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 790.7223 PHENYLEPHRINE HYDROCHLORIDE; PROMETHAZINE HYDROCHLORIDE
 790.7229 PHENYTOIN SODIUM INJECTION
 790.7245 PILOCARPINE HYDROCHLORIDE
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 790.7260 PIPERAZINE CITRATE
 790.7265 POLYETHYLENE GLYCOL 3350; POTASSIUM CHLORIDE; SODIUM
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 790.7272 POTASSIUM BICARBONATE
 790.7278 EMERGENCY
 790.7280 POTASSIUM CHLORIDE
 EMERGENCY
 790.7284 POTASSIUM CHLORIDE; SODIUM CHLORIDE
 790.7288 POTASSIUM GLUCONATE
 790.7291 PRALIDOXIME CHLORIDE
 790.7294 PRAZEPAM
 790.7296 PRAZOSIN HYDROCHLORIDE
 790.7300 PREDNISOLONE ACETATE
 790.7340 PREDNISOLONE ACETATE; SULFACETAMIDE SODIUM
 790.7380 PREDNISOLONE SODIUM PHOSPHATE
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 790.7740 PROPANTHELINE BROMIDE
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 790.7780 PROPARACAINE HYDROCHLORIDE
 790.7820 PROPOXYPHENE HYDROCHLORIDE
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790.7828 PROPRANOLOL HYDROCHLORIDE
 790.7834 PROTAMINE SULFATE
 790.7860 PSEUDOEPHEDRINE HYDROCHLORIDE; TRIPROLIDINE HYDROCHLORIDE
 790.7900 PYRIDOSTIGMINE BROMIDE
 790.7940 PYRIDOXINE HYDROCHLORIDE
 790.7980 PYRILAMINE MALEATE
 790.8015 QUINIDINE GLUCONATE
 EMERGENCY
 790.8020 QUINIDINE SULFATE
 EMERGENCY
 790.8060 RESERPINE
 790.8100 RIFAMPIN
 790.8106 RITODRINE HYDROCHLORIDE
 790.8136 SECOBARBITAL SODIUM
 790.8140 SELENIUM SULFIDE
 790.8180 SILVER SULFADIAZINE
 790.8220 SODIUM AMINOSALICYLATE
 790.8232 SODIUM CHLORIDE
 790.8244 SODIUM LACTATE
 790.8248 SODIUM NITROPRUSSIDE
 790.8260 SODIUM POLYSTYRENE SULFONATE
 790.8290 SOYBEAN OIL
 EMERGENCY
 790.8300 SPIRONOLACTONE
 790.8340 STREPTOMYCIN SULFATE
 790.8378 SULFABENZAMIDE; SULFACETAMIDE; SULFATHIAZOLE
 790.8380 SULFABENZAMIDE; SULFACETAMIDE; SULFATHIAZOLE; UREA
 790.8420 SULFACETAMIDE SODIUM
 790.8460 SULFADIAZINE
 790.8500 SULFAMETHIZOLE
 EMERGENCY
 790.8540 SULFAMETHOXAZOLE
 790.8580 SULFAMETHOXAZOLE; TRIMETHOPRIM
 EMERGENCY
 790.8590 SULFANILAMIDE
 790.8620 SULFASALAZINE
 EMERGENCY
 790.8660 SULFINPYRAZONE
 790.8700 SULFISOXAZOLE
 790.8710 SULINDAC
 790.8724 TEMAZEPAM
 790.8727 TERBUTALINE SULFATE
 790.8740 TESTOSTERONE CYPIONATE
 790.8780 TESTOSTERONE ENANTHATE
 790.8820 TESTOSTERONE PROPIONATE
 790.8860 TETRACYCLINE
 790.8900 TETRACYCLINE HYDROCHLORIDE

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9556, effective June 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 11988, effective July 13, 1990; emergency amendment at 14 Ill. Reg. 13325, effective August 10, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 17298, effective October 5, 1990; emergency amendment at 14 Ill. Reg. 18588, effective November 9, 1990, for a maximum of 150 days; emergency expired April 8, 1991; amended at 14 Ill. Reg. 20755, effective December 21, 1990; emergency amendment at 15 Ill. Reg. 3537, effective March 8, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 6566, effective April 19, 1991.

AGENCY NOTE: The text of Sections 790.2618, 790.7280 and 790.8015 which appear below do not include the emergency amendments adopted at 15 Ill. Reg. 3537, effective March 8, 1991, for a maximum of 150 days. The copies filed with the Administrative Code Unit reflect both emergency rules.

SUBPART B: APPROVED DRUG PRODUCTS FOR DRUG PRODUCT SELECTION

Section 790.1127 ASCORBIC ACID; CYANOCOBALAMIN; FLUORIDE; NICOTINIC ACID; PYRIDOXINE HYDROCHLORIDE; RIBOFLAVIN; THIAMINE HYDROCHLORIDE; VITAMIN A; VITAMIN D; VITAMIN E

DRUG	DOSAGE FORM, STRENGTH	APPLICATION HOLDER, MANUFACTURER
Ascorbic Acid; Cyanocobalamin; Fluoride; Nicotinic Acid; Pyridoxine Hydrochloride; Riboflavin; Thiamine Hydrochloride; Vitamin A; Vitamin D; Vitamin E Brand(s)	drops, 35mg;2mcg; 0.25mg;8mg;0.4mg;0.6mg; 0.5mg;1500IU;400IU;5IU drops, 35mg;2mcg; 0.5mg;8mg;0.4mg;0.6mg; 0.5mg;1500IU;400IU;5IU drops, 35mg;2mcg; 0.5mg;8mg;0.4mg;0.6mg; 0.5mg;1500IU;400IU;5IU	National Pharm/Barre National Pharm/Barre Pharmaceutical Basics
Poly-Vi-Flor	drops, 35mg;2mcg; 0.25mg;8mg;0.4mg;0.6mg; 0.5mg;1500IU;400IU;5IU	Mead Johnson/B-M
<u>Poly Vitamin Drops w/Fluoride 0.25mg</u>	<u>drops, 35mg;2mcg; 0.25mg;8mg;0.4mg;0.6mg; 0.5mg;1500IU;400IU;5IU</u>	<u>HiTech Pharmacal</u>
Poly-Vi-Flor	drops, 35mg;2mcg; 0.5mg;8mg;0.4mg;0.6mg; 0.5mg;1500IU;400IU;5IU	Mead Johnson/B-M

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Poly Vitamin Drops
w/Fluoride 0.5mg

drops 35mg;2mcg;
0.5mg;8mg;0.4mg;0.6mg;
0.5mg;1500IU;400IU;5IU

HiTech Pharmacal

This entity was reviewed by the Technical Advisory Council and admitted to the Illinois Formulary as an exception to the promulgated criteria for inclusion, pursuant to Section 790.60.

(Source: Amended at 15 Ill. Reg. 6566, effective April 19, 1991)

Section 790.1131 ASCORBIC ACID; FLUORIDE; VITAMIN A; VITAMIN D

DRUG	DOSAGE FORM, STRENGTH	APPLICATION HOLDER, MANUFACTURER
Ascorbic Acid Fluoride; Vitamin A; Vitamin D	drops, 35mg;0.25mg; 1500IU;400IU drops, 35mg;0.25mg; 1500IU;400IU drops, 35mg;0.5mg; 1500IU;400IU drops, 35mg;0.5mg; 1500IU;400IU	Abbott Pharmaceutical Basics National Pharm/Barre Pharmaceutical Basics
Brand(s) Triple-Vita-Flor 0.25mg Tri-Vi-Flor	drops, 35mg;0.25mg; 1500IU;400IU drops, 35mg;0.25mg; 1500IU;400IU	Esquire Mead-Johnson/B-M
TriVitamin Drops w/Fluoride 0.25mg Triple-Vita-Flor 0.5mg Tri-Vi-Flor	drops, 35mg;0.25mg; 1500IU;400IU drops, 35mg;0.5mg; 1500IU;400IU drops, 35mg;0.5mg; 1500IU;400IU	HiTech Pharmacal Esquire Mead-Johnson/B-M
TriVitamin Drops w/Fluoride 0.5mg	drops, 35mg;0.5mg; 1500IU;400IU	HiTech Pharmacal

This entity was reviewed by the Technical Advisory Council and admitted to the Illinois Formulary as an exception to the promulgated criteria for inclusion, pursuant to Section 790.60.

(Source: Amended at 15 Ill. Reg. 6566, effective April 19, 1991)

Section 790.1390 ATENOLOL; CHLORTHALIDONE

DRUG
Section 790.1390 ATENOLOL; CHLORTHALIDONE
DOSAGE FORM, STRENGTH
Application Holder, Manufacturer

Brand(s)
Atenolol; Chlorthalidone
tab 50mg;25mg
tab 100mg;25mg
ICI Pharms
ICI Pharms

Brand(s)
Tenoretic 50
Tenoretic 100
tab 50mg;25mg
tab 100mg;25mg
Stuart Pharms
Stuart Pharms

(Source: Added at 15 Ill. Reg. 6566, effective April 19, 1991)

Section 790.1423 ATROPINE SULFATE; HYOSCYAMINE; PHENOBARBITAL; SCOPOLAMINE
HYDROBROMIDE

DRUG
DOSAGE FORM, STRENGTH
Application Holder, Manufacturer

Atropine Sulfate;
Hyoscyamine;
Phenobarbital;
Scopolamine
Hydrobromide
e1ix 0.0194mg/5ml;
0.1037mg/5ml;16.2mg/5ml;
0.0065mg/5ml
e1ix 0.0194mg/5ml;
0.1037mg/5ml;16.2mg/5ml;
0.0065mg/5ml
e1ix 0.0194mg/5ml;
0.1037mg/5ml;16.2mg/5ml;
0.0065mg/5ml
e1ix 0.0194mg/5ml;
0.1037mg/5ml;16.2mg/5ml;
0.0065mg/5ml

Life

Naska

National Pharm/Barre

Pharmaceutical Assoc

Pharmaceutical Basics

Purepac/Kalipharma

Robins

Brand(s)
Donatal

e1ix 0.0194mg/5ml;
0.1037mg/5ml;16.2mg/5ml;
0.0065mg/5ml

This entity was reviewed by the Technical Advisory Council and admitted to the Illinois Formulary as an exception to the promulgated criteria for inclusion, pursuant to Section 790.60.

(Source: Amended at 15 Ill. Reg. 6566, effective April 19, 1991)

Section 790.1685 BRETILUM TOSYLATE

DRUG
DOSAGE FORM, STRENGTH
Application Holder, Manufacturer

Bretylum Tosylate

in; 50mg/ml
in; 50mg/ml
in; 50mg/ml
in; 50mg/ml
in; 50mg/ml
in; 50mg/ml
in; 50mg/ml
in; 50mg/ml
in; 50mg/ml

Brand(s)
Bretylol

Dupont Pharm
Am-644-Gare/AHS

(Source: Amended at 15 Ill. Reg. 6566, effective April 19, 1991)

Section 790.1950 CARBINOXAMINE MALEATE; DEXTROMETHORPHAN HYDROBROMIDE;
PSEUDOEPHEDRINE HYDROCHLORIDE

DRUG

DOSAGE FORM, STRENGTH

Carbinoxamine Maleate;

Dextromethorphan
Hydrobromide;
Pseudoephedrine
Hydrochloride
Brand(s)

syr 4mg/5ml;15mg/5ml;
60mg/5ml
syr 4mg/5ml;15mg/5ml;
60mg/5ml

Cord

Pharmaceutical Basics

Hittech Pharmacal

National Pharm/Barre

Ross/Abbott

Hittech Pharmacal

HR Cenci

syr 4mg/5ml;15mg/5ml;
60mg/5ml
syr 4mg/5ml;15mg/5ml;
60mg/5ml

Maldec DM Syrup

Carboded DM Syrup

Rondec DM Drops

Cardec DM Drops

Carboded DM Drops

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Rondec CM Syrup syr 4mg/5ml;15mg/5ml;
60mg/5ml ·Ross/Abbott

*This entity was reviewed by the Technical Advisory Council and admitted to the Illinois Formulary as an exception to the promulgated criteria for inclusion, pursuant to Section 790.60.

(Source: Amended at 15 Ill. Reg. 6566, effective April 19, 1991)

Section 790.1960 CARBINOXAMINE MALEATE; PSEUDOEPHEDRINE HYDROCHLORIDE

DRUG	DOSAGE FORM, STRENGTH	APPLICATION HOLDER, MANUFACTURER
Carbinoxamine Maleate; Pseudoephedrine Hydrochloride Brand(s)	drops 2mg/ml;25mg/ml drops 2mg/ml;25mg/ml syr 4mg/5ml;60mg/5ml	National Pharm/Barre Pharmaceutical Basics National Pharm/Barre
Rondec Drops Maldec Rondec Syrup	drops 2mg/ml;25mg/ml syr 4mg/5ml;60mg/5ml syr 4mg/5ml;60mg/5ml	Ross HR Cenci Ross

*This entity was reviewed by the Technical Advisory Council and admitted to the Illinois Formulary as an exception to the promulgated criteria for inclusion, pursuant to Section 790.60.

(Source: Amended at 15 Ill. Reg. 6566, effective April 19, 1991)

Section 790.2155 CHLORAL HYDRATE

DRUG	DOSAGE FORM, STRENGTH	APPLICATION HOLDER, MANUFACTURER
Chloral Hydrate	syr 500mg/5ml syr 500mg/5ml syr 500mg/5ml syr 500mg/5ml syr 500mg/5ml syr 500mg/5ml	HR Cenci Lederle/Am Cyanamid National Pharm/Barre Pharmaceutical Basics Purepac/Kalipharma Roxane Veratex
Brand(s) Noctec	syr 500mg/5ml	ER Squibb

*This entity was reviewed by the Technical Advisory Council and admitted to the Illinois Formulary as an exception to the promulgated criteria for inclusion, pursuant to Section 790.60.

(Source: Amended at 15 Ill. Reg. 6566, effective April 19, 1991)

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Section 790.2465 CHLORPHENIRAMINE MALEATE; PHENYLEPHRINE HYDROCHLORIDE;
PHENYLPROPANOLAMINE HYDROCHLORIDE; PHENYLTOLOXAMINE CITRATE

DRUG	DOSAGE FORM, STRENGTH	APPLICATION HOLDER, MANUFACTURER
Chlorpheniramine Maleate; Phenylephrine Hydrochloride; Phenylpropanolamine Hydrochloride; Phenyltoloxamine Citrate	drops 0.5mg/ml;1.25mg/ml; 5mg/ml;2mg/ml syr 0.5mg/5ml;25mg/5ml; 5mg/5ml;2mg/5ml syr 2.5mg/5ml;5mg/5ml; 20mg/5ml;7.5mg/5ml syr 2.5mg/5ml;5mg/5ml; 20mg/5ml;7.5mg/5ml	National Pharm/Barre National Pharm/Barre Naska National Pharm/Barre
Brand(s) Naldecon	drops 0.5mg/ml;1.25mg/ml; 5mg/ml;2mg/ml	Bristol/B-M
Nalphen Pediatric Drops	drops 0.5mg/ml;1.25mg/ml; 5mg/ml;2mg/ml	HiTech Pharmacal
Naldecon Pediatric	syr 0.5mg/5ml;25mg/5ml; 5mg/5ml;2mg/5ml	Bristol/B-M
Nalphen Pediatric Syrup	syr 0.5mg/5ml;25mg/5ml; 5mg/5ml;2mg/5ml	HiTech Pharmacal
Naldecon	syr 2.5mg/5ml;5mg/5ml; 20mg/5ml;7.5mg/5ml	Bristol/B-M
Nalphen Syrup	syr 2.5mg/5ml;5mg/5ml; 20mg/5ml;7.5mg/5ml	HiTech Pharmacal

This entity was reviewed by the Technical Advisory Council and admitted to the Illinois Formulary as an exception to the promulgated criteria for inclusion, pursuant to Section 790.60.

(Source: Amended at 15 Ill. Reg. 6566, effective April 19, 1991)

Section 790.2617 CLONIDINE HYDROCHLORIDE

DRUG	DOSAGE FORM, STRENGTH	APPLICATION HOLDER, MANUFACTURER
Clonidine Hydrochloride	tab 0.1,0.2,0.3mg tab 0.1,0.2,0.3mg tab 0.1,0.2,0.3mg tab 0.1,0.2,0.3mg tab 0.1,0.2,0.3mg tab 0.1,0.2,0.3mg tab 0.1,0.2,0.3mg tab 0.1,0.2,0.3mg tab 0.1,0.2,0.3mg	Barr Biocraft Bolar Cord Danbury Duramed Interpharm Lederle/Am Cyanamid

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(Source: Amended at 15 Ill. Reg. 6566, effective April 19, 1991)

Section 790.3027 DEXTROMETHORPHAN HYDROBROMIDE; IODINATED GLYCEROL

DRUG	DOSAGE FORM, STRENGTH	APPLICATION HOLDER, MANUFACTURER
Dextromethorphan Hydrobromide;	liq 10mg/5ml;30mg/5ml	Duramed
Iodinated Glycerol	liq 10mg/5ml;30mg/5ml	Luchem
	liq 10mg/5ml;30mg/5ml	National Pharm/Barre Pharmaceutical Basics
Brand(s)		
Iogan DM	liq 10mg/5ml;30mg/5ml	HiTech Pharmacal
Iotuss DM	liq 10mg/5ml;30mg/5ml	HR Cenci
Tussi-Organidin DM	liq 10mg/5ml;30mg/5ml	Organon/Akzona

This entity was reviewed by the Technical Advisory Council and admitted to the Illinois Formulary as an exception to the promulgated criteria for inclusion, pursuant to Section 790.60.

(Source: Amended at 15 Ill. Reg. 6566, effective April 19, 1991)

Section 790.3220 DIGOXIN

DRUG	DOSAGE FORM, STRENGTH	APPLICATION HOLDER, MANUFACTURER
Digoxin	elixir, 0.05mg/ml	Pharmafair
	elixir, 0.05mg/ml	Roxane
	inj 0.25mg/ml	Elkins-Sinn/Robins
	inj 0.25mg/ml	LyphoMed
	inj 0.25mg/ml	Wyeth Ayerst/AMHO
Brand(s)		
Lanoxin Pediatric	elixir, 0.05mg/ml	Burroughs Wellcome
Lanoxin	inj 0.25mg/ml	Burroughs Wellcome

(Source: Amended at 15 Ill. Reg. 6566, effective April 19, 1991)

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Section 790.3335 DOPAMINE HYDROCHLORIDE

DRUG	DOSAGE FORM, STRENGTH	APPLICATION HOLDER, MANUFACTURER
Dopamine Hydrochloride	inj 40,80,160mg/ml	Abbott
	inj 40,80,160mg/ml	Astra
	inj 40mg/ml	Bristol/B-M
	inj 40,80mg/ml	Elkins-Sinn/Robin
	inj 40mg/ml	IMS
	inj 40,80,160mg/ml	Luitpold
	inj 40,80,160mg/ml	LyphoMed
	inj 40,80mg/ml	Solopak
	inj 40mg/ml	Warner Chilcott/W-L
Brand(s)		
Dopastat	inj 40,80mg/ml	Parke-Davis/W-L
Intropin	inj 40,80,160mg/ml	DuPont Pharm
		Am-Griff-Gare/AMS

(Source: Amended at 15 Ill. Reg. 6566, effective April 19, 1991)

Section 790.3350 DOXORUBICIN HYDROCHLORIDE

DRUG	DOSAGE FORM, STRENGTH	APPLICATION HOLDER, MANUFACTURER
Doxorubicin Hydrochloride	inj 2mg/ml	Ben Venue
	inj 10,20,50mg/vial	Ben Venue
	inj 10,20,50mg/vial	Pharmachemie BV
Brand(s)		
Adriamycin PFS	inj 2mg/ml	Adria
Adriamycin RDF	inj 10,20,50mg/vial	Adria
Rubex	inj 10,50mg/vial	Bristol/B-M

(Source: Amended at 15 Ill. Reg. 6566, effective April 19, 1991)

Section 790.3914 FENTANYL CITRATE

DRUG	DOSAGE FORM, STRENGTH	APPLICATION HOLDER, MANUFACTURER
Fentanyl Citrate	inj eq 0.05mg base/ml	Abbott
	inj eq 0.05mg base/ml	Elkins-Sinn
Brand(s)		
Sublimaze	inj eq 0.05mg base/ml	Janssen Pharma

(Source: Amended at 15 Ill. Reg. 6566, effective April 19, 1991)

Section 790.4384 GUAIFENESIN; HYDROCODONE BITARTRATE; PSEUDOEPHEDRINE
 HYDROCHLORIDE

DRUG	DOSAGE FORM, STRENGTH	APPLICATION HOLDER, MANUFACTURER
Guafenesin; Hydrocodone Bitartrate; Pseudoephedrine Hydrochloride	syr 200mg/5ml; 5mg/5ml; 60mg/5ml	Pharmaceutical Basics
Brand(s) Hydrochloride Pseudoephedrine	syr 200mg/5ml; 5mg/5ml; 60mg/5ml	National Pharm/Barre
	syr 200mg/5ml; 5mg/5ml; 60mg/5ml	HR Cenci
	syr 200mg/5ml; 5mg/5ml; 60mg/5ml	Merrell Dow
Tussend Expectorant		

This entity was reviewed by the Technical Advisory Council and admitted to the Illinois Formulary as an exception to the promulgated criteria for inclusion, pursuant to Section 790.60.

(Source: Amended at 15 Ill. Reg. 6566, effective April 19, 1991)

Section 790.4720 HYDROCHLOROTHIAZIDE; TRIAMTERENE

DRUG	DOSAGE FORM, STRENGTH	APPLICATION HOLDER, MANUFACTURER
Hydrochlorothiazide; Triamterene	tab 50mg; 75mg	American Therapeutics
Brand(s) Dyazide* Maxzide	tab 50mg; 75mg	Barr
	tab 50mg; 75mg	Cord
	tab 50mg; 75mg	Danbury
	tab 50mg; 75mg	Watson
	cap 25mg; 50mg tab 50mg; 75mg	SKF Mylan

*Products manufactured by this brand name manufacturer in this drug entity are available for drug product selection under other brand or generic names.

(Source: Amended at 15 Ill. Reg. 6566, effective April 19, 1991)

Section 790.4725 HYDROCODONE BITARTRATE; PHENYLPROPANOLAMINE HYDROCHLORIDE

DRUG	DOSAGE FORM, STRENGTH	APPLICATION HOLDER, MANUFACTURER
Hydrocodone Bitartrate; Phenylpropanolamine Hydrochloride	syr 5mg/5ml; 25mg/5ml	Pharmaceutical Basics
Brand(s) Hydrochloride Pseudoephedrine	syr 2.5mg/5ml; 12.5mg/5ml	HR Cenci
	syr 2.5mg/5ml; 12.5mg/5ml	DuPont
	syr 5mg/5ml; 25mg/5ml	National Pharm/Barre
	syr 5mg/5ml; 25mg/5ml	HR Cenci
	syr 5mg/5ml; 25mg/5ml	DuPont
	syr 5mg/5ml; 25mg/5ml	Luchem
Propachem Syrup		

This entity was reviewed by the Technical Advisory Council and admitted to the Illinois Formulary as an exception to the promulgated criteria for inclusion, pursuant to Section 790.60.

(Source: Amended at 15 Ill. Reg. 6566, effective April 19, 1991)

Section 790.4728 HYDROCODONE BITARTRATE; PSEUDOEPHEDRINE HYDROCHLORIDE

DRUG	DOSAGE FORM, STRENGTH	APPLICATION HOLDER, MANUFACTURER
Hydrocodone Bitartrate; Pseudoephedrine Hydrochloride	11q 5mg/5ml; 60mg/5ml	HR Cenci Pharmaceutical Basics
Brand(s) Hydrochloride Pseudoephedrine	11q 5mg/5ml; 60mg/5ml	National Pharm/Barre
	11q 5mg/5ml; 60mg/5ml	Merrell Dow
	11q 5mg/5ml; 60mg/5ml	Tussend
Detussin		

This entity was reviewed by the Technical Advisory Council and admitted to the Illinois Formulary as an exception to the promulgated criteria for inclusion, pursuant to Section 790.60.

(Source: Amended at 15 Ill. Reg. 6566, effective April 19, 1991)

Section 790.5030 HYDROMORPHONE INJECTION

DRUG	DOSAGE FORM, STRENGTH	APPLICATION HOLDER, MANUFACTURER
Hydromorphone Injection	inj 2mg/ml	Astra Etkins-Sim

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	<u>inj 2mg/ml</u>	<u>Schein</u>
	<u>inj 2mg/ml</u>	<u>Steris</u>
	<u>inj 1,2,4mg/ml</u>	<u>Winthrop/Breon-Sterlin</u>
	<u>inj 1,2,4mg/ml</u>	<u>Wyeth-Ayerst/AMHO</u>
<u>Brand(s)</u>		
<u>Dilaudid Hydrochloride</u>	<u>inj 1,2,4mg/ml</u>	<u>Knoll</u>

*This entity was reviewed by the Technical Advisory Council and admitted to the Illinois Formulary as an exception to the promulgated criteria for inclusion, pursuant to Section 790.60.

(Source: Added at 15 Ill. Reg. 6566, effective April 19, 1991)

Section 790.5300 IMIPRAMINE HYDROCHLORIDE

DRUG	DOSAGE FORM, STRENGTH	APPLICATION HOLDER, MANUFACTURER
Imipramine Hydrochloride	tab 10,25,50mg	Biocraft
	tab 10,25,50mg	Bolar
	@ tab 10,25,50mg	Chelsea
	tab 10,25,50mg	Cord
	@ tab 10,25,50mg	Lederle/Am Cyanamid
	tab 10,25,50mg	Mutual
	tab 10,25,50mg	Par
	@ tab 25mg	Pharmaceutical Basics
	tab 10,25,50mg	Roxane
	@ tab 10,25,50mg	(Vangard/MWM)
tab 10,25,50mg	Vitarine	
<u>Brand(s)</u>		
<u>Janimine</u>	tab 10,25,50mg	Abbott
<u>Presamine</u>	tab 10,25,50mg	Rorer
<u>Tofranil</u>	tab 10,25,50mg	Ciba/Ciba-Geigy

(Source: Amended at 15 Ill. Reg. 6566, effective April 19, 1991)

Section 790.5320 IODINATED GLYCEROL

DRUG	DOSAGE FORM, STRENGTH	APPLICATION HOLDER, MANUFACTURER
Iodinated Glycerol	liq 60mg/5ml (30mg organically bound iodine)	National Pharm/Barre
	liq 60mg/5ml (30mg organically bound iodine)	Pharmaceutical Basics

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	<u>soln 50mg/ml</u> (25mg organically bound iodine)	<u>National Pharm/Barre</u>
<u>Brand(s)</u>		
<u>Iogan</u>	<u>liq 60mg/5ml</u> (30mg organically bound iodine)	<u>HiTech Pharmacal</u>
<u>Iotuss</u>	<u>liq 60mg/5ml</u> (30mg organically bound iodine)	<u>HR Cenci</u>
<u>Organidin</u>	<u>liq 60mg/5ml</u> (30mg organically bound iodine)	<u>Organon/Akzona</u>
<u>Iogan Soln</u>	<u>soln 50mg/ml</u> (25mg organically bound iodine)	<u>HiTech Pharmacal</u>
<u>Iotuss Soln</u>	<u>soln 50mg/ml</u> (25mg organically bound iodine)	<u>HR Cenci</u>
<u>Organidin Drops</u>	<u>soln 50mg/ml</u> (25mg organically bound iodine)	<u>Wallace</u>

This entity was reviewed by the Technical Advisory Council and admitted to the Illinois Formulary as an exception to the promulgated criteria for inclusion, pursuant to Section 790.60.

(Source: Amended at 15 Ill. Reg. 6566, effective April 19, 1991)

Section 790.6430 MINOCYCLINE

DRUG	DOSAGE FORM, STRENGTH	APPLICATION HOLDER, MANUFACTURER
<u>Minocycline</u>	<u>cap 50,100mg</u>	<u>Warner-Chilcott/W-L</u>
<u>Brand(s)</u>		
<u>Minocin</u>	<u>@ cap 50,100mg</u>	<u>Lederle/Am Cyanamid</u>

*NOTE: Due to differences in bioequivalence, powder-filled capsules MAY NOT be interchanged with pellet-filled capsules.

(Source: Added at 15 Ill. Reg. 6566, effective April 19, 1991)

Section 790.7160 PHENOBARBITAL

DRUG	DOSAGE FORM, STRENGTH	APPLICATION HOLDER, MANUFACTURER
Phenobarbital	<u>elix 20mg/5ml</u>	<u>HR Cenci</u>

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DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

tab, controlled release, 324mg	Bolar	
tab, controlled release, 324mg	Chelsea	
tab, controlled release, 324mg	Cord	
tab, controlled release, 324mg	Danbury	
tab, controlled release, 324mg	Halsey	
tab, controlled release, 324mg	Mutual	
tab, controlled release, 324mg	Roxane	
tab, controlled release, 324mg	Superpharm	
Brand(s) Quinaglute	tab, controlled release, 324mg	Berlex

(Source: Amended at 15 Ill. Reg. 6566, effective April 19, 1991)

Section 790.9048 TIMOLOL MALEATE

DRUG	DOSAGE FORM, STRENGTH	APPLICATION HOLDER, MANUFACTURER
Timolol Maleate	tab 5,10,20mg	Bolar
	tab 5,10,20mg	Cord
	tab 5,10,20mg	Mylan
	tab 5,10,20mg	Pharmaceutical Basics
Brand(s) Blocadrén	tab 5,10,20mg	MSD/Merck

(Source: Amended at 15 Ill. Reg. 6566, effective April 19, 1991)

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Non-Financial Eligibility Criteria
- 2) Code Citation: 89 Ill. Adm. Code 685
- 3) Section Numbers: Adopted Action:
685.500 Amendment
685.600 Amendment
- 4) Statutory Authority: Section 3(g) of "AN ACT in relation to rehabilitation of persons with one or more disabilities" (Ill. Rev. Stat. 1989, ch. 23, par. 3434(g)).
- 5) Effective Date of Rule(s) (Amendments, Repealer): April 18, 1991
- 6) Does this rulemaking contain an automatic repeal date?
Yes X No
- 7) Does this rule (amendment, repealer) contain incorporations by reference? Yes, see Section 685.500(b)(1)
- 8) Date Filed in Agency's Principal Office: March 29, 1991
- 9) Notice of Proposal Published in Illinois Register:
June 8, 1990, 14 Ill. Reg. 8982
(issue date)
- 10) Has JCAR Issued a Statement of Objections to this (these) Rule(s)? yes If answer is "yes," please complete the following:
 - A) Statement of Objection: Oct. 26, 1990, 14 Ill. Reg. 17710
(issue date)
 - B) Agency Response: May 3, 1991, 15 Ill. Reg. 6791
(issue date)
 - C) Date Agency Response Submitted for Approval to JCAR:
Nov. 26, 1990
- 11) Difference(s) between proposal and final version: The Administrative Code Division requested we update our citations to the Ill. Rev. Stat. to the 1989 version.

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 6. To delete Section 685.600(a)(2) as it is repetitive of Section 685.500(f).
- 7. To change Section 685.500(b)(1) to begin "The first section of the DON is the mini-mental state section which measures cognitive functioning of the applicant/client".
- 8. To revise Section 685.500(c) to begin, "Each of the six ADLs and nine IADLs listed above is scored in two parts:".
 - 9. To delete one of the "/"s from Section 685.500(d)(3).

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 rule replace an Emergency Rule(s) currently in effect? No

14) Are there any amendments pending on this Part: No

Section Numbers Proposed Action Illinois Register Citation
 15) Summary and Purpose of Rule(s):

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

Ms. Leigh Reed
 Regulations and Procedures Division
 Department of Rehabilitation Services
 P.O. Box 19429
 Springfield, Illinois 62794-9429
 Telephone number: (217) 785-3896
 T.D.D.: (217) 782-5734

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

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF ADOPTED AMENDMENTS

JCAR requested the following changes which we agreed to:

- 1. To add, "(University of Illinois, School of Public Health, P.O. Box 6998, Chicago, IL 60680, no later editions or amendments included)" after "section" in Section 685.500(b)(1).

2. To add the following in Section 685.500(b)(2)(A) and (B):

- a) after "Routine Health" add "(e.g. following physician's directions)"
- b) after "Special Health" add "(e.g. cooperating with skilled care professionals)"
- c) after "Outside Home" add "(e.g. mobility)"

3. To add, "(i.e. more than 50% of the time)" between "time" and "but" in Section 685.500(c)(2)(B) and to add "(i.e. less than 10% of the time)" between "never" and "met" in Section 685.500(c)(2)(D).

4. To change "will" to "shall" in Section 685.500(f) between "clients" and "have".

5. To delete Section 685.500(f)(2) since it is redundant and the Department requested that it be allowed to revise subsection (f) to read as follows:

"Individuals who received eligibility scores as set out in subsection (e)(1) prior to the effective date of this Section, but upon reassessment do not receive eligibility scores set out in subsection (e)(1) above, and who have been continuously served since determination of initial eligibility, shall have their Service Cost Maximum (SCM) remain fixed at the lowest level in Section 685.600(a)(1). These clients shall have their SCM frozen until they achieve an eligible score and SCM in accordance with this Section."

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 685
NON-FINANCIAL ELIGIBILITY CRITERIA

- Section 685.10 Application of Non-Financial Requirements
685.100 Citizenship
685.200 Residence
685.300 Age
685.400 Disability
685.500 Need for Long-Term Care
685.600 Service Cost Maximum
APPENDIX A Institutional Cost Tables

AUTHORITY: Implementing and authorized by Section 3(g) of "AN ACT in relation to rehabilitation of persons with one or more disabilities" (Ill. Rev. Stat. 1989, ch. 23, par. 3434(g)).

SOURCE: Adopted and codified at 7 Ill. Reg. 8898, effective July 18, 1983; amended at 8 Ill. Reg. 15967, effective August 31, 1984; amended at 9 Ill. Reg. 9167, effective June 4, 1985; amended at 13 Ill. Reg. 5158, effective March 31, 1989; amended at 13 Ill. Reg. 18929, effective November 16, 1989; amended at 15 Ill. Reg. 6602, effective April 18, 1991.

Section 685.500 Need for Long-Term Care

- a) To be eligible for HSP, clients must not only meet the eligibility criteria for disability (See 89 Ill. Adm. Code subsection 685.400), but they must also have resulting functional limitations which have caused a need for long-term care, such that they are already placed in an institution, or are, as measured by the Determination of Need Scale (See 89 Ill. Adm. Code subsection 685.500 (b)), at imminent risk of institutionalization. By definition, the long-term care needs of such clients must be able to be met through services provided instead of in their homes. For purposes of this rule, long term care refers to the need for sheltered, intermediate, or skilled nursing home care, or its equivalent provided in the home.
b) To determine the need for long-term care, the Determination of Need Scale (DON) is utilized to

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF ADOPTED AMENDMENTS

measure a client's service needs (Part A) and the resources available to meet those needs (Part B), based on pertinent medical, social and psychological factors, and on the extent to which service needs are already met, and/or will begin/continue to be met, either wholly or in part, by family, friends, and others, or through the client's available financial resources. The --Determination---of---Need DON consists of two parts:

1)---Functions---evaluated---in---Parts---A---and---B described-in-Section-650.500(e)-are:

- A)---telephoning;
-----B)---getting-into-and-out-of-bed;
-----C)---traveling-outside-the-home;
-----D)---shopping;
-----E)---managing-money;
-----F)---preparing-meals;
-----G)---eating;
-----H)---doing-housework;
-----I)---doing-laundry;
-----J)---dressing;
-----K)---grooming;
-----L)---bathing;
-----M)---bowel-and-bladder-control;
-----N)---routine-health-care;-and
-----O)---being-alone.

-----2)---A-score-of-zero-(0)-through-three-(3)-for-the-16 individual---functions---included---in---Section 685.500(b)(1)-(Part-A)-indicates-the-client's need-for-assistance.

-----A)---Zero-(0)-meaning-the-client-performs-or-can perform--all--essential--components--of--the activity;-with--or--without--an--assistive device-such-that:

-----i)---no-significant-impairment-of-function remains;-or

-----ii)---activity-is-not-required-by-the-client (routine-and-special-health-only);-or

-----iii)---client-may-benefit-from-but-does-not require---supervision---or---physical assistance.

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DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF ADOPTED AMENDMENTS

impairment of the applicant/client in the performance of ADLs and IADLs.

A) Zero (0) means the applicant/client performs or can perform all essential components of the activity, with or without an existing assistive device, such that:

- i) no significant impairment of function remains; or
- ii) activity is not required by the applicant/client (routine and special health only); or
- iii) applicant/client may benefit from, but does not require, supervision or physical assistance.

B) One (1) means the applicant/client performs or can perform most essential components of the activity, with or without an existing assistive device, but some impairment of function remains such that an applicant/client requires some supervision or physical assistance in some or all components of the activity. This includes the applicant/client who:

- i) experiences minor, intermittent fatigue to perform the activity; or
- ii) takes longer than an unimpaired person in performing the activity; or
- iii) must perform the activity more frequently than an unimpaired person.

C) Two (2) means the applicant/client cannot perform most of the essential components of the activity, even with an existing assistive device, and requires a great deal of assistance or supervision to accomplish the activity. This includes the applicant/client who:

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF ADOPTED AMENDMENTS

i) experiences frequent fatigue in performing the activity; or

ii) takes an excessive amount of time to perform the activity; or

iii) must perform the activity much more frequently than an unimpaired person.

D) Three (3) meaning the applicant/client cannot perform the activity and requires someone to perform the task, although the applicant/client may be able to assist in small ways, or requires constant supervision.

~~3)---A--score--of--zero--(0)--through--three--(3)--for the-16-individual-functions-included-in-Section 605.500--(b)-(1)--(Part--B)--will--indicate--the resources-available-to-the-client--(excluding-the Home--Services--Program)--to--meet--the--client's functional-needs:~~

2) Part B, Unmet Need for Care, of the DON measures the need of the applicant/client for assistance/performance/supervision for each ADL and IADL function which is not being met by non-HSP resources in the community (e.g., family, friends, local services.)

A) Zero (0) meaning:

i) the applicant/client's need for assistance is met to the extent that the applicant/client is at no risk to health or safety if additional assistance is not acquired; or

ii) the applicant/client has no need for assistance; or

iii) additional assistance will not benefit the applicant/client.

B) One (1) meaning the applicant's/client's need for assistance is met most of the time (i.e. more than 50%

NOTICE OF ADOPTED AMENDMENTS

aid and/or motivate the applicant/client in getting into and out of bed as well as transferring.

travel outside the home/shop-for-groceries and-other-essentials/manage money (and pay bills)

Part A scoring will reflect the applicant's ability to leave and return home and complete daily living tasks which are normally transacted outside of the home.

Part B scoring will reflect the availability of assistance, if needed, to assist the applicant/client in completing these tasks.

prepare nutritionally balanced meals/feed himself/herself.

Part A scoring will reflect the applicant's ability to plan, prepare, and feed himself/herself a nutritionally balanced meal.

Part B scoring will reflect the availability of assistance, if necessary, to aid the applicant/client in the planning, preparing, and feeding of a nutritious meal.

do household/laundry

Part A scoring will reflect the applicant's ability to adequately do household and laundry tasks necessary for maintaining minimum hygienic conditions.

Part B scoring will reflect the availability of assistance and facilities, satisfactorily completing all tasks associated with household and laundry.

Part B scoring will reflect the availability of assistance, if needed, to

of the time) but there is a minimal risk to the health and safety of the client if additional assistance is not acquired.

Two (2) meaning the applicant's need for assistance is not met most of the time and there is a moderate risk to the health and safety of the client if additional assistance is not acquired.

Three (3) meaning the applicant's need for assistance is rarely, or never (i.e. less than 10% of the time) met and the applicant's health and safety are at severe risk, which would er--the client--with--require acute medical intervention if additional assistance is not acquired.

The Determination--of--Need--scale--DON measures these applicant/client function needs and resources in the areas of the applicant's abilities to:

1) use the telephone

Part A scoring will reflect the applicant's ability to use the telephone to communicate essential needs.

Part B scoring will reflect the availability of assistance, if needed, to help the applicant/client reach and use the telephone or to use the telephone on behalf of the applicant/client.

2) get-into-and-out-of-bed transfer

Part A scoring will reflect the applicant's ability to get into or out of bed or other usual sleeping place as well as ability to transfer (from/to) between bed and wheelchair or walker.

Part B scoring will reflect the availability of assistance, if needed, to

NOTICE OF ADOPTED AMENDMENTS

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 6) shower or bathe/groom/ dress (and undress) himself/herself
- A) Part A scoring will reflect the applicant's/client's ability to adequately perform tasks necessary for minimum personal hygiene standards and to appropriately dress himself/herself.
- B) Part B scoring will reflect the availability of assistance, if needed, to aid the applicant/client in satisfactorily attending to personal hygiene and dressing tasks.
- 7) handle control bowel and bladder function
- A) Part A scoring will reflect the applicant's/client's ability to respond to bowel and bladder needs, including the ability to use associated devices if necessary and to reach the bathroom or other appropriate facility in a timely manner.
- B) Part B scoring will reflect the availability of assistance, if needed, to aid the applicant/client in adequately responding to these biological needs.
- 8) follow routine/specialized health instructions
- A) Part A scoring will reflect the applicant's/client's ability to perform and/or participate in the performance of medical instructions prescribed by a medical professional in order to maintain the applicant's/client's health.
- B) Part B scoring will reflect the availability of assistance, if needed, to aid the applicant/client in following through with routine medical instructions, or in the case of specialized medical instructions, the availability of specially trained resources as necessary.

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 9) be left alone
- A) Part A scoring will reflect the applicant's/client's ability to be left alone and to recognize, avoid, and respond to danger and/or emergencies.
- B) Part B scoring will reflect the availability of assistance, if needed, to aid or supervise the applicant/client to avoid danger and/or respond to emergencies.
- de) To be eligible for HSP, a score on the Determination--of--Need DON Scale must be obtained as follows:
- 1) For the level of service required by clients who would be placed in a sheltered care level nursing home:
- A) A score of at least 14 on Part A and at least 21 on both Part A and B; or
- B) A score of at least 18 on Part A.
- 2) For intermediate and skilled nursing level of service, a score of at least 18 15 on Part A and a score of at least 28 29 on Part A and B together.
- f) Individuals who received eligibility scores as set out in subsection (e)(1) prior to the effective date of this Section, but upon reassessment do not receive eligibility scores set out in subsection (e)(1) above, and who have been continuously served since determination of initial eligibility, shall have their Service Cost Maximum (SCM) remain fixed at the lowest level in Section 685.600(a)(1). These clients shall have their SCM frozen until they achieve an eligible score and SCM in accordance with this Section.
- eg) As part of the determination of need for long-term care, the client's physician must certify the client's need for long-term care and the safety of serving the client at home.

(Source: Amended at 15 Ill. Reg. 6602, effective April 18, 1991

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DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Similar Benefits
- 2) Code Citation: 89 Ill. Adm. Code 567
- 3) Section Numbers: Adopted Action:
567.20 Amendment
567.30 Amendment
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 23, pars. 3434(a), (b), and (k) and 29 U.S.C. 721 (a)(8).
- 5) Effective Date of Rule(s) (Amendments, Repealer): April 18, 1991
- 6) Does this rulemaking contain an automatic repeal date?
 Yes No
- 7) Does this rule (amendment, repealer) contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: March 29, 1991
- 9) Notice of Proposal Published in Illinois Register:
August 10, 1990, 14 Ill. Reg. 12731
(issue date)
- 10) Has JCAR Issued a Statement of Objections to this (these) Rule(s)? no If answer is "yes," please complete the following:
 - A) Statement of Objection: _____, ___ Ill. Reg. ___
(issue date)
 - B) Agency Response: _____, ___ Ill. Reg. ___
(issue date)
 - C) Date Agency Response Submitted for Approval to JCAR:
- 11) Difference(s) between proposal and final version: Every time "must" was used in Section 567.20(b), it was changed to "shall".

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 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 rule replace an Emergency Rule(s) currently in effect? No
 - 14) Are there any amendments pending on this Part: No
- | <u>Section Numbers</u> | <u>Proposed Action</u> | <u>Illinois Register Citation</u> |
|------------------------|--|-----------------------------------|
| 567.20 | amended to comply with directions from the U.S. Department of Education regarding private monetary awards provided to clients. | |
| 567.30 | amended to state that similar benefits need not be pursued for supported employment services. | |
- 15) Summary and Purpose of Rule(s): Section 567.20 was amended to comply with directions from the U.S. Department of Education regarding private monetary awards provided to clients.

Section 567.30 was amended to state that similar benefits need not be pursued for supported employment services.
 - 16) Information and answers to questions regarding this adopted rule shall be directed to:

Ms. Leigh Reed
Regulations and Procedures Division
Department of Rehabilitation Services
P.O. Box 19429
Springfield, Illinois 62794-9429

Telephone number: (217) 785-3896
T.D.D.: (217) 782-5734

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

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 15 Ill. Reg. 6617, effective April 18, 1991)

Section 567.30 Exceptions to Similar Benefits

Similar benefits must be pursued for all services except:

- a) If a search for similar benefits would delay the provision of VR services to a client who is at extreme medical risk, based upon medical evidence provided by an appropriately licensed medical professional;

b) evaluation of vocational rehabilitation potential;

c) counseling, guidance, referral, and placement;

d) vocational and other training services, (e.g., on-the-job training, work adjustment training including at a rehabilitation facility or nine month pre-vocational program for hearing impaired at Northern Illinois University, and work experience from the Secondary Transitional Experience Program) which are not provided in institutions of higher education (e.g., universities, colleges, vocational schools, technical institutes, or hospital schools of nursing);

e) rehabilitation engineering services (i.e., the application of technologies, engineering methodologies or scientific principles to meet the needs of and address the barriers confronted by persons with disabilities); and

f) supported employment services (34 CFR 363.7 (1988));

g) post-employment services included in subsections (b), (c), (d), (e) and (f) above.

(Source: Amended at 15 Ill. Reg. 6617, effective April 18, 1991)

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES
SUBCHAPTER b: VOCATIONAL REHABILITATION

PART 567

SIMILAR BENEFITS

Section

567.10 General Applicability

567.20 Definition of Similar Benefits

567.30 Exceptions to Similar Benefits

567.100

Refusal of Similar Benefits

AUTHORITY: Implementing and authorized by Sections 3(a), (b), and (k) of "AN ACT in relation to rehabilitation of persons with one or more disabilities" (Ill. Rev. Stat. 1989, ch. 23, pars. 3434(a), (b), and (k)), 29 U.S.C. 721(a)(8), and 34 CFR 361.47(b).

SOURCE: Adopted at 9 Ill. Reg. 8839, effective June 10, 1985; amended at 11 Ill. Reg. 820, effective December 23, 1986; amended at 12 Ill. Reg. 3019, effective January 15, 1988; amended at 13 Ill. Reg. 9590, effective June 12, 1989; amended at 13 Ill. Reg. 18933, effective November 16, 1989; amended at 15 Ill. Reg. 6617, effective April 18, 1991.

Section 567.20 Definition of Similar Benefits

a) Similar benefits are services which are used to determine eligibility (89 Ill. Adm. Code 552) or to achieve the vocational goal and objectives specified in the client's Individualized Written Rehabilitation Program (89 Ill. Adm. Code 572) that, when provided to DORS clients by public or private agencies other than DORS, offset costs which would otherwise be paid by DORS or the client.

b) Private monetary merit awards, contributions and gifts which are specific or restricted as to use shall be used as intended (e.g., scholarships earmarked for use for college tuition costs or general college expenses) and are an available comparable benefit or service that shall be considered as a similar benefit to reduce the client's need for that service(s) from DORS. Unrestricted monetary merit awards, contributions and gifts shall not be considered as an available resource by DORS.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

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

130.101	Amendment
130.120	Amendment
130.210	Amendment
130.305	Amendment
130.320	Amendment
130.321	New Section
130.325	Amendment
130.330	Amendment
130.335	Amendment
130.345	Amendment
130.350	Amendment
130.401	Amendment
130.405	Amendment
130.415	Amendment
130.425	Amendment
130.430	Amendment
130.435	Amendment
130.440	Amendment
130.501	Amendment
130.502	New Section
130.510	Amendment
130.530	Amendment
130.535	Amendment
130.540	Amendment
130.605	Amendment
130.701	Amendment
130.901	Amendment
130.905	Amendment
130.910	Amendment
130.1401	Amendment
130.1405	Amendment
130.1410	Repeal
130.1415	Amendment
130.1420	Repeal
130.1501	Amendment
130.1505	Amendment
130.1701	Amendment
130.1920	Amendment
130.1930	Amendment
130.1950	Amendment
130.1951	Amendment

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- | | |
|--------------------|-------------|
| 130.1955 | Amendment |
| 130.1970 | Amendment |
| 130.1980 | Amendment |
| 130.1990 | Amendment |
| 130.2005 | Amendment |
| 130.2007 | Amendment |
| 130.2008 | New Section |
| 130.2010 | Amendment |
| 130.2035 | Amendment |
| 130.2040 | Amendment |
| 130.2055 | Amendment |
| 130.2060 | Amendment |
| 130.2075 | Amendment |
| 130.2080 | Amendment |
| 130.2085 | Amendment |
| 130.2090 | Amendment |
| 130.2105 | Amendment |
| 130.2115 | Amendment |
| 130.2140 | Amendment |
| 130.2145 | Amendment |
| 130.2150 | Amendment |
| 130.2165 | Amendment |
| 130.Illustration A | New Section |
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 120, par. 440 et seq.
 - 5) Effective Date of Amendment(s): April 17, 1991
 - 6) Does this rulemaking contain an automatic repeal date? No.
 - 7) Does this amendment contain incorporations by reference? No.
 - 8) Date Filed in Agency's Principal Office: April 17, 1991
 - 9) Notice of Proposal Published in Illinois Register:
Issue 51, December 21, 1990, 14Ill. Reg. 20194
 - 10) Has JCAR issued a Statement of Objections to these Amendments?: No.
 - 11) Differences between proposal and final version:

The following changes were made to the rulemaking during the first notice period. Additions of language made during the first notice period are designated by underlining with deletions during the first notice period designated by strike outs.

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NOTICE OF ADOPTED AMENDMENTS

- 12) Section 130.305(b) was amended in response to P.A. 86-1475 as follows:

Production Agriculture is the raising of or the propagation of: Livestock, crops for sale for Human consumption; crops for livestock consumption; and the production seed stock grown for the propagation of feed grains and the husbandry of animals or, for the purpose of providing a food product, including the husbandry of blood stock as a main source of providing a food product. Production agriculture also includes animal husbandry, floriculture, horticulture, and viticulture. Section 2-35 2 of the Act)

- 13) Section 130.321(a) was amended in response to P.A. 86-1475 as follows:

Notwithstanding the fact that sales may be at retail, fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for a destination outside the United States is exempt from tax. (Section 2-5 2 of the Act)

- 14) Section 130.325(b) was amended in response to P.A. 86-1475 by replacing the reference to Section 2 of the Act to a reference to Section 2-30 of the Act.

- 15) Section 130.330(c)(3) was amended in response to P.A. 86-1475 as follows:

Equipment includes means any independent device or tool separate from any machinery but essential to an integrated manufacturing or assembling process; including computers used primarily in operating exempt machinery and equipment in a computer-assisted design, computer-assisted manufacturing (CAD/CAM) System, or any subunit sub-unit or assembly comprising a component of any machinery or auxiliary, adjunct, or attachment, parts of machinery such as, tools, dies, jigs, fixtures, patterns and molds; and or any parts which require periodic replacement in the course of normal operation. The exemption does not include hand tools, supplies (such as rags, sweeping or cleaning compounds), coolants, lubricants, adhesives, or solvents, items of personal apparel (such as gloves, shoes, glasses, goggles, coveralls, aprons, masks, mask air filters, belts, harnesses, or holsters), coal, fuel oil,

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

electricity, natural gas, artificial gas, steam, refrigerants or water. (Section 2-45 2 of the Act)

- 16) Section 130.345(a)(1) was amended in response to P.A. 86-1475 as follows:

Notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax Act does not apply to sales of (new or used), oil field exploration, drilling, and production equipment costing \$250 or more, including: (i) rigs and parts of rigs thereof including rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) including any individual replacement part for such oil field exploration, drilling, and production equipment, if the which replacement part costs in excess of \$250, and including such (vi) machinery and equipment purchased for lease but and excluding motor vehicles required to be registered pursuant to the Illinois Vehicle Code. (Section 2-5(19) 2(i) of the Act)

- 17) Section 130.605(a)(4)(B) was amended in response to P.A. 86-1475 as follows:

The seller does not incur Retailers' Occupation Tax liability with respect to the proceeds from the sale of an item of tangible personal property to a common carrier by rail that which receives physical possession of the such property in Illinois and that which transports the property item, or shares with another common carrier in transporting the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the such property to a destination outside Illinois, for use outside Illinois. (Section 2-5(17) 2(g) of the Act)

- 18) Section 130.901(f) was amended in response to P.A. 86-1475 as follows:

"If a any seller collects an amount (However designated) that which purports to reimburse the such seller for retailers' occupation tax liability measured by receipts that which are not subject to retailers' occupation tax, or if a any seller, in collecting an amount (however designated) that which purports to reimburse the such seller for retailers' occupation tax liability measured by receipts that which are subject to

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In Section 130.540(g), the period was deleted after the word "circumstances" in the title of the subsection. In Section 130.901(f), at the beginning of the next-to-last sentence, the lower case "i" in the word "if" was deleted and replaced with an upper case "I".

In Section 130.1951(b)(1)(C) the beginning and ending parentheses in the citation to the Illinois Revised Statutes which is being deleted are also deleted.

In Section 130.2150, because Section 130.2150(B) was deleted, Section 130.2150(a)(1) becomes new Section 130.2150(a) and Sections 130.2150(a)(2) and (3) become 130.2150(b) and (c) respectively.

The following changes were made in response to JCAR review:

The Department replaced the "(i)-(iii)" labels in Section 130.1405(b)(5) with "(A)-(C)".

The Department placed a closing parenthetical after "3-603 in Section 130.120(m).

The Department deleted the apostrophe in "1-1'46 in Section 130.120(w).

The Department deleted the period in Section 130.330(c).

Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? YES.

Will this amendment replace an emergency amendment currently in effect? No.

Are there any amendments pending on this Part? Yes

Section No.: Action
130.901 Amendment
IL Register Citation: 15 Ill. Reg. 5021
April 5, 1991

Summary and Purpose of Amendment(s): This rulemaking implements the Retailers' Occupation Tax aspects of tax reform. It changes the rate, base and collection of tax to conform to current law (P.A. 85-1135 and P.A. 86-928). The provisions of P.A. 85-1222 are implemented for quarterly returns. The air common carrier exemption added by P.A. 86-244 is also added to the rules, as are the provisions of P.A. 86-252 which exempt farm machinery and equipment used in State and Federal agricultural programs. Rules concerning certificates of registration are

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tax under the Act, collects more from the purchaser than the seller's retailers' occupation tax liability on the transaction is, the purchaser shall have a legal right to claim a refund of that such amount from the seller. However, If, however, that such amount is not refunded to the purchaser for any reason, the seller is liable to pay that such amount to the Department. This paragraph does not apply to an amount collected by the seller as reimbursement for the seller's retailers' occupation tax liability on receipts that which are subject to tax under the Act so long as such collection is made in compliance with the tax collection brackets prescribed by the Department in its rules and regulations." (Section 2-40 2 of the Act)

Section 130.1955(b) was amended in response to P.A. 86-1475 by replacing the reference to Section 2 of the Act with a reference to Section 2-35 of the Act.

Section 130.2005(b)(4)(E) was amended in response to P.A. 86-1475 by replacing the reference to Section 2 of the Act with a reference to Section 2-5(6) of the Act.

Section 130.2005(c)(4) was amended to correct the reference to the Act to "Section 2a" from Section 2(a).

Section 130.2115(a)(1) line 5 was amended to delete the phrase "of Section 2" in response to P.A. 86-1475.

Section 130.2145 was amended to correct the left margin.

Section 130.2150 was amended in response to P.A. 86-1475 to replace the reference to Section 2(e) of the Act with a reference to Section 2-5(15).

In response to the recommendations of the Administrative Code Division of the Secretary of State, the Department agreed underline the language in new Section 130. Illustration A as well as adding a source note.

In addition, in the main source note and in the various section source notes the Department changed "Ill. Reg." to "15 Ill. Reg."

The following typographical errors were corrected:

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amended to implement the provisions of P.A. 86-383. The use of drive-away decals in automobile purchases is amended to reflect the adoption of P.A. 86-444 and P.A. 96-953. Rules governing returns, penalties and photoprocessing have been amended in response to P.A. 96-905. The Department's rules on bulk sales have been amended to reflect the provisions of P.A. 86-953. In addition to modifications in response to legislation, the rules are amended to reflect the Supreme Court decision in Van's Material Company v. Department of Revenue, concerning the Court's decision that manufacturing machinery and equipment does not require a fixed manufacturing location to qualify for the exemption. Section 130.330 has been amended to reflect the decision of the Circuit Court of Macon County in Macon County Material, Inc. v. Illinois Department of Revenue, No. 80-TX-10. Section 130.325 is amended to reflect the fact that repair or replacement parts for exempt graphic arts machinery and equipment are also exempt. Section 130.401 is amended to state an example of a procedure which may be used by a taxpayer changing from the gross sales to the gross receipts method of filing returns. Section 130.501 is amended to reflect the requirements of the Department's present monthly return, Form ST-1. A number of non-substantive amendments have also been proposed to conform the rules to the requirements of the Secretary of State, to delete outdated provisions and to enhance the readability of the rules.

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

R. Dale Yung
Administrator
Legal Services Bureau
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62708
Phone: (217) 782-6336

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

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 130
RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

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

SUBPART B: SALE AT RETAIL

Section	The Test of a Sale at Retail
130.201	Sales for Transfer Incident to Service
130.205	Sales of Tangible Personal Property to Purchasers for Resale
130.210	Further Illustrations
130.215	Sales to Lessors of Tangible Personal Property
130.220	

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section	Farm Machinery and Equipment
130.305	Food, Drugs, Medicines and Medical Appliances
130.310	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.315	Gasohol
130.320	<u>Fuel Used by Air Common Carriers in International Flights</u>
130.325	Graphic Arts Machinery and Equipment Exemption
130.330	Manufacturing Machinery and Equipment
130.335	Pollution Control Facilities
130.340	Rolling Stock
130.345	Oil Field Exploration, Drilling and Production Equipment
130.350	Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

SUBPART D: GROSS RECEIPTS

Section	Meaning of Gross Receipts
130.401	How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.405	
130.410	Cost of Doing Business Not Deductible
130.415	Transportation and Delivery Charges
130.420	Finance or Interest Charges--Penalties--Discounts
130.425	Traded-In Property

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- 130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale
 130.1410 Requirements for Certificates of Resale (Repealed)
 130.1415 Resale Number--When Required and How Obtained
 130.1420 Blanket Certificate of Resale (Repealed)

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

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

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

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

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

- Section
 130.1701 ~~General Information~~ Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

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

SUBPART S: SPECIFIC APPLICATIONS

- Section
 130.1901 Addition Agents to Plating Baths
 130.1905 Agricultural Producers
 130.1910 Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
 130.1915 Auctioneers and Agents
 130.1920 Barbers and Beauty Shop Operators
 130.1925 Blacksmiths
 130.1930 Chiropodists, Osteopaths and Chiropractors
 130.1935 Computer Software
 130.1940 Construction Contractors and Real Estate Developers
 130.1945 Co-operative Associations
 130.1950 Dentists
 130.1951 Enterprise Zones
 130.1955 Farm Chemicals

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- 130.1960 Finance Companies and Other Lending Agencies - Installment Contracts - Repossessions
 130.1965 Florists and Nurserymen
 130.1970 Hatcheries
 130.1975 Operators of Games of Chance and Their Suppliers
 130.1980 Optometrists, Oculists and Opticians
 130.1985 Pawnbrokers
 130.1990 Peddlers, Hawkers and Itinerant Vendors
 130.1995 Personalizing Tangible Personal Property
 130.2000 Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
 130.2005 Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons
 Sales by Teacher-Sponsored Student Organizations
 Exemption Identification Numbers
 130.2008 Sales by Nonprofit Service Enterprises
 130.2010 Persons Who Rent or Lease the Use of Tangible Personal Property to Others
 130.2015 Persons Who Repair or Otherwise Service Tangible Personal Property
 130.2020 Physicians and Surgeons
 130.2025 Picture-Framers
 130.2030 Public Amusement Places
 130.2035 Registered Pharmacists and Druggists
 130.2040 Retailers of Clothing
 130.2045 Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like
 130.2050 Sales and Gifts By Employers to Employees
 130.2055 Sales by Governmental Bodies
 130.2060 Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
 130.2065 Sales of Automobiles for Use In Demonstration
 130.2070 Sales of Containers, Wrapping and Packing Materials and Related Products
 130.2075 Sales To Construction Contractors, Real Estate Developers and Speculative Builders
 130.2080 Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
 130.2085 Sales to or by Banks, ~~and~~ Savings and Loan Associations and Credit Unions
 130.2090 Sales to Railroad Companies
 130.2095 Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
 130.2100 Sellers of Feeds and Breeding Livestock
 130.2105 Sellers of Newspapers, Magazines, Books, Sheet Music and Phonograph Records and their Suppliers
 130.2110 Sellers of Seeds and Fertilizer
 130.2115 Sellers of Machinery, Tools and the Like
 130.2120 Suppliers of Persons Engaged in Service Occupations and Professions
 130.2125 Trading Stamps and Discount Coupons

amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991

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SUBPART A: NATURE OF THE TAX

Section 130.101 Character and Rate of Tax

The Retailers' Occupation Tax Act (The Act) (Ill. Rev. Stat. 1989, ch. 120, pars. 440 et seq.) imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. The tax is measured by the seller's gross receipts from such sales made in the course of such business. (For further information concerning "Gross Receipts", see Subpart D of this Part.)

a) How to Determine Effective Rate

1)

For the purposes of the Retailers' Occupation Tax Act, any tax liability incurred in respect to a sale of tangible personal property made in the regular course of business shall be computed by applying, to the gross receipts from such sale, the tax rate in effect as of the date of delivery of such property, provided that if delivery occurs after the tax rate changes, in a transaction in which receipts were received before the date of the rate change and tax was paid on such receipts when received by the seller in accordance with Section 130.430 of this Part at the rate which was in effect when the seller received such receipts, no additional tax will be due or credit allowed because of the delivery of the property occurring after the rate changes.

2)

Furthermore, in the case of sales of building materials to real estate improvement construction contractors for use in performing construction contracts for third persons, if such property is delivered to the contractor after the effective date of a rate increase but will be used in performing a binding construction contract which was entered into before the effective date of the increase and under which the contractor is legally unable to shift the burden of the tax rate increase to his customer, the applicable tax rate will be the rate which was in effect before the effective date of the rate increase. Before a supplier may deliver materials to a construction contractor after the effective date of a tax rate increase at the rate which was in effect prior thereto, the purchasing

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130.2130 Undertakers and Funeral Directors
130.2135 Vending Machines
130.2140 Vendors of Curtains, Slip Covers, Floor Covering and Other Similar Items made to Order
130.2145 Vendors of Meals
130.2150 Vendors of Memorial Stones and Monuments
130.2155 Vendors of Signs
130.2156 Vendors of Steam
130.2160 Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
130.2165 Veterinarians
130.2170 Warehousemen

130. ILLUSTRATION A: Examples of Tax Exemption Cards

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 120, pars. 440 et seq.) and authorized by Section 39b3 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1989, ch. 127, par. 39b3).

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendments at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989;

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contractor must give such supplier a written, signed certification stating that specifically described materials are being purchased for use in performing a binding contract which was entered into before the effective date of the rate increase (specifying such date) and under which the contractor is legally unable to shift the burden of the tax rate increase to his customer, identifying the construction contract in question by its date and by naming the contractor's construction work involved, and by giving the location on the job site where the construction contract is being performed or is to be performed.

b) Tax Rate in Effect

The effective rate from January 1, 1985, through December 31, 1989, is 5%. On and after January 1, 1990, the effective rate from July 1, 1967, through September 30, 1969, is 4-1/4%. The effective rate after September 30, 1969, is 4% is 6.25%.

c) Effective Date of New Taxes

When something that has been exempted becomes taxable as to sales that are made on and after some particular date, the date of sale for this purpose shall be deemed to be the date of the delivery of the property. This is true even if such delivery is made under a contract that was entered into before the effective date of the new tax.

d) Relation of Retailers' Occupation Tax to Use Tax

The Retailers' Occupation Tax is an occupation tax whose legal incidence is on the seller, rather than on the purchaser. However, with the enactment of the Use Tax Act in 1955 (Ill. Rev. Stat. 1979 1989, ch. 120, pars. 439.1 et seq.), the retailer became a tax collector under that Act and is required to comply with the bracket systems or tax collection schedules prescribed in the Department's Use Tax Regulations for the collection of the Use Tax by retailers from users. There no longer is any occasion for the retailer to shift the burden of the Retailers' Occupation Tax since he will reimburse himself for his Retailers' Occupation Tax liability by collecting the Use Tax from his customers.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.120 Nontaxable Transactions

The tax does not apply to receipts from sales:

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- a) Of intangible personal property, such as shares of stocks, bonds, evidences of interest in property, corporate or other franchises and evidences of debt;
- b) of real property, such as lands and buildings that are permanently attached to the land;
- c) of tangible personal property for purposes of resale in any form as tangible personal property, provided that the purchaser (except in the case of an out-of-State purchaser who will always resell and deliver the property to his customers outside Illinois) has an active registration number or active resale number from the Department and gives such number to the vendor in connection with certifying to the vendor that the sale to such purchaser is nontaxable on the ground of being a sale for resale (see Subparts B and N of this Part);
- d) of personal services, where rendered as such (see various rules relating to particular service occupations); however, for information concerning the tax on persons engaged in the business of making sales of service, see the Regulations pertaining to the Service Occupation Tax Act (86 Ill. Adm. Code 140);
- e) which are within the protection of the Commerce Clause of the Constitution of the United States (see Subpart F of this Part);
- f) which are isolated or occasional (see Section 130.110 of this Subpart);
- g) of newspapers and magazines (see Section 130.2105 of this Part);
- h) which are made to any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older (see Section 130.2005 of this Part);
- i) which are made to any governmental body (see Section 130.2080 of this Part);
- j) of pollution control facilities (see Section 130.335 of this Part);
- k) of fuel consumed or used in the operation of ships, barges or vessels which are used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering

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- y) of that portion of the selling price of a passenger car, the sale of which is subject to the Replacement Vehicle Tax of the Illinois Vehicle Code (Ill. Rev. Stat. 1989, ch. 95 1/2, pars. 3-2001 et seq.);
- z) of personal property sold to an Illinois County Fair Association for use in conducting, operating or promoting the county fair;
- aa) of personal property sold to any not-for-profit music or dramatic arts organization that establishes that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code (26 U.S.C.A. 501) and that is organized and operated for the presentation of live public performances of musical or theatrical works on a regular basis;
- bb) of personal property sold by a corporation, society, association, foundation, institution or organization that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise (See Section 130.2008);
- cc) of legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America or the government of any foreign country and bullion;
- dd) of oil field exploration, drilling and production equipment costing \$250 or more (see Section 130.345);
- ee) of photoprocessing machinery and equipment, including repair and replacement parts (see Section 130.2000);
- ff) of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment costing \$250 or more, including replacement parts and equipment costing \$250 or more (see Section 130.350), and
- gg) of fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier, for a flight destined for a destination outside the United States (Section 2-5 of the Act) (See Section 130.321).

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

SUBPART B: SALE AT RETAIL

Section 130.210 Sales of Tangible Personal Property to Purchasers for Resale

- a) The sale of tangible personal property to a purchaser for the purpose of resale in any form as tangible personal property, to the

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- extent not first subjected to a use for which it was purchased, is not subject to Retailers' Occupation Tax.
- b) Sales of tangible personal property, which property, to the extent not first subjected to a use for which it was purchased, as an ingredient or constituent, goes into and forms a part of tangible personal property subsequently the subject of a "sale at retail", are not sales at retail as defined in the Act, provided that the property purchased is deemed to be purchased for the purpose of resale, despite first being used, to the extent to which it is resold as an ingredient of an intentionally produced product or byproduct of manufacturing. For this purpose, slag produced as an incident to manufacturing pig iron or steel and sold is considered to be an intentionally produced byproduct of manufacturing.
- c) However, such sales for resale cannot be made tax-free unless the purchaser (except in the case of an out-of-State purchaser who will always resell and deliver the property to his customers outside Illinois) has an active registration number or active resale number from the Department and gives such number to suppliers in connection with certifying to any supplier that any sale to such purchaser is nontaxable because of being a sale for resale. Failure to present an active registration number or resale number and a certification to the seller that a sale is for resale creates a presumption that a sale is not for resale. This presumption may be rebutted by other evidence that all of the seller's sales are sales for resale, or that a particular sale is a sale for resale.
- d) Except to the extent stated in §subsection (b) of this Section, tangible personal property, even though it is essential to the process of manufacturing or otherwise producing other tangible personal property that will be sold is, nevertheless, sold at retail (and not for resale within the meaning of the Act) if it is sold to a manufacturer or other producer who uses or consumes such property in the manufacturing or other production process, but does not physically incorporate such property into the tangible personal property which he manufactures or otherwise produces and sells.
- e) Divisible Type of Sale. There can also be a divisible type of sale where the tangible personal property is bought partly for "use" and partly for "resale" in the first place. An example of this is the sale of coal and coke to a steel manufacturer who buys coal and coke partly to produce heat for "use" in the manufacturing operation, and partly to provide carbon as an ingredient of the steel as well as various byproducts which the purchasing manufacturer will sell. In this case, the coal and coke bought for "use" in the manufacturing

operation are taxable, and the sale of the coal and coke which the purchaser bought to provide carbon is a nontaxable sale for resale.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.305 Farm Machinery and Equipment

a) General: Notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax does not apply to sales of machinery and equipment, both new and used and including that manufactured on special order, used or leased for use primarily in production agriculture or for use in State or Federal agricultural programs, including any individual replacement part for such machinery and equipment. The exemption is phased in over a two-year period, 50% of the proceeds of a sale being exempt from September 1, 1980 through August 31, 1982, and 100% thereafter. A purchaser must certify to the use of the equipment to obtain the exemption.

b) Production Agriculture is the raising of or the propagation of: livestock, crops for sale for human consumption; crops for livestock consumption; and the-production seed stock grown for the propagation of feed grains and the husbandry of animals or, for the purpose of providing a food product, including the husbandry of blood stock as a main source of providing a good product. Production agriculture also includes animal husbandry, floriculture, horticulture, and viticulture. (Ill. Rev. Stat. 1983, ch. 120, par. 44 Section 2-35 of the Act)

c) Horticulture means the business of producing vegetables, vegetable plants, nursery stock, including the operation of nurseries and orchards, but not the sale of plants by retail outlets which do not grow the plant stock.

d) Floriculture means the business of producing flowers, Christmas trees or other decorative trees, plants, shrubs, sod, including such operations as greenhouses but not the sale of plants by retail outlets which do not grow plant stock.

e) Viticulture means the business of growing grapes or operating vineyards.

f) Production Agriculture, with respect to crops, is limited to activities necessary in tilling the soil, planting, irrigating, cultivating, applying herbicide, insecticide or fertilizer, harvesting and drying of crops. Specialized food production operations which produce plants under

controlled environments in growing media other than soil, qualify as production agriculture. Activities such as the clearing of land, mowing of fence rows, creation of ponds or drainage facilities are not included, nor are the operations involved in the storing or transporting of crops and produce. The processing of crops into food or other products is not production agriculture. With respect to the raising of or propagation of livestock and husbandry of animals, the animals must be domestic farm animals raised for profit. The raising of wild animals, game birds and house pets would not be considered to be production agriculture.

g) The transport, slaughter and processing of animals or animal food products are not considered to be production agriculture.

h) Farm machinery and equipment. The exemption applies only to items of farm machinery and equipment either new or used, certified by the purchaser to be used primarily for production agriculture or State or Federal agricultural programs, and including machinery and equipment purchased for lease. Excluded from this exemption are motor vehicles required to be registered pursuant to the Illinois Motor Vehicle Code. Registered vehicles other than motor vehicles may qualify for the exemption if they are used primarily in production agriculture rather than in transportation or other nonexempt activities. The law exempts only the purchase and use of farm machinery and equipment used in production agriculture or State or Federal agricultural programs. Accordingly, no other type or kind of tangible personal property will qualify for the exemption.

i) Machinery means major mechanical machines or major components thereof contributing to the production agriculture process or used primarily in State or Federal agricultural programs. Farm machinery would include tractors, combines, balers, irrigation equipment, cattle and poultry feeders, but not improvements to real estate such as fences, barns, roads, grain bins, silos and confinement buildings. A rotary mower which would not qualify for exemption if used to mow ditches or fence rows, would qualify for exemption if primarily used to mow crops or ground cover grown on acreage in State or Federal agricultural programs. Certain machines qualify for the exemption if purchased by farmers directly from retailers, even though they are installed as realty improvements. Such machines include but are not limited to augers, grain dryers (heaters and fans), automated livestock feeder bunks (but not ordinary building materials), automatic stock waterers (powered by electricity or water pressure and built into a permanent plumbing system), and water pumps serving production areas, specially heating or lighting equipment specifically required by the production process, i.e.,

i)

h)

g)

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ultraviolet lights, and special heaters for incubation. General heating, lighting and ventilation equipment does not qualify as farm machinery or equipment. A person (such as a plumbing contractor) who contracts to provide and install an exempt machine or equipment permanently into real estate must obtain an Exemption Certificate from the person purchasing the machine. The contractor must furnish certification to the seller, attaching the certificate of the purchaser in order to claim the exemption.

- j) A tractor or other machinery which qualifies for the exemption may include options or accessories which are not farm equipment. However, these items must be installed and sold both as an integral part of the qualifying machine and in a single transaction.
- k) Equipment means any independent device or apparatus separate from any machinery, but essential to production agriculture. Equipment does not include ordinary building materials to be permanently affixed to real estate. However, certain items of equipment can qualify for the exemption even though they are installed as realty improvements. Such items of equipment include, but are not limited to, farrowing crates, gestation stalls, poultry cages, portable panels for confinement facilities and flooring used in conjunction with waste disposal machinery. Equipment used in farm management such as radios and office equipment, in repair and servicing of equipment, in security and fire protection, is not farm equipment; nor does the exemption apply to equipment used in farm maintenance, administration, selling, marketing or the exhibition of products. The exemption does include hand-operated equipment such as wheelbarrows, hoes, rakes, pitchforks and shovels so long as they are used in production agriculture as that term is defined in subsection (b) of this Section. Hand tools used in maintenance activities such as wrenches, pliers, wire stretchers, grease guns, hammers and screwdrivers are not used in production, and do not qualify for the exemption. Supplies, such as baling wire, baling twine, work gloves, boots, ~~over-shoes~~ overshoes and chemicals for effluent systems are not exempt.
- l) New or used repair or replacement parts, necessary for the operation of the machine used in production agriculture or in State or Federal agricultural programs, qualify for the exemption. However, accessories or replacements not essential to the operation of the machinery itself, except when sold as an integral part of a qualified machine at the time of purchase, such as radios, tool or utility boxes, do not qualify for the exemption. Included in the repair or replacement parts category are: ~~b~~Batteries, tires, fan belts, mufflers, spark plugs, plow points, standard type motors and

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cutting parts. Consumable supplies such as fuel, grease, oil and anti-freeze are not repair or replacement parts.

- ~~m) Local Tax. Municipalities and counties may reimpose local taxes on farm machinery and equipment by ordinance, the RTA by resolution. The Metro East, County Supplementary and Water Commission Taxes may not be reimposed.~~
- ~~m)~~ Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily in production agriculture or in State or Federal agricultural programs. Retailers may accept blanket certificates but have the responsibility to obtain and must maintain the certificates as a part of their books and records. Retailers are required to exercise good faith in accepting exemption certificates. If, however, a retailer reasonably believes that the purchaser will use farm machinery or equipment in production agriculture or in State or Federal agricultural programs and accepts the certificate in good faith and the purchaser does not, in fact, use the machinery or equipment in production agriculture or in State or Federal agricultural programs, the purchaser will be liable to the Department for the tax. An item of farm machinery and equipment which is initially used primarily in production agriculture and having been so used for less than one-half of its useful life, is converted to primarily nonexempt uses, will become subject to tax at the time of the conversion. Such tax will be collected on such portion of the price of the machinery and equipment as was excluded from tax at the time the sale or purchase was made.
- ~~n) Retailers of farm machinery and equipment are required to file the FES Schedule, Form RR-594, with their monthly return for each month they have sales of exempt property.~~
- ~~n)~~ Leasing. Farm machinery and equipment purchased for lease to be used by the lessee primarily in production agriculture or in State or Federal agricultural programs qualifies for the exemption. The lessor purchasing such equipment must certify that the equipment will be so used ~~primarily in production agriculture~~. Should a purchaser-~~lessor~~ subsequently lease the machinery or equipment primarily to lessees who do not use it in a manner that would qualify for the exemption, the purchaser-~~lessor~~ will become liable for the tax from which he was previously exempted.
- ~~o)~~ Custom farmers or special service operators, i.e., crop dusting, fertilizer spraying, combining or corn shelling, who provide a service-for-hire on farms other than their own which is an integral

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kind of tangible personal property will qualify for the exemption, even though it may be used primarily in the graphic arts business.

- 2) Machinery means major mechanical machines or major components of such machines contributing to graphic arts production. Equipment means any independent device or tool separate from any machinery but essential to the graphic arts production process; or any sub-unit or assembly comprising a component of any machinery or auxiliary, adjunct or attachment, or parts of machinery, ~~but shall not include parts which require periodic replacement in the course of normal operation nor repair and replacement parts.~~ The exemption does not include hand tools, supplies, lubricants, adhesives or solvents, ink, chemicals, dyes, acids or solutions, fuels, electricity, steam or water, items of personal apparel such as gloves, shoes, glasses, goggles, coveralls, aprons, and masks, or such items as negatives, one-time use printing plates as opposed to multiple use cylinders or lithographic plates, dies, etc. which are expendable supplies. This exemption does not include the sale of materials to a purchaser who manufactures such materials into an otherwise exempted type of graphic arts machinery or equipment.
- 3) Machinery and equipment does not include foundations for or special purpose buildings to house or support graphic arts machinery and equipment.

c) Primary Use

- 1) The law requires that machinery and equipment be used primarily in graphic arts production. Therefore, machinery which is used primarily in an exempt process and partially in a nonexempt manner, would qualify for the exemption. However, the purchaser must be able to establish adequate records that the machinery or equipment is used over 50% in an exempt manner in order to claim the deduction.
- 2) The fact that particular machinery or equipment may be considered essential to the conduct of the business of graphic arts production because its use is required by law or practical necessity does not, of itself, mean the machinery or equipment is used primarily in graphic arts production.
- 3) By way of illustration and not limitation, the following activities will generally be considered to constitute an exempt use:

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- A) Machinery and equipment to directly produce typesetting, negatives and plates including final photo-composition and color separation processes.
- B) The use of machinery and equipment to transfer images or text from type or plates or image carriers to paper or other stock to be printed.
- C) Equipment to collate, bind or finish the graphic arts product covered in Paragraph subsection (c)(2), above.
- D) Large scale, fixed-position cameras used to photograph two dimensional copy to produce negatives or positives used in the production of plates.
- 4) By way of illustration and not limitation, the following activities will generally not be considered to be graphic arts production:
- A) The use of machinery and equipment in general maintenance or repair work on production machinery or equipment.
- B) The use of machinery or equipment to store, convey, handle or transport materials.
- C) The use of machinery or equipment to place the printed product in the container package or wrapping in which such property is normally sold to the ultimate consumer thereof.
- D) The use of machinery or equipment to gather information, photograph, transmit data, edit text, prepare drafts or copy or perform other date-related functions prior to final composition, typesetting, engraving or other preparation of the image carrier.
- E) Xerographic or photocopying machines do not qualify for the exemption.
- F) Word processing, text editing machinery or computerized equipment unless it is an integral part of a final graphic arts operation such as a computer-controlled typesetting machine or equivalent that is used primarily in graphic arts production.

G) Computers used to store data and generate text, maps, graphs or other print-out formats unless the product is an image carrier to be used to repetitively transfer images by printing. For example, a computer which generates an image which may later be reproduced by a graphic arts process would not qualify while a computer-controlled engraving system which produces printing cylinders and computer-controlled digital typesetting equipment would qualify.

H) The use of machinery or equipment in managerial, sales or other non-production, non-operational activities including disposal of waste, inventory control, production scheduling, purchasing, receiving, accounting, physical management, general communications, plant security, sales, marketing, product exhibition and promotion, or personnel recruitment, selection or training.

I) The use of machinery and equipment to prevent or fight fires or to protect employees, such as protective masks, gloves, coveralls and goggles or for safety, accident protection or first-aid even though such machinery or equipment may be required by law.

J) The use of machinery or equipment for general ventilation, heating, cooling, climate control or general illumination.

5) An item of machinery or equipment which initially is used primarily in graphic arts production and having been so used for less than one-half of the useful life is converted to primarily nonexempt uses, will become subject to the tax at the time of the conversion. Such tax will be collected on such portion of the purchase price of the machinery or equipment as was excluded from tax at the time the sale or purchase was made.

d) Sales to Lessors of Graphic Arts Equipment

The statute provides for the purchase of graphic arts machinery and equipment by lessors who will lease such machinery and equipment for use in graphic arts production. Therefore, if the purchaser of the machinery or equipment leases the machinery and equipment to a lessee who uses it in an exempt manner, the sale to the purchaser will be exempt from tax. A supplier may exclude such sales from his taxable gross receipts provided that the

e) Exemption Certification
 purchaser-lessor provides to him a properly completed exemption certificate and the information contained therein would support an exemption if the sale were made directly to the lessee. Should a purchaser-lessor subsequently lease the machinery or equipment to a lessee who does not use it in an exempt manner that would qualify directly for the exemption, the purchaser-lessor will become liable for the tax from which he was previously exempted.

f) For the purpose of determining the portion of the proceeds or cost which may be excluded from tax, a sale of property will be deemed to be made as of the date of delivery of such property. If a single sale of property is made which calls for multiple deliveries unrelated to payments and a portion of the sold property is delivered when one fraction of the proceeds or cost is excludable and the remainder of the property is delivered when a different fraction of the proceeds or cost is excludable, the earliest date of delivery of any of the property will determine the portion of the proceeds or cost of the entire sale which may be excluded in computing the tax which is due on that entire sale. However, even when a contract provides for multiple deliveries, if a payment is closely related in time and quantity to the property delivered, the date of each delivery will determine the portion of the proceeds or cost which may be excluded in computing the tax that is due on that payment.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.330 Manufacturing Machinery and Equipment

a) General. Notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. The

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exemption applies whether the sale or lease is made directly by the manufacturer or some other person. In certain cases purchases of machinery and equipment by a lessor will be exempt even though that lessor does not himself employ the machinery and equipment in an exempt manner. ~~The exemption is phased in over a six year period beginning January 1, 1979.~~

b) Manufacturing and Assembling:

- 1) This exemption exempts from tax only machinery and equipment used in manufacturing or assembling tangible personal property for sale or lease. Thus, the use of machinery and equipment in any industrial, commercial or business activity which may be distinguished from manufacturing or assembling will not be an exempt use and such machinery and equipment will be subject to tax.
- 2) The manufacturing process is the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating or refining which changes some existing material or materials into a material with a different form, use or name. These changes must result from the process in question and be substantial and significant.
- 3) The process or activity must be commonly regarded as manufacturing. To be so regarded, it must be thought of as manufacturing by the general public. Generally, the scale, scope and character of a process or operation will be considered to determine if such process or operation is commonly regarded as manufacturing. ~~This limits "manufacturing" to an operation at a fixed location or one of a series of operations each at a fixed location whereby a new article is produced.~~ Manufacturing includes such activities as processing, fabricating and refining.
- 4) Manufacturing does not include extractive industrial activities. Mining, ~~quarrying~~, logging, and drilling for oil, gas, and water neither produce articles of tangible personal property nor effect any significant or substantial change in the form, use or name of the materials or resources upon which they operate. The extractive process of quarrying does not constitute manufacturing. However, the activities subsequent to quarrying such as crushing, washing, sizing and blending will constitute manufacturing, and machinery and equipment

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used primarily therefor will qualify for the exemption, if the process results in the assembling of an article of tangible personal property with a different form, use or name than the material extracted.

- 5) The printing process is not commonly regarded as manufacturing and court decisions have found that printing is not manufacturing. Therefore, machinery and equipment used in any printing application will not qualify for exemption. This includes graphic arts, newspapers, books, etc. as well as other industrial or commercial applications. (However, see Section 130.325 for the Graphic Arts Machinery and Equipment Exemption.)
- 6) Agricultural, horticultural and related, similar or comparable activities, including commercial fishing, beekeeping, production of seedlings, or seed corn, and the development of hybrid seeds, plants, or shoots, are not manufacturing or assembling and, accordingly, machinery and equipment used in such activities is subject to tax. (However, see Section 130.305 for the Farm Machinery and Equipment Exemption.)
- 7) The preparation of food and beverages by restaurants, food service establishments, and other retailers is not manufacturing.
- 8) Assembling means the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by the combination of existing materials in a manner commonly regarded as assembling which results in a material of a different form, use or name.
- 9) Effective September 1, 1988, manufacturing includes photoprocessing if the products of photoprocessing are sold. Machinery and equipment which would qualify for exemption includes, but are not limited to, developers, dryers, enlargers, mounting machines, roll film splicers, film developing image makers, disc film opening and spindling devices, film indexers, photographic paper exposure equipment, photographic paper developing machines, densitometers, print inspection devices, photo print/negative cut assembly stations, film sleeve insertion machines, negative image producers, film coating equipment, photo transparency mounters, processor rack sanitizers, photo print embossers, photo print mounting presses, graphic slide generators, chemical mixing equipment

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line or directly between such production stations or buildings within the same plant;

- E) The use of machinery or equipment to place the tangible personal property to be sold into the container, package, or wrapping in which such property is normally sold to the ultimate consumer thereof.
- 4) By way of illustration and not limitation, the following activities will generally not be considered to be manufacturing:
 - A) The use of machinery or equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance, or improvement of real estate;
 - B) The use of machinery or equipment in research and development of new products or production techniques, machinery, or equipment;
 - C) The use of machinery or equipment to store, convey, handle or transport materials or parts or sub-assemblies prior to their entrance into the production cycle;
 - D) The use of machinery or equipment to store, convey, handle or transport finished articles of tangible personal property to be sold or leased after completion of the production cycle;
 - E) The use of machinery or equipment to transport work in process, or semifinished goods, between plants;
 - F) The use of machinery or equipment in managerial, sales, or other nonproduction, nonoperational activities including disposal of waste, scrap or residue, inventory control, production scheduling, work routing, purchasing, receiving, accounting, fiscal management, general communications, plant security, sales, marketing, product exhibition and promotion, or personnel recruitment, selection or training;
 - G) The use of machinery or equipment to prevent or fight fires or to protect employees, such as protective equipment face masks, helmets, gloves, coveralls, and goggles or for safety, accident protection or first aid even though such machinery or equipment may be required by law;

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- H) The use of machinery or equipment for general ventilation, heating, cooling, climate control or general illumination, not required by the manufacturing process;
- I) The use of machinery or equipment in the preparation of food and beverages by a retailer for retail sales, i.e., restaurants, vending machines, food service establishments, etc.
- 5) An item of machinery or equipment which initially is used primarily in manufacturing or assembling and having been so used for less than one-half of the useful life is converted to primarily nonexempt uses will become subject to tax at the time of the conversion. Such tax will be collected on such portion of the price of the machinery or equipment as was excluded from tax at the time the sale or purchase was made.
- e) Product Use:
 - 1) The statute requires that the product produced as a result of the manufacturing or assembling process be tangible personal property for sale or lease. Accordingly, a manufacturer or assembler who uses any significant portion of the output of his machinery or equipment, either for internal consumption or any other nonexempt use, or a lessor who leases otherwise exempt machinery and equipment to such a manufacturer or assembler, will not be eligible to claim the exemption on that machinery and equipment. No apportionment of production capacity between output for sale or lease and output for self-use will be permitted and no partial exemption for any item of machinery and equipment will be allowed.
 - 2) The production of articles of tangible personal property for sale, a portion of which is diverted by the manufacturer thereof to use as sales samples or as the subjects of quality control testing which renders the articles unfit for sale, will nevertheless be deemed to be production for sale, provided such diversion represents only a small portion of the production of the articles of tangible personal property or of the sale of those articles.
 - 3) Machinery and equipment used in the performance of a service, such as dry cleaning, is not used in the production of tangible personal property for sale and is thus taxable. However, a manufacturer or assembler who uses machinery and equipment to produce goods for sale or lease by himself

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43) A vendor who makes sales of machinery or equipment to a manufacturer or lessor of a manufacturer must collect Use Tax, and will owe Retailers' Occupation Tax, on that sale unless the purchaser certifies the exempt nature of the purchase to the vendor as set out above. The Summary Schedule, RR-602, must be submitted in lieu of taxes at the time the taxes are due.

4) The exemption allows proceeds or costs of exempt machinery and equipment sales and purchases to be excluded from the base to which the tax rate is to be applied according to the following schedule:

Sales-Made-During Calendar-Year:	Portion-of-Price-Which May-be-Excluded-from-Tax:
1979	31.25%
1980	31.25%
1981 to Aug-31-1981	56.25%
Sept-1-1981 to Dec-31-1982	21.25%
Jan-1-1983 to Dec-31-1983	56.25%
Jan-1-1984 to Dec-31-1984	81.25%
Jan-1-1985 and years subsequent	100%

2) For purposes of determining the portion of the proceeds or costs which may be excluded from tax, a sale of property will be deemed to be made as of the date of delivery of such property. If a single sale of property is made which calls for multiple deliveries unrelated to payments and a portion of the sold property is delivered when one fraction of the proceeds or costs is excludible and the remainder of the property is delivered when a different fraction of the proceeds or costs is excludible, the earliest date of delivery of any of the property will determine the portion of the proceeds or cost of the entire sale which may be excluded in computing the tax that is due on that entire sale. However, even when a contract provides for multiple deliveries, if a payment is closely related in time and quantity to the property delivered, the date of each delivery will determine the portion of the proceeds or

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f) or another, or to perform assembly or fabricating work for a customer who retains the manufacturer or assembler only for his services, will not be liable for tax on the machinery and equipment he uses as long as the goods produced either for himself or another are destined for sale or lease, rather than for use and consumption.

g) Sales to Lessors of Manufacturers:

1) For this exemption to apply, the purchaser need not himself employ the exempt machinery or equipment in manufacturing. If the purchaser leases that machinery or equipment to a lessee manufacturer who uses it in an exempt manner, the sale to the purchaser-lessee will be exempt from tax. A supplier may exclude such sales from his taxable gross receipts provided the purchaser-lessee provides to him a properly completed exemption certificate and the information contained herein would support an exemption if the sale were made directly to the lessee manufacturer.

2) Should a purchaser-lessee subsequently lease the machinery or equipment to a lessee who does not use it in a manner that would qualify directly for the exemption, the purchaser-lessee will become liable for the tax from which he was previously exempted.

8) Exemption Certificates:
1) The user of such machinery or equipment and tools shall prepare a certificate of exemption for each transaction stating facts establishing the exemption for that transaction and submit the certificate to the retailer. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit. The Department shall prescribe the form of the certificate. If the user has an active registration or resale number, that number may be given in lieu of the prescribed certificate.

2) If a manufacturer or lessor purchases at retail from a vendor who is not registered to collect Illinois Use Tax, the purchaser must prepare and retain in his files, the completed exemption certificate. The exemption certificate shall be available to the Department for inspection or audit.

3) Form RR-602, Summary Schedule, must be filed with the monthly Retailers' Occupation Tax returns to establish the amount of deductions for that month.

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~~cost which may be excluded in computing the tax that is due on that payment.~~

ih) Opinions and Rulings-

Informal ruling and opinion letters issued by the Department regarding the coverage and applicability of this exemption to specific devices will be maintained by the Department in Springfield. They will be available for public inspection and may be copied or reproduced at taxpayer's expense. Trade secrets or other confidential information in such letters will be deleted prior to release to public access files.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991.)

Section 130.335 Pollution Control Facilities

- a) Notwithstanding the fact that the sales may be at retail, sales of pollution control facilities are exempt from the Retailers' Occupation Tax. This exemption extends to and includes the purchase of pollution control facilities by a contractor who retransfers the facilities to his customer in fulfillment of a contract to furnish such pollution control facilities to, and install them for, his customer. The phrase "pollution control facilities" means any system, method, construction, device or appliance appurtenant thereto sold or used or intended for the primary purpose of eliminating, preventing, or reducing air and water pollution as the term "pollution" is defined in the Environmental Protection Act (Ill. Rev. Stat. ~~1981~~ 1989, ch. 111 1/2, pars. 1001 et seq.), or for the primary purpose of treating, pretreating, modifying or disposing of any potential solid, liquid or gaseous pollutant which if released without such treatment, pretreatment, modification or disposal might be harmful, detrimental or offensive to human, plant or animal life, or to property. This exemption includes not only the pollution control equipment itself, but also replacement parts therefor, but does not extend to chemicals used in any such equipment, to fuel used in operating any such equipment nor to any other tangible personal property which may be used in some way in connection with such equipment, but which is not ~~made a physical component~~ an integral part of the equipment itself. If the purchaser or his contractor-installer buys an item that could reasonably qualify for exemption as a pollution control facility for use as a pollution control facility, the purchaser or his contractor-installer should certify this intended use of the item to the seller in order to relieve the seller of the duty of collecting and remitting the tax on the sale, but the purchaser who is buying the item in question allegedly for his use as a pollution control facility will be held liable for the tax by the Department if it

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is found that such purchaser does not use the item as a pollution control facility.

b) Low Sulfur Dioxide Emission Coal-Fueled Devices

- 1) Notwithstanding the fact that the sales may be at retail, sales of low sulfur dioxide emission coal-fueled devices are exempt from the Retailers' Occupation Tax. This exemption extends to and includes the purchase of such a device, or materials to construct such a device which are physically incorporated into the device, by a contractor who retransfers the device to his customer in fulfillment of a contract to furnish such a device to, and install it for, his customer.
- 2) *Low sulfur dioxide emission coal-fueled devices means any device sold or used or intended for the purpose of burning, combusting or converting locally available coal in a manner which eliminates or significantly reduces the need for additional sulfur dioxide abatement that would otherwise be required under State or Federal air emission standards which will be determined by evaluating the output of sulfur dioxide from the device and consultation with the Pollution Control Board to determine if the device meets their standards and could be certified as a low sulfur dioxide emission device. With respect to coal gasification facilities, such devices include all machinery, equipment, structures and related apparatus including coal-feeding equipment designed to convert locally available coal into a low sulfur gaseous fuel and to manage all waste and by-product streams. (Ill. Rev. Stat. ~~1981~~, ch. 120, par. 440a-1 Section 1a-1 of the Act)*
- 3) The exemption includes only the device and replacement parts. It does not extend to chemicals, catalysts, additives or fuels used in the combustion or conversion process. For devices which are not a part of a coal gasification facility, the exemption will not apply to buildings in which the device may be located, nor to machinery and equipment which may receive, store or process coal prior to its burning, combustion or conversion, nor to machinery and equipment used to distribute coal products, steam or energy from the process or remove waste products resulting from the process. For devices which are a part of a coal gasification facility the exemption will include all machinery, equipment, structures and related apparatus including coal-feeding equipment and equipment to manage waste and by-product streams. A device will qualify for the exemption even if it serves an industrial, manufacturing or other purpose which confers an economic benefit on the purchaser or is used for other

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1) "Kits" means kits comprised of several parts which are ordered from a manufacturer, inventoried and sold by a retailer as a single item, and items, such as a pump, which are assembled by the retailer at the time of sale from components selected by the purchaser and which are sold as a unit. Kits will be treated as a single item for the purposes of the \$250 per individual item limitation.

b) Nonexempt Illustrations:

By way of illustration and not limitation, the following activities will not be considered oil field exploration, drilling, or use of production equipment:

- 1) The use of equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of real estate. Material, such as steel, concrete, rock and other building material, will not qualify for the exemption;
- 2) the use of equipment in general maintenance or repair work on exploration, drilling or production equipment;
- 3) the use of equipment in research and development for drilling or oil field production or exploration;
- 4) the use of equipment off the production lease to store, convey, handle or transport oil;
- 5) the use of equipment, trailers or structures in management, sales or other nonproduction, nonoperational activities including inventory control, production or drilling scheduling, purchasing, receiving, accounting, fiscal management, communications, security, marketing, product exhibition and promotion, personnel recruitment, selection or training;
- 6) the use of equipment to prevent or fight fires, protective equipment such as face masks, helmets, gloves, coveralls, goggles, gas masks or for safety or accident protection or first-aid, even though such equipment may be required by law;
- 7) the use of equipment for ventilation, heating or illumination not required by the exploration, drilling or production process.

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c) Sales to Lessors of Oil Field Exploration, Drilling and Production Equipment:

- 1) For the ~~reduction~~ exemption to apply, the purchaser need not, himself, employ the equipment in oil field exploration, drilling or production. If the purchaser leases that equipment to a lessee-explorer, driller or producer who uses it in a qualified manner, the sale to the purchaser-lessor will be eligible for the reduced rate of tax. A supplier may exclude such sales from his taxable gross receipts provided the purchaser-lessor provides to him a properly completed certificate and the information contained therein would support a ~~reduction~~ an exemption if the sale were made directly to the lessee-explorer or driller or producer.
- 2) Should a purchaser-lessor subsequently lease the equipment to a lessee who does not use it in a manner that would qualify for the reduction, the purchaser-lessor will become liable for the tax which he previously did not pay.

d) ~~Local-Tax:~~

~~Local taxes are imposed on oil field exploration, drilling and production equipment.~~

ed) Certificates of Qualified Use

- 1) Certificates must be executed by the purchaser at the time of purchase. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used for oil field exploration or oil field drilling or as oil field production equipment. Retailers may accept blanket certificates, but have the responsibility to obtain, and must maintain, all certificates as part of their books and records. An item of oil field production, oil field drilling or oil field exploration equipment, which is initially used in oil field production, oil field drilling or oil field exploration and having been so used for less than one-half of its useful life, if converted to nonqualified uses, will become subject to tax at the time of conversion. Such tax will be collected on the price of the equipment as was taxed at 0% or was exempt at the time the sale or lease was made.

- 2) ~~Retailers of oil field exploration, oil field drilling or oil field production equipment are required to file Schedule RR-602~~

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2) "Coal Exploration" means the search for coal. Exploration includes, but is not limited to, excavating and drilling to locate coal deposits.

3) "Mining" means the extraction of coal from the earth by underground and surface mining and includes the extraction of coal by the mine owner or operator or his nonpurchaser successors from the waste or residue of prior mining.

4) Off Highway Hauling" means carrying or transporting and would include transport of overburden; waste material, including gob from processing facility for disposal and coal from the coal seam to the processing facility by conveyors or unlicensed vehicles.

5) "Processing" means preparation activities performed directly on the coal which are necessary for converting coal into a finished product so that it is ready for sale. Processing includes, but is not limited to, sizing, crushing, drying and washing.

6) "Maintenance" means keeping coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment in a state of repair and efficiency.

7) "Reclamation" means conditioning areas affected by mining operations. Examples of reclamation activities include, but are not limited to, backfilling, grading, seeding and planting.

8) "Replacement Parts" means parts which are used to replace parts of qualifying equipment which require periodic replacement. To be considered a replacement part, the part must be purchased for the purpose of being installed and must, in fact, become a physical component part of coal exploration, mining, off highway hauling, processing, maintenance or reclamation equipment and must cost \$250.00 or more.

9) "Kits" means commercially-packaged sets of parts which are ordered from a manufacturer, inventoried, and sold by a retailer as a single item. A kit will be treated as a single item for purposes of the \$250.00 per item limitation. The \$250.00 per item limitation is also satisfied when an item to be used primarily in a qualifying activity is assembled by the retailer at the time of sale from components selected by the purchaser and which is sold as a unit if the unit, as sold, costs \$250.00 or more. An exempt example would be a "tire

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with-their-monthly-return-for-each-month-they-have-sales-of such-equipment:

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.350 Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

a) General. Notwithstanding the fact that the sales may be at retail,

the Retailers' Occupation Tax Act does not apply to sales of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment costing \$250.00 or more shall be subject to-Retailers'-Occupation-Tax-at-the-reduced-rate-of-0%. The reduced-rate-of-tax exemption also applies to individual replacement parts for coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment when the replacement part costs \$250.00 or more. Equipment quality for the exemption if the linear foot or similar measurement quality for the exemption if the cost of the total length sold in an individual transaction or sale exceeds \$250.00. The reduced-rate-of-tax exemption also applies to equipment and replacement parts costing \$250.00 or more purchased for lease if those items are used primarily (more than 50%) in the activities noted above. The reduced-rate-of-tax exemption does not apply to motor vehicles required to be registered pursuant to the Illinois Vehicle Code. (Ill. Rev. Stat. 1985 1989, ch. 95 1/2, par. 1-100 et seq.)

1) This ~~reduced~~ exemption applies only to equipment used primarily in coal exploration, mining, off highway hauling, processing, maintenance and reclamation. Use of the equipment in any other exploration, mining, off highway hauling, processing, maintenance or reclamation will not qualify for this ~~particular~~-~~reduction~~-~~of~~-~~tax~~-~~exemption~~. Excluded from this ~~reduced~~ exemption are motor vehicles required to be registered pursuant to the Illinois Vehicle Code. Special mobile equipment other than motor vehicles may qualify for the ~~reduced~~ exemption if it is used primarily in coal exploration, mining, off highway hauling, processing, maintenance or reclamation. This ~~reduced~~ exemption does not include supplies (such as chemicals, rust inhibitors, adhesives and explosives), coolants, lubricants, items of personal apparel (such as gloves, shoes, hats, helmets, coveralls, masks, mask air filters, belts, harnesses or holsters) or fuel of any type.

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assembly" comprised of the rim, tire, foam filling and valve stem.

b) Exempt Activities

By way of illustration and not limitation, the following activities will be considered to constitute coal exploration, mining, off highway hauling, processing or maintenance:

- 1) Coal is produced in a surface mining operation that begins with the clearing of surface obstacles and overburden from the land above the coal deposit to be mined, continues with the removal of waste material and with the extraction of the coal, continues with the transportation from the coal seam to the processing facility, continues further with the refilling and grading of the mined area with overburden and waste material from a subsequently mined area, continues further with the processing of the coal, and ends with the stockpiling of the coal to allow moisture to drain and evaporate from the washed coal. By way of illustration and not limitation, the following equipment is exempt:
 - A) Equipment used to drill holes for blasting material to dislodge the overburden and to transport the blasting material.
 - B) Equipment used to remove overburden and other waste materials from the pit to be mined.
 - C) Equipment used to modify the energy purchased for the surface mining process if the equipment is used to modify the energy for use on exempt equipment.
 - D) Pumps and hose used to remove water or to divert water from the active pit area.
 - E) Equipment used to load the overburden, waste material or coal to be transported to the processing facility into off highway haulage trucks or onto a conveyor system.
 - F) Unlicensed off highway haulage trucks or a conveyor system to transport overburden, waste material or coal to the processing facility.
 - G) Equipment used in grading, refilling and covering over a previously mined pit with the overburden removed from the next pit being mined.

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- H) Tangible personal property used in or for the purpose of temporarily storing raw coal before processing is exempt if the raw coal is ultimately processed for resale and is in fact resold.
 - I) Equipment used in a coal wash plant to clean the coal prior to sale to customers.
 - J) Equipment used to blend different grades of coal together so that the final product meets customer specifications regarding quality and sulfur content.
- 2) Coal is produced in an underground mining operation that begins with the boring of a shaft from the surface to the coal deposit to be mined, continues with the removal of waste material and the extraction of coal, continues further with the transportation from the coal seam to the processing facility, continues further with the installation of roof supports and the coating of walls with rock dust to prevent mine explosions and collapse, continues further with the processing of coal and disposal of waste material from the mine and processing facility, and ends with the stockpiling of coal to allow moisture to drain and evaporate from the washed coal. By way of illustration and not limitation, the following equipment is exempt:
 - A) Continuous miners used to bore the shaft, cut the coal and load it into shuttle cars.
 - B) Shuttle cars used to transport the coal from the continuous miner to the feeder-breaker at the end of a conveyor belt or other transportation system.
 - C) The feeder-breaker which breaks the large lumps of coal and feeds the coal onto the conveyor belt which carries the coal outside the mine where it is stockpiled or transported to the processing facility.
 - D) Equipment used to modify the energy purchased for the underground mining process if the equipment is used to modify the energy for use on exempt equipment.
 - E) Pumps and hose used to remove water from the underground mine.

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- 7) front-end loaders, cranes, equipment used to load coal onto trucks, railcars or barges for delivery to customers.
- d) Sales to Lessors of Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
 - 1) For the ~~reduction~~ exemption to apply, the purchaser need not, himself, employ the equipment in coal exploration, mining, off highway hauling, processing, maintenance or production. If the purchaser leases the equipment to a lessee who uses it primarily in a qualified manner, the sale to the purchaser-~~lessor~~ will be eligible for the ~~reduced rate of tax~~ exemption. A supplier may exclude such sales from his taxable gross receipts if the purchaser-lessor provides him with a properly completed certificate and the information contained therein would support a reduction if the sale were made directly to the lessee.
 - 2) Should a purchaser-lessor subsequently lease the equipment to a lessee who does not use it primarily in a way that would qualify for the reduction, the purchaser-lessor will become liable for the tax which he previously did not pay.
- e) ~~Local-Taxes~~
~~Local, Mass Transit, County Supplementary and County Water Commission Taxes (where applicable) are imposed on coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.~~
- fe) Purchaser Certification
 - 1) Certificates must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily for coal exploration, mining, off highway hauling, processing, maintenance or reclamation. Sellers may accept blanket certificates, but have the responsibility to obtain and keep all certificates as part of their books and records. If a retailer accepts the certificate and the purchaser does not, in fact, use the equipment in a qualifying manner, the purchaser will be liable to the Department for the tax. Equipment which is initially used primarily in a qualifying manner and, having been so used for less than one-half of its useful life, is converted to nonqualified uses, will become subject to tax at the time of conversion. Such tax will be collected on the portion of the

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- equipment price that was taxed at 0% or exempt at the time the sale or lease was made. Replacement parts purchased initially for use in a qualifying manner and used in a nonqualifying use will become subject to tax at the time of use. Such tax will be collected on the replacement part cost that was exempt or taxed at 0% at the time the sale or lease was made.
- 2) ~~Retailers of coal exploration, mining, off highway hauling, processing, maintenance or reclamation equipment are required to file Schedule RR-602 with their monthly return for each month they have sales of such coal related equipment.~~

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

SUBPART D: GROSS RECEIPTS

Section 130.401 Meaning of Gross Receipts

"Gross receipts" means all the consideration actually received by the seller, except traded-in tangible personal property.

a) Filing Returns on Gross Sales Basis

Deferred payments made by purchasers are not included in gross receipts until actually received by the seller, unless a seller keeps his books on a gross sales basis, rather than on a gross receipt basis. If a seller desires to file returns on a gross sales basis, he shall notify the Department, in writing, of his intention to change reporting methods. When a seller makes this change, it should use the "wash-out" procedure to reduce reporting problems when receipts on account are received in a month subsequent to the month of sale when a reporting change basis has been made.

EXAMPLE: Assume a seller wishes to make a change effective with the reporting month of August, 1990. Under the "wash-out" procedure, it should calculate the unpaid taxable accounts receivable on its books as of the end of the last business day (July 31, 1990) prior to the first of the month (August 1, 1990) change-over from the accrual to the receipts basis. The taxpayer should then consider all taxable receipts on account to be receipts on which the tax has already been paid (on a sales basis prior to the change-over) until such time as those receipts equal the total of the taxable accounts receivable that it had previously calculated on July 31, 1990 (the day prior to the change-over). Once that point is reached, all subsequent receipts, even those from sales prior to the change-over, should be reported as taxable receipts.

b) Returned Merchandise

Any seller may deduct from his gross receipts any refunds made by him during the preceding return period to purchasers, on account of tangible personal property returned to the seller, in case the seller had theretofore included the receipts from the sale of such tangible personal property in a return made by him, and had paid the tax imposed by the Retailers' Occupation Tax Act with respect to such receipts. However, if the seller collected the Use Tax on such a sale, he should refund such tax to his customer to whom he makes a refund of the selling price.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.405 How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser

a) "Gross receipts", on the basis of which Retailers' Occupation Tax liability must be computed, do not include charges which are added to prices on account of the seller's Illinois Retailers' Occupation Tax liability, or on account of the seller's liability under the Municipal Retailers' Occupation Tax Act or County Retailers' Occupation Tax Act for local Retailers' Occupation Taxes administered by the Department, or on account of the seller's duty to collect the tax imposed by the Use Tax Act.

b) If a retailer does not keep a detailed record for the return period of the Use Tax which he collects so as clearly to segregate this added charge from other receipts, it will at least be assumed that the Use Tax collected equals the Retailers' Occupation Tax payable on such transactions if the retailer collects the Use Tax in accordance with the bracket schedule prescribed by the Department in Subpart D of the Use Tax Regulations, (86 Ill. Adm. Code Part 150).

c) The retailer may eliminate the amount of Use Tax which he collects from the total receipts which he receives from taxable sales in arriving at his taxable receipts from such sales by subtracting the amount so collected from the purchaser as Use Tax, as shown by such retailer's books and records. He may also accomplish this result by subtracting, from the total receipts which he receives from taxable sales, the figure obtained by dividing such receipts by 104.10625 and multiplying the result by 4.0625.

d) To the extent to which such sales are also taxable for Home Rule Municipal Retailers' Occupation Tax purposes, ~~or Home Rule County Municipal Retailers' Occupation Tax purposes,~~

Retailers' Occupation Tax purposes or any other locally-imposed Retailers' Occupation Tax at a 1/4 of 1% rate (with an amount equivalent to the Municipal Retailers' Occupation Tax or County Retailers' Occupation Tax being passed on to purchasers by the seller as a separate item from the selling price) and the formula is used for determining how much may be subtracted from the total receipts which the seller receives from taxable sales in arriving at the taxable gross receipts from such sales, the amount to be subtracted on this account will be determined by dividing such total receipts by 104.1/2 1.065 and multiplying the result by .065 4-1/2 (4 6.25% for the Use Tax and 1/2 of 1/4% for the ~~Municipal or County~~ local Retailers' Occupation Tax.)

e)

To the extent to which such sales are also taxable for Home Rule Municipal Retailers' Occupation Tax purposes, ~~or Home Rule County Municipal Retailers' Occupation Tax purposes,~~ or any other locally-imposed Retailers' Occupation Tax at a 3/4 of 1% rate (with an amount equivalent to the Municipal Retailers' Occupation Tax or County Retailers' Occupation Tax being passed on to purchasers by the seller as a separate item from the selling price) and the formula is used for determining how much may be subtracted from the total receipts which the seller receives from taxable sales in arriving at the taxable gross receipts from such sales, the amount to be subtracted on this account will be determined by dividing such total receipts by 104-3/4 1.07 and multiplying the result by 4-3/4 .07 (4 6.25% for the Use Tax and 3/4 of 1% for the ~~Municipal or County~~ local Retailers' Occupation Tax).

f)

To the extent to which such sales are also taxable for Home Rule Municipal Retailers' Occupation Tax purposes, ~~or Home Rule County Municipal Retailers' Occupation Tax purposes,~~ or any other locally-imposed Retailers' Occupation Tax at a 1% rate (with an amount equivalent to the Municipal Retailers' Occupation Tax or County Retailers' Occupation Tax being passed on to purchasers by the seller as a separate item from the selling price) and the formula is used for determining how much may be subtracted from the total receipts which the seller receives from such sales, the amount to be subtracted on this account will be determined by dividing such total receipts by 105 1.0725 and multiplying the result by 5 .0725 (4 6.25% for the Use Tax and 1% for the ~~local Municipal or County~~ Retailers' Occupation Tax).

g)

The seller will not be entitled to any deduction from total receipts because of having collected tax or its equivalent from the purchaser if the seller, in collecting such tax or its equivalent, does not state

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it to the purchaser as a separate item from the selling price in accordance with procedures described in Section 150.1305 of the Use Tax Regulations (86 Ill. Adm. Code Part 150.1305), the failure to state the tax separately will create a rebuttable presumption that the tax was not collected. The seller will not be entitled to any deduction from total receipts because of having collected tax or its equivalent from the purchaser unless the seller can produce documentary evidence which shows that the tax or its equivalent was in fact collected.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.415 Transportation and Delivery Charges

- a) Transportation and delivery charges are considered to be freight, express, mail, truck or other carrier, conveyance or delivery expenses. These charges are also many times designated as shipping and handling charges.
- b) The answer to the question of whether or not a seller, in computing his Retailers' Occupation Tax liability, may deduct, from his gross receipts from sales of tangible personal property at retail, amounts charged by him to his customers on account of his payment of transportation or delivery charges in order to secure delivery of the property to such customers, or on account of his incurrence of expense in making such delivery himself, depends not upon the separate billing of such transportation or delivery charges or expense, but upon whether the transportation or delivery charges are included in the selling price of the property which is sold or whether the seller and the buyer contract separately for such transportation or delivery charges by not including such charges in such selling price.
- c) If such transportation or delivery charges are included in the selling price of the tangible personal property which is sold, the transportation or delivery expense is an element of cost to the seller within the meaning of Section 1 of the Retailers' Occupation Tax Act, and may not be deducted by the seller in computing his Retailers' Occupation Tax liability.
- d) On the other hand, where the seller and the buyer agree upon the transportation or delivery charges separately from the selling price of the tangible personal property which is sold, then the cost of the transportation or delivery service is not a part of the "selling price" of the tangible personal property which is sold, but instead is a service charge, separately contracted for, and need not be included in the figure upon which the seller computes his Retailers'

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Occupation Tax liability. Mail order delivery charges are deemed to be agreed upon separately from the selling price of the tangible personal property being sold so long as the mail order form requires a separate charge for delivery and so long as the charges designated as transportation or delivery or shipping and handling are actually reflective of the costs of such shipping, transportation or delivery. To the extent that such charges exceed the costs of shipping, transportation or delivery, the charges are subject to tax. The best evidence that transportation or delivery charges were agreed to separately and apart from the selling price, is a separate and distinct contract for transportation or delivery. However, documentation which demonstrates that the purchaser had the option of taking delivery of the property, at the seller's location, for the agreed purchase price, or having delivery made by the seller for the agreed purchase price, plus an ascertained or ascertainable delivery charge, will suffice.

e) Incoming Transportation Costs

Transportation or delivery charges paid by a seller in acquiring property for sale are merely costs of doing business to the seller and may not be deducted by such seller in computing his Retailers' Occupation Tax liability, even though he passes such costs on to his customers by quoting and billing such costs separately from the selling price of tangible personal property which he sells. The same is true of transportation or delivery charges paid by the seller in moving property to some point from which the property (when subsequently sold) will be delivered or shipped to the purchaser.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.425 Traded-In Property

- a) "Gross receipts" means the "selling price" or "amount of sale". "Selling price" or the "amount of sale" means the consideration for a sale valued in money whether received in money or otherwise, including cash, credits, property other than as hereinafter provided, and services, but not including the value of or credit given for traded-in tangible personal property where the item that is traded-in is of like kind and character as that which is being sold, and shall be determined without any deduction on account of the cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever. "Selling price" does not include charges that are added to prices by sellers on account of the seller's tax liability under the Retailers' Occupation Tax Act, or on account of the seller's duty to collect, from the purchaser, the tax that is imposed by the Use Tax Act, or on account of the seller's tax

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- b) After the seller has paid Retailers' Occupation Tax on the amount of such payment on the price, if the transaction is rescinded and the seller refunds such payment to the purchaser, the seller is in the same position as when he makes a refund on account of the return of merchandise after having paid Retailers' Occupation Tax on the amount so refunded and so may take a deduction on his return for the return period in which such a refund is made.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.435 State and Local Taxes Other Than Retailers' Occupation Tax

- a) Illinois Motor Fuel Tax and Cigarette Tax
- 1) In calculating taxable receipts, sellers of motor fuel for use or consumption may deduct the Illinois Motor Fuel Tax collected by such sellers with respect to such sales, because the Illinois Motor Fuel Tax is on the consumer and is not considered to be a part of the "selling price" of the motor fuel.
 - 2) The amount of the retail selling price of cigarettes represented by the Cigarette Tax or Cigarette Use Tax may ~~similarly~~ not be deducted from the seller's gross receipts from the sale in computing Retailers' Occupation Tax liability.
 - 3) ~~If a home rule jurisdiction, such as Chicago, imposes a Cigarette Tax whose legal incidence clearly falls on consumers, with sellers being merely collectors of such tax, the amount of such local Cigarette Tax likewise is not subject to Retailers' Occupation Tax. If any local government, pursuant to authorization from the Illinois General Assembly to do so, should impose a Cigarette Tax in the nature of an occupation tax, the amount collected by retailers because of that kind of local Cigarette Tax is subject to Retailers' Occupation Tax.~~

- b) Illinois and Cook County Liquor Gallonage Taxes

No amounts shall be deducted from gross receipts on account of the taxes imposed by ~~"An Act relating to alcoholic liquors"~~ The Liquor Control Act of 1934 in computing Retailers' Occupation Tax liability on retail sales of alcoholic beverages. That is true because the legal incidence of these taxes is on the manufacturer or importing distributor and not on the consumer. The retailer does not act, in any legal sense, as a collector of these taxes even though he shifts the economic burden of them to the consumer. Since the legal incidence of the Cook County Liquor Gallonage Tax is on the

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consumer, with the seller acting merely as a collector of the tax for the county, amounts collected because of the Cook County Liquor Tax are not considered to be a part of the liquor retailer's receipts that are subject to Retailers' Occupation Tax.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.440 Penalties

The retailer should not collect tax on amounts as to which he is acting merely as a tax collector, such as the Cook County Liquor Gallonage Tax, and the Illinois Motor Fuel Tax Act (Ill. Rev. Stat. 1989, ch. 120, pars. 417 et seq.) and 86 Ill. Adm. Code 500 and the State and Chicago cigarette taxes. If the retailer does erroneously collect tax on any such amounts, he must refund the erroneously collected tax to the purchaser or else remit such erroneously collected tax to the Department. He may not retain it. Also, if the retailer knowingly collects tax from customers on receipts which are not subject to Retailers' Occupation Tax, he can be subjected to prosecution for a criminal violation.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

SUBPART E: RETURNS

Section 130.501 Monthly Tax Returns--When Due--Contents

- a) Except as provided in Sections 130.502, 130.510, and ~~except as provided in Section 130.2045 of this Part entitled "Retailers' on Premises of Illinois State Fair"~~, on or before the last day of each calendar month, every person engaged in the business of selling tangible personal property at retail in this State during the preceding calendar month shall file a return with the Department for such preceding month, stating the name of the seller; his residence address and the address of his principal place of business, and the address of the principal place of business (if that is a different address) from which he engaged in the business of selling tangible personal property at retail in this State.
- b) In addition, the return shall disclose the following:
- 1) Total Receipts for the Month from Sales of Tangible Personal Property and Services. Real estate builders and construction contractors, who are also retailers, and who assume the responsibility for accounting for the tax on building materials which they purchase, must include, in total gross receipts ~~and in net receipts (Items 1 and 3)~~, not only their receipts from "over-the-counter" resales of such materials, but also their cost

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society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age and older (see Section 130.2005 of this Part);

FI) receipts from sales of any kind to a governmental body (see Section 130.2080 of this Part);

FJ) receipts from nontaxable sales of service;

GK) any other deduction allowed by law, such as receipts from sales of newspapers or magazines (see Section 130.2105 of this Part); receipts from isolated or occasional sales (see Subpart A of this Part); Federal taxes that are imposed at the level of the retail sale, but not Federal excise taxes on manufacturers, etc. (see Section 130.445 of this Part), etc;

HL) total of all deductions allowed by law.

Total Taxable Receipts from Taxable Sales, Including Amounts Collected from Purchasers in the Form of Use Tax or Passed on Because of the Retailers' Occupation Tax, Municipal Retailers' Occupation Tax or County Retailers' Occupation Tax (see Section 130.405 of this Part);

A) Deduction for amount collected from purchasers in the form of Use Tax or Passed on Because of Retailers' Occupation Tax, Municipal Retailers' Occupation Tax or County Retailers' Occupation Tax (see Section 130.405 of this Part);

B) balance remaining after subtracting Item 3A from Item 3;

4) The Amount of Tax Due

A) As to the State Retailers' Occupation Tax, deduct 2% thereof as an allowance to reimburse the taxpayer for the expenses incurred in keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on requests in the amount of 1.75% of tax due may be subtracted from the amount of tax due. The minimum discount, over the entire period of any given calendar year, for any single

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prices of such materials which they convert into real estate (See Section 130.2075 of this Part). This may be accomplished in the case of a construction contractor by including his receipts from construction contracts in Item 1 total receipts and by deducting such receipts in Item 2 from total receipts only to the extent to which such receipts exceed the cost price to the contractor of the tangible personal property which he incorporates into real estate as a construction contractor.

2) Deductions Allowed by Law

The taxpayer should include in his total receipts, but should deduct before computing the amount of tax:

A) taxes collected from sales of the following:

i) general merchandise retail sales,

ii) general merchandise service sales,

iii) food, drugs and medical appliances retail sales,

iv) food, drugs and medical appliances service sales.

AB) receipts from sales of tangible personal property for purposes of resale in any form as tangible personal property (see Subparts B and N of this Part);

BC) receipts from sales which are within the protection of the Commerce Clause of the Constitution of the United States (see Subpart F of this Part);

CD) cash refunds for returned merchandise (see Section 130.401 of this Part);

E) receipts from the sales of newspapers and magazines (see Section 130.2105 of this Part);

F) State motor fuel taxes collected;

G) the exempt percentage of the receipts from sales of gasohol (see Section 130.320 of this Part);

BH) receipts from sales of any kind to any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes or any not-for-profit corporation.

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taxpayer (if the taxpayer incurs that much tax liability) shall be \$5.00 for such calendar year. ~~†~~This allowance is available when the tax is remitted with a return that is filed when due under the Act, but is not available in any case in which the tax is paid late (with or without a return, and whether formally assessed by the Department or not); ~~‡~~In the case of retailers who report and pay the tax on a transaction by transaction basis, such discount shall be taken with each such tax remittance instead of when such retailer files his periodic return;

B) ~~b~~Balance of ~~t~~Tax ~~d~~Due.

i) The return should also show the amount of penalty (if any) that is due, the total of the tax and penalty due, and such other reasonable information as the Department may require.

ii) If a total amount of less than \$1 is payable, refundable or creditable, such amount shall be disregarded if it is less than 50 cents and shall be increased to \$1 if it is 50 cents or more. Any amount which is required to be shown or reported on any return or other document under this Act shall, if such amount is not a whole-dollar amount, be increased to the nearest whole-dollar amount in any case where the fractional part of a dollar is 50 cents or more, and decreased to the nearest whole-dollar amount where the fractional part of a dollar is less than 50 cents (Section 3 of the Act).

iii) The Department may require returns to be filed on a quarterly basis. If so required, a return for each calendar quarter shall be filed on or before the last day of the calendar month following the end of such calendar quarter. The taxpayer shall also file a return with the Department for each of the first two months of each calendar quarter, on or before the last day of the following calendar month, stating:

the name of the seller;

the address of the principal place of business from which he engages in the business of selling tangible personal property at retail in this State;

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the total amount of taxable receipts received by him during the preceding calendar month from sales of tangible personal property by him during such preceding calendar month, including receipts from charge and time sales, but less all deductions allowed by law;

the amount of credit provided in Section 2d of this Act;

the amount of tax due;

the amount of penalty due, if any; and

such other reasonable information as the Department may require. (See Section 3 of the Act)

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.502 Quarterly Tax Returns

a) If the retailer is otherwise required to file a monthly return and if the retailer's average monthly tax liability to the Department does not exceed \$200.00, the Department may authorize his returns to be filed on a quarter-annual basis, with the return for January, February and March of a given year being due by April 30 of such year; with the return for April, May and June of a given year being due by July 31 of such year; with the return for July, August and September of a given year being due by October 31 of such year, and with the return for October, November and December of a given year being due by January 31 of the following year.

b) The decision to permit quarterly filing will be based on the taxpayer's average monthly liability during the first year of registration. All taxpayers are required to file monthly returns unless authorized or required to file on a quarterly or annual basis.

c) Such quarterly returns, as to form and substance, shall be subject to the same requirements as monthly returns.

(Source: Added at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.510 Annual Tax Returns

a) If the retailer's average monthly tax liability to the Department does not exceed ~~\$20.00~~ \$50.00, the Department may authorize his returns

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~~by a taxpayer with the Department of an amount of money not exceeding the average monthly tax liability of the taxpayer to the Department for the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability in such 4 quarter period).~~

- e) ~~All such deposits shall be credited against the taxpayer's liabilities under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act, and the Service Use Tax Act.~~
- db) ~~If the taxpayer's average monthly tax liability to the Department under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, the Municipal Retailers' Occupation Tax Act, the Municipal Service Occupation Tax Act, the County Retailers' Occupation Tax Act and the County Service Occupation Tax Act was \$25,000 \$10,000 or more during the preceding 4 complete calendar quarters (effective November 1, 1976), or exceeded \$10,000 if such 4 quarter period ended on or after June 30, 1977, he shall file a return with the Department each month by the end of the month next following the month during which such tax liability is incurred and shall make payments to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is incurred in an amount equal to 1/4 of the average monthly liability of the taxpayer to the Department for the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability in such 4 quarter period). Each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year or 100% of the taxpayer's actual liability for the quarter monthly reporting period. The amount of such payments shall be credited against the final tax liability of the taxpayer's return for that month. If any such payment is not paid at the time required herein, then the taxpayer's 2%, 2.1% or 1.75% vendor's' discount shall be reduced by 2%, 2.1% or 1.75% of the difference between the final minimum amount due with the tax return for the month (prior to any payments or credits) and the amount actually and timely paid, except that the 2% vendor's discount shall not be reduced for any payment timely made which equals or exceeds 1/4 of the final tax due properly shown on the return nor if the taxpayer has made timely payments to the Department in an amount equal to 1/4 of the average monthly liability of the taxpayer as provided for herein. The Department will make appropriate, corresponding payment and filing dates for taxpayers who are authorized by the Department to file returns on other than a monthly basis as a payment and the amount of such quarter monthly payment actually and timely paid, and the taxpayer shall be liable for penalties and interest on such~~

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difference except insofar as the taxpayer has previously made payments for that month to the Department in excess of the minimum payments previously due as provided in this Section.

- c) Without regard to whether a taxpayer is required to make quarter monthly payments as specified above, any taxpayer who is required by Section 2d of this Act to collect and remit prepaid taxes and has collected prepaid taxes which average in excess of \$25,000 per month during the preceding 2 complete calendar quarters, shall file a return with the Department as required by Section 2f and shall make payments to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is incurred. If the month during which such tax liability is incurred begins on or after January 1, 1987, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 26.25% of the taxpayer's liability for the same calendar month of the preceding year. The amount of such quarter monthly payments shall be credited against the final tax liability of the taxpayer's return for that month filed under this Section or Section 2f, as the case may be. Once applicable, the requirement of the making of quarter monthly payments to the Department pursuant to this paragraph shall continue until such taxpayer's average monthly prepaid tax collections during the preceding 2 complete calendar quarters is \$25,000 or less. If any such quarter monthly payment is not paid at the time or in the amount required, the taxpayer shall be liable for penalties and interest on such difference, except insofar as the taxpayer has previously made payments for that month in excess of the minimum payments previously due. (Section 3 of the Act)
- ed) If any such payment or deposit provided for herein exceeds the taxpayer's present and probable future liabilities under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act and the Service Use Tax Act, the Department shall issue to the taxpayer a credit memorandum, which may be submitted by the taxpayer to the Department in payment of tax liability subsequently to be remitted by the taxpayer to the Department or be assigned by the taxpayer to a similar taxpayer under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act or the Service Use Tax Act.
- fe) Any deposit previously made by a taxpayer who is required to make quarter monthly payments shall be applied against the taxpayer's liability to the Department under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act or the Service Use Tax Act for the month preceding the first month in which the taxpayer is required to make such quarter monthly payments. If the deposit exceeds that liability, the Department shall issue the taxpayer a credit memorandum for the excess.

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§f) For the purposes of this Regulation Section, the phrase "preceding 4 complete calendar quarters" means the preceding 4 complete calendar quarters for which returns would have been filed or should have been filed for the last month of the 4 quarter period since, until then, the making of the required computations for the 4 quarter period would be impossible. For example, the preceding 4 complete calendar quarters with reference to a November 1, 1976, date would actually have ended June 30, 1976, since most returns for the last month of that 4 quarter period would not have to have been filed until July 31, 1976, and the preceding 4 complete calendar quarters with reference to a July 1, 1977, date would actually end March 31, 1977, since most returns for the last month of that 4 quarter period would not have to be filed until April 30, 1977. The calendar quarters are January through March, April through June, July through September and October through December.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.540 Returns on a Transaction by Transaction Basis

a) Who Must File Transaction Reporting Returns:
 In addition, with respect to motor vehicles and aircraft (and implements of husbandry or special mobile equipment for which the purchaser intends to apply for an optional title), every retailer selling this kind of tangible personal property in Illinois shall file, with the Department, upon a form prescribed and supplied by the Department, a separate return for each such item of tangible personal property which the retailer sells.

b) Function And Contents Of Transaction Reporting Returns:
 1) The transaction reporting return prescribed and supplied to retailers by the Department not only shall serve as such return, but also may serve as the dealer's invoice to the purchaser. Such forms will be numbered. The Department will keep a record of all of these forms which it supplies to a given retailer, and he is responsible for accounting to the Department for all such forms. If a transaction reporting return form should be spoiled, the retailer should mark it "voided" and send it back to the Department. Transaction reporting returns are not transferable by one retailer to another, but must be filed with or otherwise accounted for to the Department by the retailer to whom the particular forms are issued by the Department.

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2) Such transaction reporting return must show the name and address of the seller; the name and address of the purchaser; the amount of the selling price including the amount allowed by the retailer for traded-in property, if any; the amount allowed by the retailer for the traded-in tangible personal property, if any; the balance payable after deducting such trade-in allowance from the total selling price; the amount of tax due from the retailer with respect to such transaction; the amount of Use Tax collected from the purchaser by the retailer on such transaction (or satisfactory evidence that such tax is not due in that particular instance, if that is claimed to be the fact); the place and date of the sale; a sufficient identification of the property sold, and such other information as the Department may reasonably require.

c) Transaction Reporting Returns, When Due, Transaction Reporting Returns in Lieu of Monthly Returns:

1) Such transaction reporting return shall be filed not later than 30 days after the date of delivery of the item that is being sold, but may be filed by the retailer at any time sooner than that if he chooses to do so.

2) If a retailer's sales of tangible personal property are limited to sales of motor vehicles or aircraft, or both, so that all of his Retailers' Occupation Tax liability is required to be reported, and is reported, on such transaction reporting returns, and such retailer is not otherwise required to file monthly returns, such retailer need not file monthly returns.

3) If a retailer of motor vehicles or aircraft, or both, need not file a monthly return, such retailer shall be required to file returns on an annual basis.

d) Transmittal Of Transaction Reporting Return By Way Of Tiding Or Registering Agency:

The transaction reporting return and tax remittance or proof of exemption may be transmitted to the Department by way of the State agency with which, or State officer with whom, the tangible personal property must be titled or registered if the Department and such agency or State officer determine that this procedure will expedite the processing of applications for title or registration.

e) Submission Of Tax Or Proof Of Exemption With Transaction Reporting Returns--Issuance Of Use Tax Receipt Or Exemption Determination By Department of Revenue:

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With each such transaction reporting return, the retailer shall remit the proper amount of tax due (or shall submit satisfactory evidence that the sale is not taxable if that is the case), to the Department or its agents, whereupon the Department shall issue, in the purchaser's name, a Use Tax receipt (or a certificate of exemption if the Department is satisfied that the particular sale is tax exempt) which such purchaser may submit to the agency with which, or State officer with whom, he must title or register the tangible personal property that is involved in support of such purchaser's application for an Illinois certificate or other evidence of title or registration to such tangible personal property.

f) Issuance of Title or Registration Where Retailer Fails Or Refuses To Remit Tax Collected By Retailer From User:

No retailer's failure or refusal to remit tax hereunder shall preclude a user, who has paid the proper tax to the retailer, from obtaining his certificate of title or other evidence of title or registration upon satisfying the Department that such user has paid the proper tax (if tax is due) to the retailer.

g) Direct Payment Of Tax By User To Department On Intrastate Purchase Under Certain Circumstances:

If the user who would otherwise pay tax to the retailer wants the transaction reporting return filed and the payment of tax or proof of exemption made to the Department before the retailer is willing to take these actions and such user has not paid the tax to the retailer, such user may certify to the fact of such delay by the retailer and may (upon the Department being satisfied of the truth of such certification) transmit the information required by the transaction reporting return and the remittance for tax or proof of exemption directly to the Department and obtain his tax receipt or exemption determination, in which event the transaction reporting return and tax remittance (if a tax payment was required) shall be credited by the Department to the proper retailer's account with the Department, but without the 2% 1.75% discount being allowed. When the user pays the tax directly to the Department as aforesaid, he shall pay the tax in the same amount and in the same form in which it would be remitted if the tax had been remitted to the Department by the retailer.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

SUBPART F: INTERSTATE COMMERCE

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Section 130.605 Sales of Property Originating in Illinois

a) Where tangible personal property is located in this State at the time of its sale (or is subsequently produced in Illinois), and then delivered in Illinois to the purchaser, the seller is taxable if the sale is at retail.

1) The sale is not deemed to be in interstate commerce if the purchaser or his representative receives the physical possession of such property in this State.

2) This is so notwithstanding the fact that the purchaser may, after receiving physical possession of the property in this State, transport or send the property out of the State for use outside the State or for use in the conduct of interstate commerce.

3) The place at which the contract of sale or contract to sell is negotiated and executed and the place at which title to the property passes to the purchaser are immaterial. The place at which the purchaser resides is also immaterial. It likewise makes no difference that the purchaser is a carrier when that happens to be the case.

4) There are two exceptions to the rule that the sale is not deemed to be a sale in interstate commerce if the purchaser or his representative receives physical possession of the property in Illinois.

A) Effective July 23, 1971, the tax is not imposed upon the sale of a motor vehicle in this State to a nonresident even though such motor vehicle is delivered to such nonresident in this State, if such motor vehicle is not to be titled in this State, and if a driveaway decal permit is issued to such motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his home state. The issuance of the driveaway decal permit shall be prima facie evidence that such motor vehicle will not be titled in this State.

B) ~~Effective September 17, 1992, the seller does not incur Retailers' Occupation Tax liability with respect to~~ The seller does not incur Retailers' Occupation Tax liability with respect to receipts the proceeds from the sale of an item of tangible personal property to a common carrier by rail that

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- d) The application to register must be made on a form prescribed and furnished by the Department for that purpose. Upon request therefor, made to the ~~Taxpayers' Service Section, Retailers' Occupation Tax Division,~~ Department of Revenue, Springfield, an application form will be furnished. Each such application shall be signed and verified. The application shall contain an acceptance of responsibility by the person or persons who will be responsible for filing returns and payment of the taxes due under this Act.
- 1e) ~~Special Requirements Pertaining to Vending Machines:~~
- If the applicant will sell tangible personal property at retail through vending machines, his application to register shall indicate the number of vending machines to be so operated; and thereafter, he shall notify the Department by January 31 of the number of vending machines which such person was using in his business of selling tangible personal property at retail on the preceding December 31.
- 2f) ~~Posting Bond Or Other Security:~~
- 1) Every applicant for a certificate of registration shall, within 30 days after he commences to engage in the business of selling tangible personal property at retail, furnish a bond from a surety company authorized to do business in the State of Illinois, or a bond signed by 2 personal sureties who have filed, with the Department, sworn statements disclosing net assets equal to at least 3 times the amount of the bond to be required of such applicant, or a bond secured by an assignment of a bank account or certificate of deposit, stocks or bonds, conditioned upon the applicant paying to the State of Illinois all moneys becoming due under the Retailers' Occupation Tax Act and under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the applicant under the Retailers' Occupation Tax Act will permit the applicant to engage in business without registering separately under such other law, ordinance or resolution.
- 32) ~~Maximum Amount of Bond or Other Security:~~
- A) The Department shall fix the amount of such security in each case, taking into consideration the amount of money expected to become due from the applicant under the Retailers' Occupation Tax Act and under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the applicant under the Retailers'

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- Occupation Tax Act will permit the applicant to engage in business without registering separately under such other law, ordinance or resolution. The amount of security required by the Department shall be such as, in its opinion, will protect the State of Illinois against failure to pay the amount which may become due from the applicant under the Retailers' Occupation Tax Act and under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the applicant under the Retailers' Occupation Tax Act will permit the applicant to engage in business without registering separately under such other law, ordinance or resolution, but the amount of the security required by the Department shall not exceed three times the amount of the applicant's average monthly tax liability, or \$50,000.00, whichever amount is lower.
- B) No certificate of registration under the Retailers' Occupation Tax Act shall be issued by the Department until the applicant provides the Department with satisfactory security as herein provided for.
- 53) ~~Exception From Security Requirements For Prior Continuance Compliance Taxpayers:~~
- Any taxpayer who has, as verified by the Department, faithfully and continuously complied with the condition of his bond or other security under the provisions of the Act for a period of 3 consecutive years shall be considered to be a prior Continuous Compliance taxpayer. Every Prior Continuous Compliance taxpayer shall be exempt from all requirements under the Act concerning the furnishing of security as a condition precedent to his being authorized to engage in the business of selling tangible personal property at retail in this State. This exemption shall continue for each such taxpayer until such time as he may be determined by the Department to be delinquent in the filing of any returns, or is determined by the Department (either through the Department's issuance of a final assessment which has become final under the Act, or by the taxpayer's filing of a return which admits tax that is not paid to be due) to be delinquent or deficient in the paying of any tax under the Retailers' Occupation Tax Act or under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the registrant under the Retailers' Occupation Tax Act will permit the registrant to engage in

business without registering separately under such other law, ordinance or resolution, at which time that taxpayer shall become subject to all the financial responsibility requirements of the Act and, as a condition of being allowed to continue to engage in the business of selling tangible personal property at retail, shall be required to post bond or other acceptable security with the Department covering liability which such taxpayer may thereafter incur. Any taxpayer who fails to pay an admitted or established liability under the Act may also be required to post bond or other acceptable security with this Department guaranteeing the payment of such admitted or established liability.

4g) Issuance of Certificate of Registration:

Upon receipt of the application for certificate of registration in proper form, and upon approval by the Department of the security furnished by the applicant, the Department shall issue to such applicant a certificate of registration which shall permit the person to whom it is issued to engage in the business of selling tangible personal property at retail in this State, provided that the applicant is not in default to the State of Illinois for moneys due under the Retailers' Occupation Tax Act or under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration is issued under the Retailers' Occupation Tax Act would authorize the holder to do business without registering separately under such other law, ordinance or resolution. No certificate of registration shall be issued to any person who is in default to the State of Illinois for moneys due under the Retailers' Occupation Tax Act or under any other State tax law or municipal or county tax ordinance or resolution which the certificate of registration that is issued to the applicant under the Retailers' Occupation Tax Act will permit the applicant to engage in business without registering separately under such other law, ordinance or resolution.

h)

No certificate of registration issued to a taxpayer who files returns required by this Act on a monthly basis shall be valid after the expiration of 5 years from the date of its issuance or last renewal. The expiration date of a sub-certificate of registration shall be that of the certificate of registration to which the sub-certificate relates. A certificate of registration shall be automatically renewed, subject to revocation as provided by this Act, for an additional 5 years from the date of its expiration unless otherwise notified by the Department. A certificate of registration issued under this Act more than 5 years before the effective date of this amendatory Act of 1989 shall expire and be subject to the renewal provisions of this section on the next anniversary of the date of issuance of such certificate which occurs more

than 6 months after the effective date of this amendatory Act of 1989. A certificate of registration issued less than 5 years before the effective date of this amendatory Act of 1989 shall expire and be subject to the renewal provisions of this section on the 5th anniversary of the issuance of the certificate.

i)

Where a taxpayer to whom a certificate of registration is issued under this Act is in default to the State of Illinois for moneys due under this Act or any other State tax law or municipal or county ordinance administered or enforced by the Department, the Department shall, not less than 120 days before the expiration of such certificate of registration, give notice to the taxpayer to whom the certificate was issued, of the amount of tax, penalty and interest due and owing from the taxpayer, and that the certificate of registration shall not be automatically renewed upon its expiration date unless the taxpayer, on or before the date of expiration, has paid the defaulted amount in full.

j)

The Department may, in its discretion, approve renewal by an applicant who is in default if, at the time of application for renewal, the applicant pays to the Department such percentage of the defaulted amount as may be determined by the Department and agrees in writing to waive all limitations upon the Department for collection of the remaining defaulted amount to the Department over a period not to exceed 5 years from the date of renewal of the certificate; however, no renewal application submitted by an applicant who is in default shall be approved if the immediately preceding renewal by the applicant was conditioned upon the installment payment agreement described in this section. The payment agreement herein provided for shall be in addition to, and not in lieu of, the security required by this section of a taxpayer who is no longer considered a continuous compliance taxpayer. The execution of the payment agreement as provided in this Act shall not toll the accrual of interest at the statutory rate. (Section 2a of the Act)

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

SUBPART I: PENALTIES AND INTEREST

Section 130.901 Civil Penalties

The Retailers' Occupation Tax Act provides the following penalties for violations of the Act or of any Regulation of the Department issued pursuant thereto:

a) Filing an Incorrect Return

"If the tax computed upon the basis of the gross receipts as fixed by the Department is greater than the amount of tax due under the return or returns as filed, the Department shall (or if the tax or any part thereof

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that is admitted to be due by a return or returns, whether filed on time or not, is not paid, the Department may) issue the taxpayer a notice of tax liability for the amount of tax claimed by the Department to be due, together with a penalty of 10% thereof: Provided, that if the incorrectness of any return or returns as determined by the Department is due to fraud, said penalty shall be 30% of the tax due" (~~Ill. Rev. Stat. 1987, ch. 120, par. 443~~ Section 4 of the Act). The above-quoted penalties apply on or after January 1, 1988.

b) Failure to File Return When Required, but Payment Prior to Notice of Tax Liability

"In case any person engaged in the business of selling tangible personal property at retail fails to file a return when and as herein required, but thereafter, prior to the Department's issuance of a notice of tax liability under this section, files a return and pays the tax, he shall also pay a penalty of 10% of the amount of the tax." (~~Ill. Rev. Stat. 1987, ch. 120, par. 444~~ Section 5 of the Act)

1) The above-quoted penalty applies January 1, 1988.

A) EXAMPLE: The taxpayer's return for November, 1987, is required to be filed on or before December 31, 1987. The taxpayer files the return on January 10, 1988. Because the return is filed late in January, 1988, it is subject to the 10% penalty rate that went into effect January 1, 1988.

B) EXAMPLE: The taxpayer's return for October, 1987, is required to be filed on or before November 30, 1987. The taxpayer files the return on December 12, 1987. Because the return is filed late during December, 1987, it is subject to the 7.5% penalty rate that was in effect during December, 1987.

2) As to tax liability incurred before November 1, 1987, but on or after December 1, 1984, the penalty in this situation is 7.5%.

c) Filing Return at Required Time but Failure to Pay Tax

"In case any person engaged in the business of selling tangible personal property at retail files the return at the time required by the Act but fails to pay the tax, or any part thereof, when due, a penalty of 10% of the amount of the tax unpaid when due shall be added thereto." (~~Ill. Rev. Stat. 1987, ch. 120, par. 444~~ Section 5 of the Act)

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- 1) The above quoted penalty applies on or after January 1, 1988.
- 2) As to tax liability incurred before ~~November 1, 1987~~ January 1, 1988, but on or after December 1, 1984, the penalty in this situation is 7.5%.

d) Filing Late Return Without Payment of Entire Tax

"In case any person engaged in the business of selling tangible personal property at retail fails to file a return when and as herein required, but thereafter, prior to the Department's issuance of a notice of tax liability under this section, files a return but fails to pay the entire tax, a penalty of 10% of the full amount of tax shown by such return shall be added thereto." (~~Ill. Rev. Stat. 1987, ch. 120, par. 444~~ Section 5 of the Act)

- 1) The above quoted penalty applies on or after January 1, 1988.
- 2) As to tax liability incurred before November 1, 1987 January 1, 1988, but on or after December 1, 1984, the penalty in this situation is 7.5%.

e) Failure to File Return When Required, and Failure to Pay Prior to Notice by Department

"In case any person engaged in the business of selling tangible personal property at retail fails to file a return, the Department shall determine the amount of tax due from him according to its best judgment and information, which amount so fixed by the Department shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown in such determination....the Department shall issue the taxpayer a notice of tax liability for the amount of tax claimed by the Department to be due, together with a penalty of 30% thereof." (~~Ill. Rev. Stat. 1987, ch. 120, par. 444~~ Section 5 of the Act)

- 1) The above-quoted penalty applies to tax liability incurred on or after December 1, 1984.
- 2) As to tax liability incurred before December 1, 1984, but after July 1, 1965, the penalty in this situation is 20%.

f) Over-Collection of Tax, or Collection of Tax on Nontaxable Receipts

"If any a seller collects an amount (however designated) which that purports to reimburse sueh the seller for Retailers' Occupation Tax liability measured by receipts which that are not subject to Retailers' Occupation Tax, or if any a seller, in collecting an amount (however designated) which that purports to reimburse sueh the seller for Retailers' Occupation Tax

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~~SUCH BUSINESS AFTER THE TAXPAYER'S CERTIFICATE OR SUB-CERTIFICATE OF REGISTRATION HAS BEEN REVOKED BY THE DEPARTMENT, OR THE VIOLATION OF ANY OTHER PROVISION OF SECTION 2A OF THE RETAILERS' OCCUPATION TAX RELATING TO CERTIFICATES OF REGISTRATION. EACH DAY ANY SUCH PERSON IS ENGAGED IN BUSINESS IN VIOLATION OF SECTION 2A, OR AFTER HIS CERTIFICATE OF REGISTRATION UNDER THIS ACT HAS BEEN REVOKED, CONSTITUTES A SEPARATE OFFENSE;~~

~~2) FAILURE TO KEEP BOOKS AND RECORDS AS REQUIRED BY THE ACT;~~

~~3) OBTAINING A REGISTRATION NUMBER OR RESALE NUMBER FROM THE DEPARTMENT THROUGH MISREPRESENTATION, OR THE MAKING OF A REPRESENTATION BY A PURCHASER TO A SELLER THAT SUCH PURCHASER HAS A REGISTRATION NUMBER OR A RESALE NUMBER FROM THE DEPARTMENT WHEN HE KNOWS THAT HE DOES NOT, OR USING HIS REGISTRATION NUMBER OR RESALE NUMBER FROM THE DEPARTMENT TO MAKE A SELLER BELIEVE THAT THE PURCHASER IS BUYING TANGIBLE PERSONAL PROPERTY FOR RESALE WHEN SUCH PURCHASER IN FACT KNOWS THAT THIS IS NOT THE CASE;~~

~~4) THE COLLECTION OR ATTEMPTED COLLECTION BY THE SELLER OF AN AMOUNT (HOWEVER DESIGNATED WHICH PURPORTS TO REIMBURSE SUCH SELLER FOR RETAILERS' OCCUPATION TAX LIABILITY MEASURED BY RECEIPTS WHICH SUCH SELLER KNOWS ARE NOT SUBJECT TO RETAILERS' OCCUPATION TAX, OR THE KNOWING OVER-COLLECTION OR ATTEMPTED OVER-COLLECTION BY A SELLER OF AN AMOUNT PURPORTING TO REIMBURSE SUCH SELLER FOR RETAILERS' OCCUPATION TAX LIABILITY IN A TRANSACTION WHICH IS SUBJECT TO THE TAX THAT IS IMPOSED BY THE ACT. THIS PARAGRAPH DOES NOT APPLY TO AN AMOUNT COLLECTED BY THE SELLER AS REIMBURSEMENT FOR THE SELLER'S RETAILERS' OCCUPATION TAX LIABILITY ON RECEIPTS WHICH ARE SUBJECT TO TAX UNDER THE ACT AS LONG AS SUCH COLLECTION IS MADE IN COMPLIANCE WITH THE TAX COLLECTION BRACKETS PRESCRIBED BY THE DEPARTMENT IN ITS REGULATIONS; 86 Ill. Adm. Code 150.405-et-seq. Table A);~~

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~~5) WILLFUL VIOLATION OF ANY RULE OR REGULATIONS OF THE DEPARTMENT.~~

~~e) WHEN THE AMOUNT DUE IS \$300.00 OR MORE, THE FOLLOWING VIOLATIONS CONSTITUTE CLASS 3 FELONIES PUNISHABLE BY A FINE OF UP TO \$10,000.00, IMPRISONMENT IN A PENITENTIARY FOR NOT LESS THAN TWO YEARS NO MORE THAN FIVE YEARS, OR BOTH:~~

~~1) FILING OR CAUSING TO BE FILED A FRAUDULENT RETURN;~~

~~2) SIGNING OR CAUSING TO BE SIGNED A FRAUDULENT RETURN OF A CORPORATION;~~

~~3) FAILURE TO FILE A RETURN;~~

~~4) KNOWINGLY ENTERING FALSE INFORMATION ON THE RETURN OF ANY TAXPAYER BY ANY ACCOUNTANT OR OTHER AGENT;~~

~~5) ACCEPTING MONEY THAT IS DUE TO THE DEPARTMENT UNDER THE ACT FROM A TAXPAYER FOR THE PURPOSE OF ACTING AS THE TAXPAYER'S AGENT TO MAKE THE PAYMENT TO THE DEPARTMENT AND FAILING TO REMIT SUCH PAYMENT TO THE DEPARTMENT WHEN DUE, OR PURPORTING TO MAKE SUCH PAYMENT BUT FAILING TO DO SO BECAUSE HIS CHECK OR OTHER REMITTANCE DOES NOT CLEAR THE BANK OR OTHER DEPOSITORY AGAINST WHICH IT IS DRAWN (Ill. Rev. Stat. 1983, ch. 120, par. 452.~~

~~d) ANY DISTRIBUTOR, SUPPLIER OR OTHER SELLER OF MOTOR FUEL REGISTERED PURSUANT TO SECTION 2A OR 2C OF THE ACT WHO FAILS TO COLLECT THE PREPAID TAX ON INVOICED GALLONS OF MOTOR FUEL SOLD OR WHO FAILS TO DELIVER A STATEMENT OF TAX PAID TO THE PURCHASER OR TO THE DEPARTMENT AS REQUIRED BY SECTION 2D AND 2E OF THIS ACT, RESPECTIVELY, SHALL BE GUILTY OF A CLASS A MISDEMEANOR IF THE AMOUNT DUE IS UNDER \$300.00, AND A CLASS 4 FELONY IF THE AMOUNT DUE IS \$300.00 OR MORE. (Ill. Rev. Stat. 1983, ch. 120, pars. 441d and 441e)~~

Section 13 of the Act details the criminal penalties for violation of the Retailers' Occupation Tax Act.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

SUBPART N: SALES FOR RESALE

Section 130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale

a) A person who sells tangible personal property to a purchaser who may use or consume such property within the meaning of the Act, but who also may resell such property, must determine, at the time when he sells the property to such purchaser, whether the purchaser is buying the property "for use or consumption" within the meaning of the Act or whether the purchaser is buying the property "for resale". Section 2c of the Act provides that purchasers of tangible personal property for resale shall apply to the Department for resale numbers. In determining whether a sale is for resale, the seller shall request that the purchaser provide a resale number and certification that the sale is for resale. This determination is required in order that the seller may properly file the returns required by the Act and compute his tax liability.

b) This determination is not necessary (and no Certificate of Resale is therefore required) as to sales made to any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older, or as to sales made on or after March 21, 1963, to a governmental body because receipts from such sales are exempted from the Act whether such sales are at retail or whether such sales are for resale. For information concerning sales to purchasers of the kind listed in the preceding sentence, see Sections 130.2005 and 130.2080 of this Part. If the sale to such a purchaser in fact is a sale for resale, the seller is still permitted to claim exemption from the tax on the ground that such sale is a sale for resale and to obtain a corroborating Certificate of Resale from the purchaser.

c) For information concerning resale certifications by construction contractors who are also retailers of building materials, see Section 130.2075 of this Part.

d) For information concerning resale certifications by servicemen who are also retailers, see the Regulations pertaining to the Service Occupation Tax Act, (86 Ill. Adm. Code Part 140).

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale

a) Except in the case of sales to totally exempt purchasers, when sales for resale are made, sellers should, for their protection, take a Certificate of Resale from the purchaser. Mere statements by sellers that property was sold for resale will not be accepted by the Department without corroborative evidence. Certificates of Resale may be made a part of purchase orders signed by the purchaser.

b) A Certificate of Resale is a statement signed by the purchaser that the property purchased by him is purchased for purposes of resale. Provided that this statement is correct, the Department will accept Certificates of Resale as prima facie proof that sales covered thereby were made for resale. In addition to the statement, a Certificate of Resale must contain:

- 1) The seller's name and address;
- 2) the purchaser's name and address;
- 3) a description of the items being purchased for resale;
- 4) purchaser's signature and date of signing;
- 5) Registration Number, Resale Number, or Certification of Resale to Out-of-State Purchaser

A) purchaser's registration number with the Illinois Department of Revenue; or

B) purchaser's resale number issued by the Department of Revenue, or

C) a statement that the purchaser is an out-of-State purchaser who will sell only to purchasers located outside the State of Illinois.

c) If all of a purchaser's purchases are for resale, a purchaser may provide a blanket Certificate of Resale to a seller.

1) While there is no statutory requirement that blanket Certificates of Resale be renewed at certain intervals, blanket

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Certificates should be updated periodically, and no less frequently than every three years.

2) If a purchaser knows that a certain percentage of all purchases from a given seller will be made for purposes of resale, he may accept a blanket Certificate of Resale stating that a designated percentage of the sales made by such seller to such purchaser will be made for purposes of resale.

d) Failure to present an active registration number or resale number and a certification to the seller that a sale is for resale creates a presumption that a sale is not for resale. This presumption may be rebutted by other evidence that all of the seller's sales are sales for resale, or that a particular sale is a sale for resale (Section 2c of the Act).

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.1410 Requirements for Certificates of Resale (Repealed)

a) ~~A Certificate of Resale must bear the seller's name and address, the name and address of the purchaser, the date when such certificate was signed by the purchaser, a sufficient identification of the property sold for resale to the purchaser, and the purchaser's registration number or resale number with the Department.~~

b) ~~Certificates of Resale may be made a part of purchase orders signed by the purchaser. Mere statements by sellers that property was sold for resale will not be accepted by the Department without corroborative evidence.~~

(Source: Repealed at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.1415 Resale Number - When Required and How Obtained

a) If the purchaser is not registered with the Department as a taxpayer, but claims to be a reseller of the tangible personal property in such a way that such resales are not taxable under the Retailers' Occupation Tax Act or under some other tax law which the Department may administer, such purchaser (except in the case of an out-of-State purchaser who will always resell and deliver the property to his customers outside Illinois) shall apply to the Department for a resale number. Such applicant shall state facts which will show the Department why such applicant is not liable for tax under this Act or under some other tax law which the Department may administer on any of his resales and shall furnish such additional information as the Department may reasonably require.

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b) Examples of purchasers for resale who would need a resale number from the Department are persons who resell only to schools and other totally exempt purchasers; persons who resell only to purchasers who in turn resell the property apart from engaging in a service occupation; a nonprofit organization which has such an occasional liability as a reseller that it will discharge its liability on a "First and Final return" basis instead of by having a continuing registration with the Department, etc.

c) Upon approval of the application, the Department will assign a resale number to the applicant and will certify such number to him. The Department may cancel any such number which is obtained through misrepresentation, or which is used to make a purchase tax-free when the purchase in fact is not a purchase for resale, or which no longer applies because of the purchaser's having discontinued the making of tax exempt resales of the property.

d) The Department may restrict the use of the number to one year at a time or to some other definite period if the Department finds it impracticable or otherwise inadvisable to issue such numbers for indefinite periods.

e) Except as provided hereinabove in this Regulation Subpart, no a sale shall be made tax-free on the ground of being a sale for resale unless if the purchaser has an active registration number or resale number from the Department and furnishes that number to the seller in connection with certifying to the seller that any sale to such purchaser is nontaxable because of being a sale for resale.

f) For the purpose of enabling agricultural producers to buy feed, seed, fertilizer and baby chicks for resale to the extent permitted by Sections 130.1970, 130.2100 and 130.2110 of this Part and still be in compliance with Section 2c of the Retailers' Occupation Tax Act, such agricultural producers who are not registered with the Department as retailers will be given a resale number as a class without making application, individually, to the Department therefor, with all such persons being assigned the same resale number by the Department.

g) The Department will assign Resale Number 0110 to all such buyers of feed, seed, fertilizer and baby chicks for this purpose.

h) Nothing that is stated hereinabove changes anything contained in Sections 130.1970, 130.2100 and 130.2110 of this Part.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

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- D) the total amount of tax paid for each return period;
 - E) receipts upon which tax liability is admitted for each return period;
 - F) the amount of receipts on which credit is claimed for each return period;
 - G) the tax due for each return period as corrected;
 - H) the amount of credit claimed for each return period;
 - I) reason or reasons why the amount, for which the claim is filed, is alleged to have been paid in error;
 - J) a list of the evidence (documentary or otherwise) which the claimant has available to establish his compliance with Section 6 as to bearing the burden of the tax for which he seeks credit;
 - K) payments or parts thereof (if any) included in the claim and paid by the claimant under protest;
 - L) sufficient information to identify any suit which involves the Act, and to which the claimant is a party, and
 - M) such other information as the Department may reasonably require.
- 2) Where the claimant is a corporation, the claim filed on behalf of such corporation shall be signed by the president, vice-president, secretary or treasurer or by the properly accredited agent of such corporation.
 - 3) A claim for credit shall be considered to have been filed with the Department on the date upon which it is received by the Department.
 - 4) Upon receipt of any claim for credit filed under the Act, any officer or employee of the Department, authorized in writing by the Director of Revenue to acknowledge receipt of such claims on behalf of the Department, shall execute on behalf of the Department, and shall deliver or mail to the claimant or his duly authorized agent, a written receipt, acknowledging that the claim has been filed with the Department, describing the claim in sufficient detail to identify it and stating the date upon which the claim was received by the Department.

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- 5) Such written receipt shall be prima facie evidence that the Department received the claim described in such receipt and shall be prima facie evidence of the date when such claim was received by the Department.
 - 6) In the absence of such a written receipt, the records of the Department as to when the claim was received by the Department, or as to whether or not the claim was received at all by the Department, shall be deemed to be prima facie correct upon these questions in the event of any dispute between the claimant (or his legal representative) and the Department concerning these questions. (See Section 6a of the Act.)
- c) Procedure After Filing of Claims
- 1) The Department will examine each claim for credit as soon as practicable after such claim is filed and will notify the claimant (or his legal representative, if the claim is filed by such legal representative, or if the claimant has died or become incompetent and such legal representative has notified the Department of his appointment and qualification as such legal representative, or if the Department, on its own motion, has substituted such legal representative in the proceeding for the deceased or incompetent claimant) of its Tentative Determination of the amount of credit, if any, to which the claimant or his legal representative is entitled.
 - 2) If such claimant, or the legal representative of a deceased or incompetent taxpayer, shall, within 20 days after the Department's Notice of Tentative Determination of Claim, file a protest thereto and request a hearing thereon, the Department shall give notice to such claimant, or to the legal representative of a deceased or incompetent taxpayer, of the time and place fixed for such hearing, and shall hold a hearing in conformity with the provisions of the Act, and pursuant thereto shall issue its Final Determination of the amount of credit, if any, found to be due as a result of such hearing, to such claimant, or to the legal representative of a deceased or incompetent taxpayer.
 - 3) If a protest to the Department's Notice of Tentative Determination of Claim is not filed within 20 days and a request for a hearing thereon is not made as hereinabove provided, the said Notice shall thereupon become and operate as a Final Determination. (See Sections 6b and 6c of the Act.)

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1) If, following the above procedure, a credit is found to be due, as evidence thereof a credit memorandum for such amount shall be issued in the name of the claimant.

2) If there is an established unpaid assessment or an admitted unpaid liability, or unpaid penalty, or unpaid amount of interest, against the claimant either under the Retailers' Occupation Tax Act, the Service Use Tax Act, the Home Rule Municipal Retailers' Occupation Tax Act (Ill. Rev. Stat. 1987, ch. 24, par. 8-11-1), Non-Home Rule Municipal Retailers' Occupation Tax Act (Ill. Rev. Stat. 1987, ch. 24, par. 8-11-6), the Home Rule Municipal Service Occupation Tax Act (Ill. Rev. Stat. 1987, ch. 24, par. 8-11-5), Non-Home Rule Municipal Service Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 120, par. 8-11-1.3), THE MUNICIPAL USE TAX ACT (Ill. Rev. Stat. 1987, ch. 24, par. 409.1-5-1006), THE COUNTY SUPPLEMENTARY RETAILERS' OCCUPATION TAX ACT (Ill. Rev. Stat. 1987, ch. 34, par. 409.1-5-1007), THE Home Rule County Service Occupation Tax Act (Ill. Rev. Stat. 1987, ch. 34, par. 409.1a), the Home Rule County Service Occupation Tax Act (Ill. Rev. Stat. 1987, ch. 34, par. 409.1a), Section 4 of the Water Commission Act of 1985 (Ill. Rev. Stat. 1987, ch. 111 2/3, par. 254), Act of 1985 (Ill. Rev. Stat. 1987, ch. 111 2/3, par. 254), subsections (b), (c) and (d) of Section 5.01 if the Local Mass Transit District Act (Ill. Rev. Stat. 1987, ch. 111 2/3, par. 355.01), or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act (Ill. Rev. Stat. 1987, ch. 111 2/3, par. 704.03), the amount of the credit shall be credited against the tax or penalty or interest due or to become due under the Retailers' Occupation Tax Act, or under the Use Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, the Home Rule Municipal Retailers' Occupation Tax Act, the Non-Home Rule Municipal Service Occupation Tax Act, the Home Rule County Retailers' Occupation Tax Act, THE MUNICIPAL USE TAX ACT, the Home Rule County Municipal Service Occupation Tax Act, the Non-Home Rule Municipal Service Occupation Tax Act, the Home Rule County Retailers' Occupation Tax Act, THE COUNTY SUPPLEMENTARY RETAILERS' OCCUPATION TAX ACT, the Home Rule County Service Occupation Tax Act, THE COUNTY SUPPLEMENTARY RETAILERS' OCCUPATION TAX ACT, THE COUNTY USE TAX ACT, THE COUNTY SUPPLEMENTARY SERVICE OCCUPATION TAX ACT, THE COUNTY USE TAX ACT, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act.

d) Use of Credit Memoranda to Satisfy Prior Rights of Department

1) If, following the above procedure, a credit is found to be due, as evidence thereof a credit memorandum for such amount shall be issued in the name of the claimant.

2) If there is an established unpaid assessment or an admitted unpaid liability, or unpaid penalty, or unpaid amount of interest, against the claimant either under the Retailers' Occupation Tax Act, the Service Use Tax Act, the Home Rule Municipal Retailers' Occupation Tax Act (Ill. Rev. Stat. 1987, ch. 24, par. 8-11-1), Non-Home Rule Municipal Retailers' Occupation Tax Act (Ill. Rev. Stat. 1987, ch. 24, par. 8-11-6), the Home Rule Municipal Service Occupation Tax Act (Ill. Rev. Stat. 1987, ch. 24, par. 8-11-5), Non-Home Rule Municipal Service Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 120, par. 8-11-1.3), THE MUNICIPAL USE TAX ACT (Ill. Rev. Stat. 1987, ch. 24, par. 409.1-5-1006), THE COUNTY SUPPLEMENTARY RETAILERS' OCCUPATION TAX ACT (Ill. Rev. Stat. 1987, ch. 34, par. 409.1-5-1007), THE Home Rule County Service Occupation Tax Act (Ill. Rev. Stat. 1987, ch. 34, par. 409.1a), the Home Rule County Service Occupation Tax Act (Ill. Rev. Stat. 1987, ch. 34, par. 409.1a), Section 4 of the Water Commission Act of 1985 (Ill. Rev. Stat. 1987, ch. 111 2/3, par. 254), Act of 1985 (Ill. Rev. Stat. 1987, ch. 111 2/3, par. 254), subsections (b), (c) and (d) of Section 5.01 if the Local Mass Transit District Act (Ill. Rev. Stat. 1987, ch. 111 2/3, par. 355.01), or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act (Ill. Rev. Stat. 1987, ch. 111 2/3, par. 704.03), the amount of the credit shall be credited against the tax or penalty or interest due or to become due under the Retailers' Occupation Tax Act, or under the Use Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, the Home Rule Municipal Retailers' Occupation Tax Act, the Non-Home Rule Municipal Service Occupation Tax Act, the Home Rule County Retailers' Occupation Tax Act, THE MUNICIPAL USE TAX ACT, the Home Rule County Municipal Service Occupation Tax Act, the Non-Home Rule Municipal Service Occupation Tax Act, the Home Rule County Retailers' Occupation Tax Act, THE COUNTY SUPPLEMENTARY RETAILERS' OCCUPATION TAX ACT, the Home Rule County Service Occupation Tax Act, THE COUNTY SUPPLEMENTARY RETAILERS' OCCUPATION TAX ACT, THE COUNTY USE TAX ACT, THE COUNTY SUPPLEMENTARY SERVICE OCCUPATION TAX ACT, THE COUNTY USE TAX ACT, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act.

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1) If, following the above procedure, a credit is found to be due, as evidence thereof a credit memorandum for such amount shall be issued in the name of the claimant.

2) If there is an established unpaid assessment or an admitted unpaid liability, or unpaid penalty, or unpaid amount of interest, against the claimant either under the Retailers' Occupation Tax Act, the Service Use Tax Act, the Home Rule Municipal Retailers' Occupation Tax Act (Ill. Rev. Stat. 1987, ch. 24, par. 8-11-1), Non-Home Rule Municipal Retailers' Occupation Tax Act (Ill. Rev. Stat. 1987, ch. 24, par. 8-11-6), the Home Rule Municipal Service Occupation Tax Act (Ill. Rev. Stat. 1987, ch. 24, par. 8-11-5), Non-Home Rule Municipal Service Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 120, par. 8-11-1.3), THE MUNICIPAL USE TAX ACT (Ill. Rev. Stat. 1987, ch. 24, par. 409.1-5-1006), THE COUNTY SUPPLEMENTARY RETAILERS' OCCUPATION TAX ACT (Ill. Rev. Stat. 1987, ch. 34, par. 409.1-5-1007), THE Home Rule County Service Occupation Tax Act (Ill. Rev. Stat. 1987, ch. 34, par. 409.1a), the Home Rule County Service Occupation Tax Act (Ill. Rev. Stat. 1987, ch. 34, par. 409.1a), Section 4 of the Water Commission Act of 1985 (Ill. Rev. Stat. 1987, ch. 111 2/3, par. 254), Act of 1985 (Ill. Rev. Stat. 1987, ch. 111 2/3, par. 254), subsections (b), (c) and (d) of Section 5.01 if the Local Mass Transit District Act (Ill. Rev. Stat. 1987, ch. 111 2/3, par. 355.01), or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act, the amount of the credit shall be credited against the tax or penalty or interest due or to become due under the Retailers' Occupation Tax Act, or under the Use Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, the Home Rule Municipal Retailers' Occupation Tax Act, the Non-Home Rule Municipal Service Occupation Tax Act, the Home Rule County Retailers' Occupation Tax Act, THE MUNICIPAL USE TAX ACT, the Home Rule County Municipal Service Occupation Tax Act, the Non-Home Rule Municipal Service Occupation Tax Act, the Home Rule County Retailers' Occupation Tax Act, THE COUNTY SUPPLEMENTARY RETAILERS' OCCUPATION TAX ACT, the Home Rule County Service Occupation Tax Act, THE COUNTY SUPPLEMENTARY RETAILERS' OCCUPATION TAX ACT, THE COUNTY USE TAX ACT, THE COUNTY SUPPLEMENTARY SERVICE OCCUPATION TAX ACT, THE COUNTY USE TAX ACT, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act.

3) If the credit is in an amount less than that of the unpaid liability, it shall be applied pro tanto.

4) If the amount of the credit exceeds that of the unpaid liability, after crediting an amount sufficient to liquidate or cancel out such unpaid liability, a new credit memorandum shall be issued for an amount representing the difference between that of the original credit found to be due and that of the liability liquidated or paid as aforesaid, and such new credit memorandum shall be delivered to the person entitled to receive delivery thereof, provided that no proceeding is pending against the claimant to establish an unpaid liability under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, the Home Rule Municipal Retailers' Occupation Tax Act, THE MUNICIPAL USE TAX ACT, the Home Rule Municipal Service Occupation Tax Act, the Home Rule County Retailers' Occupation Tax Act, THE COUNTY SUPPLEMENTARY RETAILERS' OCCUPATION TAX ACT, the Home Rule County Service Occupation Tax Act, THE COUNTY SUPPLEMENTARY RETAILERS' OCCUPATION TAX ACT, THE COUNTY USE TAX ACT, THE COUNTY SUPPLEMENTARY SERVICE OCCUPATION TAX ACT, THE COUNTY USE TAX ACT, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act.

5) If a proceeding to establish such an unpaid liability is pending, the credit memorandum shall be held by the Department until such proceeding is concluded; and if such proceeding results in the issuance of an assessment which becomes final, the credit shall be applied by the Department to the extent which may be necessary, in liquidation of such assessment, or any interest that may accrue thereon, and the balance of the credit, if any (after cancellation of the credit memorandum applied in liquidation of such liability), shall be

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issued in the form of a new credit memorandum and delivered to the person entitled to receive delivery thereof.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.1505 Disposition of Credit Memoranda by Holders Thereof

a) Assignment of Credit Memoranda

1) Credit memoranda issued in accordance with the provisions of Section 6 of the Act may be assigned or transferred only after a request for that purpose is filed with the Department upon forms prescribed and furnished by it, and subject to the following conditions:

A) That the assignment is made to a person who is subject to the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, the Home Rule Municipal Retailers' Occupation Tax Act, the Non-Home Rule Municipal Retailers' Occupation Tax Act, ~~THE MUNICIPAL USE TAX ACT~~, the Home Rule Municipal Service Occupation Tax Act, the Non-Home Rule Municipal Service Occupation Tax Act, the Home Rule County Retailers' Occupation Tax Act, ~~THE COUNTY SUPPLEMENTARY RETAILERS' OCCUPATION TAX ACT~~, the Home Rule County Service Occupation Tax Act, ~~THE COUNTY SUPPLEMENTARY SERVICE OCCUPATION TAX ACT~~, ~~THE COUNTY USE TAX ACT~~, ~~THE COUNTY SUPPLEMENTARY USE TAX ACT~~, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act;

B) that there is no proceeding pending to establish an unpaid liability against the assignor pursuant to notice given of the Department's proposal to assess an amount against him either under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, the Home Rule Municipal Retailers' Occupation Tax Act, the Non-Home Rule Municipal Retailers' Occupation Tax Act, ~~THE MUNICIPAL USE TAX ACT~~, the Home Rule Municipal Service Occupation Tax Act, the Non-Home Rule Municipal Service Occupation Tax Act, the Home Rule County Retailers' Occupation Tax Act, ~~THE COUNTY~~

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~~SUPPLEMENTARY RETAILERS' OCCUPATION TAX ACT~~, the Home Rule County Service Occupation Tax Act, ~~THE COUNTY SUPPLEMENTARY SERVICE OCCUPATION TAX ACT~~, ~~THE COUNTY USE TAX ACT~~, ~~THE COUNTY SUPPLEMENTARY USE TAX ACT~~, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act, and

C) that there is no established assessment or admitted liability or interest or penalty unpaid by the assignor, either under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, the Home Rule Municipal Retailers' Occupation Tax Act, the Non-Home Rule Municipal Retailers' Occupation Tax Act, ~~the Municipal Use Tax Act~~, the Home Rule Municipal Service Occupation Tax Act, the Non-Home Rule Municipal Service Occupation Tax Act, the Home Rule County Retailers' Occupation Tax Act, ~~the County Supplementary Retailers' Occupation Tax Act~~, the Home Rule County Service Occupation Tax Act, ~~the County Supplementary Service Occupation Tax Act~~, ~~the County Use Tax Act~~, ~~the County Supplementary Use Tax Act~~, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act: Provided that if the amount of the credit memorandum must first be applied, in whole or in part, against an established unpaid assessment which has been issued to the claimant-assignor, or in total or partial liquidation of an unpaid admitted tax liability, or unpaid penalty, or unpaid amount of interest, of the claimant-assignor, notice to this effect shall be given to the claimant-assignor by the Department.

2) If any balance is due such claimant-assignor, after application of the credit memorandum in the manner and to the purposes aforesaid, such balance may be assigned upon receipt by the Department of instructions to that effect. If there are no unpaid established assessments or unpaid admitted tax liabilities, or unpaid penalties, or unpaid amounts of interest, due from the claimant-assignor, and if there are no pending proceedings as herein outlined, against the claimant-assignor,

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extent that such prior rights take precedence when a credit memorandum is first issued (see Section 130.1501(d) of this Part) or when leave to assign a credit memorandum is requested (see Section 130.1505(a) of this Part.)

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section 130.1701 General-Information Bulk Sales: Notices of Sales of Business Assets

- a) If any taxpayer, outside the usual course of his business, sells or transfers the major part of any one or more of
- 1) the stock of goods which he is engaged in the business of selling, or
 - 2) the furniture or fixtures, or
 - 3) the machinery and equipment,
 - 4) the real property of any business that is subject to the provisions of the Act, the purchaser or transferee of such assets shall, within no later than 10 days after the sale or transfer, file a report notice of the sale or transfer of business assets with the Chicago Office of the Department disclosing the name and address of the seller or transferor, the name and address of the purchaser or transferee, the date of the sale or transfer, a copy of the sales contract and financing agreements which shall include a description of the property sold, the amount of the purchase price or a statement of other consideration for the sale or transfer, the terms for payment of the purchase price and such other information as the Department may reasonably require. If the purchaser or transferee fails to file the above-described report of sale with the Department within the prescribed time, the purchaser or transferee shall be personally liable for the amount owed hereunder by the seller or transferor to the Department up to the amount of the reasonable value of the property acquired by the purchaser or transferee. The seller or transferor shall pay the Department the amount of tax, penalty and interest (if any) due from him under the Act up to the date of the sale payment of tax. The seller or transferor, or the purchaser or transferee, at least 30 10 days before the date of the sale or transfer, may notify the Department of the intended sale or transfer and request the Department to audit

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the books and records of the seller or transferor or to do whatever else may be necessary to determine how much the seller or transferor owes to the Department under the Act up to the date of the sale or transfer. The Department shall take such steps as may be appropriate to comply with such request.

- b) Any order issued by the Department pursuant to the Act and this Section to withhold from the purchase price shall be issued within 10 days after the Department receives notification of a sale as provided in the Act and this Section. The purchaser or transferee shall withhold enough such portion of the purchase price as may be directed by the Department, but not to exceed a minimum amount varying by type of business plus twice the outstanding unpaid liabilities and twice the average liability of preceding filings times the number of unfiled returns to cover the amount of all tax, penalty and interest due and unpaid by the seller or transferor under the Act or, if the payment of money or property is not involved, shall withhold the performance of the condition that constitutes the consideration for the sale or transfer. Within 60 days of the issuance of the initial order to withhold, the Department shall provide written notice to the purchaser or transferee of the actual amount of all taxes, penalties and interest then due and whether or not additional amounts may become due as a result of unfiled returns, pending assessments and audits not completed. The purchaser or transferee shall continue to withhold the amount directed to be withheld by the initial order or to withhold the performance of the condition which constitutes the consideration for the sale or transfer until the seller or transferor produces a receipt from the Department purchaser or transferee receives from the Department a certificate showing that such tax, penalty and interest have been paid or a certificate from the Department showing that no tax, penalty or interest is due from the seller or transferor under the Act.
- c) The purchaser or transferee is relieved of any duty to continue to withhold from the purchase price and of any liability for tax, penalty or interest due under the Act from the seller or transferor if the Department fails to notify the purchaser or transferee in the manner provided herein of the amount to be withheld claimed by the Department to be due under the Act from the seller or transferor within 30 10 days after the sale or transfer has been reported to the Department where the seller or transferor or purchaser or transferee did not notify the Department of the intended sale or transfer at least 30 days before the date of the sale or if the Department fails to notify the purchaser or transferee of the amount claimed by the Department to be due under the Act

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Barbers and beauty shop operators are engaged primarily in service occupation. To the extent to which they engage in such service occupations, they are not engaged in the business of selling tangible personal property to purchasers for use or consumption within the meaning of the Act. Consequently, they are not required to remit Retailers' Occupation Tax measured by their receipts from engaging in such service occupations, including receipts from both labor and tangible personal property.

Liability Under the Service Occupation Tax Act

For information concerning the application of the Service Occupation Tax to purchases by barbers and beauty shop operators of tangible personal property which they retransfer as an incident to rendering service, see the Service Occupation Tax, 86 Ill. Adm. Code 140.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.1930 Chiropodists, Osteopaths and Chiropractors

When Liablie For Tax

When chiropodists, osteopaths or chiropractors sell such items as shoes, arch supports, trusses, braces, appliances or other tangible personal property to purchasers for use or consumption apart from their rendering of service as chiropodists, osteopaths or chiropractors, they incur Retailers' Occupation Tax liability.

When Not Liablie For Tax

Chiropodists, osteopaths and chiropractors are engaged in professions and primarily render service. To the extent to which they engage in such professions, they are not engaged in the business of selling tangible personal property to purchasers for use or consumption within the meaning of the Act. Consequently, they are not required to remit Retailers' Occupation Tax measured by their receipts from engaging in such professions, including receipts from both services and tangible personal property.

Liability Under the Service Occupation Tax Act

For information concerning the application of the Service Occupation Tax to purchases by chiropodists, osteopaths and chiropractors of tangible personal property which they retransfer as an incident to

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from the seller or transferor within 10 days after the sale or transfer has been reported to the Department where the seller or transferor or purchaser or transferee did notify the Department of the intended sale or transfer at least 30 days before it occurred and did request an audit or other review as might enable the Department to determine how much it claims to be due under the Act from the seller or transferor up to the date of the sale or transfer or within 60 days after issuance of the initial order to withhold as the case may be. The Department shall have the right to determine amounts claimed on an estimated basis to allow for non-filed periods, pending assessments and audits not completed. However, the purchaser or transferee shall be personally liable only for the actual amount due when determined.

If the seller or transferor fails to pay the tax, penalty and interest (if any) due from him under the Act and the Department makes timely claim therefor against the purchaser or transferee as hereinabove provided, then the purchaser or transferee shall pay the amount so withheld from the purchase price to the Department. If the purchaser or transferee fails to comply with the requirements of this Regulation Section under the Act, the purchaser or transferee shall be personally liable to the Department for the amount owed under the Act by the seller or transferor to the Department up to the amount of the reasonable value of the property acquired by the purchaser or transferee.

Any person who shall acquire any property or rights thereto which, at the time of such acquisition, is subject to a valid lien in favor of the Department shall be personally liable to the Department for a sum equal to the amount of taxes secured by such lien but not to exceed the reasonable value of such property acquired by him.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

SUBPART 5: SPECIFIC APPLICATIONS

Section 130.1920 Barbers and Beauty Shop Operators

When Liablie For Tax

When barbers or beauty shop operators sell tangible personal property to purchasers for use or consumption apart from their rendering of service as barbers or beauty shop operators, they incur Retailers' Occupation Tax liability. This is the case, for example, where barbers or beauty shop operators sell package cosmetics, hair tonics, lotions or other merchandise "over-the-counter" to purchasers for use or consumption apart from their rendering of service.

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rendering service, see the Service Occupation Tax, 86 Ill. Adm. Code 140.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.1950 Dentists

a) When Liable For Tax

When dentists sell items of tangible personal property, such as mouthwash, toothpaste, dental floss, and the like, to purchasers for use or consumption apart from their rendering of service as dentists, they incur Retailers' Occupation Tax liability.

b) When Not Liable For Tax

Dentists are engaged primarily in a profession or service occupation. To the extent to which they engage in such profession or service occupation, they are not engaged in the business of selling tangible personal property to purchasers for use or consumption within the meaning of the Act. Consequently, they are not required to remit Retailers' Occupation Tax measured by their receipts from engaging in such profession or service occupation, including receipts from both services and tangible personal property.

c) Liability Under the Service Occupation Tax Act

For information concerning the application of the Service Occupation Tax to purchases by dentists of tangible personal property which they retransfer as an incident to rendering service, see the Service Occupation Tax, 86 Ill. Adm. Code 140.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.1951 Enterprise Zones

a) Building Materials Purchased for Physical Incorporation into Real Estate Located in an Enterprise Zone

- 1) Effective September 1, 1985, a deduction from Illinois Retailers' Occupation Tax liability exists for gross receipts from retail sales of building materials which will be incorporated into real estate located in an *enterprise zone by remodeling, rehabilitation or new construction.* (Ill. Rev. Stat., 1985, ch. 120, pars. 441 and 444* Section 5k of the Act)

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- 2) The retailer of qualifying building materials must be located in the municipality or in the unincorporated area of the county which has established the enterprise zone into which the building materials will be incorporated.

- 3) ~~The municipality (or county) which has established the enterprise zone must have adopted an ordinance which relinquishes its Municipal (or County) Retailers' Occupation Tax on such sales and the deduction is available only to the extent to which the municipality (or county) has relinquished its Municipal (or County) Retailers' Occupation Tax.~~

~~For example, if the municipal (or county) ordinance relinquishes Municipal (or County) Retailers' Occupation Tax only as to building materials incorporated into enterprise zone real estate by remodeling, rehabilitation or new construction which is sufficiently extensive to require a building permit, then the deduction from Illinois Retailers' Occupation Tax is also limited to such building materials.~~

- 4) ~~In addition, since the deduction from Illinois Retailers' Occupation Tax is conditioned upon the existence of a relinquishing municipal or county ordinance, only those retailers which are affected by that ordinance can take the deduction.~~

- A) ~~For example, if a municipality has established an enterprise zone and has adopted an ordinance relinquishing its Municipal Retailers' Occupation Tax, only the retailers located within the corporate limits of that municipality can take the deduction. This is so because only retailers located within the corporate limits of that municipality are affected by the relinquishing municipal ordinance.~~

- B) ~~If a county has established an enterprise zone and has adopted an ordinance relinquishing its County Retailers' Occupation Tax, only the retailers located in the unincorporated area of that county can take the deduction. This is so because only retailers located in the unincorporated area of that county are affected by the relinquishing county ordinance.~~

- C) ~~This exemption has no application until the municipality (or county) which has established the enterprise zone adopts an ordinance relinquishing its Municipal (or~~

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units, window air conditioning units, lamps, clothes washers, clothes dryers, trash compactors and dishwashers which may be connected to and operate from a building's electrical or plumbing system but which do not become a component of those systems do not qualify for the deduction,

C) tacked-down carpeting and other floor coverings which are not physically incorporated into real estate do not qualify for the deduction.

b) Tangible Personal Property Purchased for Use or Consumption within an Enterprise Zone in the Process of Manufacturing or Assembling by Certain Business Enterprises Certified by the Department of Commerce and Community Affairs

1) Effective September 25, 1985, the Illinois Retailers' Occupation Tax does not apply to retail sales of tangible personal property to be used or consumed within an enterprise zone or subject to the provisions of Section 5.5 of the Enterprise Zone Act, all tangible personal property to be used or consumed by any high impact business, in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease so long as the use or consumption is made by business enterprises which in the case of a high impact business having been designated pursuant to the terms of Section 5.5(a) of the Enterprise Zone Act (Ill. Rev. Stat. 1989, ch. 67 1/2, par. 609.1) or which in the case of an enterprise zone:

A) Either

(i) make investments which cause the creation of a minimum of 200 full-time equivalent jobs in Illinois; or

(ii) make investments which cause the retention of a minimum of 2,000 full-time jobs in Illinois; or

(iii) make investments of a minimum of \$40,000,000; and

B) are located in an enterprise zone established pursuant to the Illinois Enterprise Zone Act, and

C) are certified by the Department of Commerce and Community Affairs as complying with the requirements specified in Clauses (A) and (B) above. (~~Ill. Rev. Stat., 1983, ch. 120, pars. 440(d) and (f), and~~

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D) retain at least 90% of the jobs in place on the date on which the exemption is granted and for the duration of the exemption. (Sections 1d and 1f of the Act)

2) Business enterprises seeking certificates of eligibility must make application to the Department of Commerce and Community Affairs on application forms provided by the Department of Commerce and Community Affairs. The Illinois Department of Revenue has no authority to certify business enterprises for the purposes of this exemption.

3) Once a business enterprise is certified, only the use or consumption within the enterprise zone of tangible personal property in manufacturing or assembling qualifies for the exemption. No item to be used or consumed outside the Enterprise Zone qualifies for the exemption. Sales of tangible personal property used in activities which do not constitute manufacturing or assembling remain subject to the tax. The Department has defined manufacturing and assembling at Sections 130.330(b)(2) through (8) of this Part which are incorporated by reference herein.

4) The tangible personal property must be used in a manufacturing or assembling process but is not limited to machinery and equipment. The exemption is available for all tangible personal property used or consumed in manufacturing or assembling and includes repair and replacement parts for machinery and equipment used primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale, or lease, and equipment, manufacturing fuels, material and supplies for the maintenance, repair or operation of such manufacturing or assembling machinery and or equipment. (~~Ill. Rev. Stat., 1985, ch. 120, par. 440d~~ Section 1d of the Act)

5) For example, this exemption extends to:

A) machinery and equipment which would otherwise qualify under the manufacturing machinery and equipment exemption because of being used in the activities set out at Section 130.330(d)(3) of this Part, and repair and replacement parts for such machinery and equipment,

B) hand tools used in the activities set out at Section 130.330(d)(3) of this Part,

C) materials and supplies, such as abrasives, acids, polishing compounds or lubricants used or consumed in the activities set out at Section 130.330(d)(3) of this Part,

D) machinery and equipment and hand tools used to maintain, repair or operate machinery and equipment which qualifies for the manufacturing machinery and equipment exemption as set out in Section 130.330 of this Part,

E) materials and supplies, such as lubricants, coolants, adhesives, solvents or cleaning compounds used to maintain, repair or operate machinery or equipment which qualifies for the manufacturing machinery and equipment exemption as set out in Section 130.330 of this Part,

F) any fuel, such as coal, diesel oil, gasoline, natural gas, artificial gas or steam which would be subject to Retailers' Occupation Tax or Use Tax liability when sold at retail is exempt from those taxes when sold for use as fuel for machinery and equipment which qualifies for the manufacturing machinery and equipment exemption as set out in Section 130.330 of this Part,

G) protective clothing and safety equipment such as gloves, coveralls, aprons, goggles, safety glasses, face masks and air filter masks used when maintaining, repairing or operating machinery and equipment which qualifies for the manufacturing machinery and equipment exemption as set out in Section 130.330 of this Part.

6) The law requires that tangible personal property be used primarily in manufacturing or assembling. Therefore, tangible personal property which is used primarily in an exempt process and partially in a nonexempt manner would qualify for exemption. However, the purchaser must be able to establish through adequate records that the tangible personal property is used over 50 percent in an exempt manner in order to claim the deduction.

7) The exemption does not extend to tangible personal property which is not used or consumed in the manufacturing or assembling process itself. This is true even though the item is used in an activity which is essential to manufacturing or assembling. For example, the exemption does not extend to:

A) tangible personal property used or consumed in general production plant maintenance activities or in the maintenance of machinery and equipment which would not qualify for the manufacturing machinery and equipment exemption,

B) tangible personal property used or consumed in research and development of new products, production techniques or production machinery,

C) tangible personal property used to store, convey, handle or transport materials, parts or subassemblies prior to their entrance into the production cycle,

D) tangible personal property used to store, convey, handle or transport finished articles after completion of the production cycle,

E) tangible personal property used to transport work-in-process or finished articles between production plants,

F) tangible personal property used or consumed in managerial, sales or other nonproduction, nonoperational activities such as disposal of waste, scrap or residue, inventory control, production scheduling, work routing, purchasing, receiving, accounting, fiscal management, general communications, plant security, product exhibition and promotion or personnel recruitment, selection or training,

G) tangible personal property used or consumed as general production plant safety equipment,

H) tangible personal property and fuel used or consumed in general production plant ventilation, heating, cooling, climate control or illumination, not required by a manufacturing or assembling process,

I) tangible personal property used or consumed in the preparation of food and beverages by a retailer for retail sale, such as restaurants, vending machines and food service establishments,

J) fuel used or consumed in the operation of any machinery or equipment which would not qualify for exemption under the manufacturing machinery and

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equipment exemption as set out in Section 130.330 of this Part,

- K) building materials which become physically incorporated into foundations or housings for machinery and equipment--although such building materials may qualify for exemption under the provisions of Section 130.1951(a) of this Part if all requirements set out therein are met, and
- L) building materials dedicated to general construction purposes at a production plant--although such building materials may qualify for exemption under the provisions of Section 130.1951(a) of this Part if all requirements set out therein are met.
- 8) This exemption from Illinois Retailers' Occupation Tax is available to all retailers registered to collect Illinois sales tax. It is not restricted to retailers located in jurisdictions which have established enterprise zones.
- 9) Product Use
- The statute requires that the product produced as a result of the manufacturing or assembling process be tangible personal property for sale or lease. For information concerning this requirement, see Section 130.330(e) of this Part which is incorporated by reference herein.
- 10) Sales to Lessors of Certified Business Enterprises
- The substance and provisions of Section 130.330(f) of this Part are incorporated by reference herein. For the purpose of this incorporation, references in Section 130.330(f) to "manufacturers" mean "certified business enterprises".
- 11) Exemption Certification
- A) When a certified business enterprise (or the lessor to a certified business enterprise) initially purchases qualifying items from an Illinois registered supplier, the supplier must be provided with:
- i) a copy of the current certificate of eligibility issued by the Department of Commerce and Community Affairs, and

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- ii) a written statement signed by the certified business enterprise (or its lessor) that the items being purchased will be used or consumed (or leased for use or consumption) in a manufacturing or assembling process at a location in an enterprise zone established under the authority of the Illinois Enterprise Zone Act. (~~Ill. Rev. Stat., 1985, ch. 120, pars. 440d, 440e, 440f, 441 and 444k.~~ Sections 1d, 1e, 1f and 5k of the Act)
- B) So long as a copy of a current certificate of eligibility and a statement of exemption are maintained by a supplier, the certified business enterprise (or its lessor) may claim the exemption on subsequent purchases from that supplier by indicating on the face of purchase orders that the transaction is exempt by referencing the certificate of eligibility and statement of exemption. This procedure on subsequent purchases is authorized only so long as the certificate of eligibility remains current. That is, the exemption can be claimed only as to purchases made during the effective period of the certificate of eligibility specified by the Department of Commerce and Community Affairs on the face of the certificate of eligibility.
- C) If a certified business enterprise (or its lessor) purchases tangible personal property which is to be used in the process of manufacturing or assembling, then the certified business enterprise (or its lessor) must certify that fact to the seller in writing in order to relieve the seller of the duty of collecting and remitting tax. However, the purchaser who certifies that the item is being purchased for a ~~qualifying~~ qualifying use within an enterprise zone by a qualified business enterprise will be held liable for the tax by the Department if it is found that the item was not so used.
- D) An item which initially is used primarily in a qualifying manner at a qualifying location but which is converted to a nonexempt use or is moved to a nonexempt location will become subject to tax at the time of its conversion based on the fair market value of the item at the time of conversion.
- E) ~~The certificate of eligibility issued by the Department of Commerce and Community Affairs can be used only to document exemption from Illinois Retailers' Occupation~~

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enterprise zone to another pollution control facility within the same enterprise zone for further filtering, treatment or modification,

- J) equipment used to transport filtered, treated or modified pollutants from a pollution control facility in an enterprise zone to a disposal site in the same enterprise zone.
- 4) No item used primarily in any activity other than the operation of pollution control facilities within an enterprise zone can qualify for this exemption. No item used or consumed outside the enterprise zone can qualify for the exemption. No item used or consumed in the operation of pollution control facilities which are located outside the enterprise zone can qualify for the exemption. By way of illustration, the exemption does not extend to:
- A) equipment used to transport fuel, chemicals, catalysts or any other tangible personal property from a point outside the enterprise zone to a pollution control facility inside the enterprise zone,
- B) equipment used to transport filtered, treated or modified pollutants from a pollution control facility in an enterprise zone to any location outside the enterprise zone,
- C) testing equipment used at a location outside an enterprise zone to monitor or otherwise ascertain the effectiveness of pollution control facilities located in an enterprise zone,
- D) testing equipment used at a location in an enterprise zone to monitor or otherwise ascertain the effectiveness of pollution control facilities located outside the enterprise zone.
- 5) This exemption from Illinois Retailers' Occupation Tax is available to all retailers registered to collect Illinois sales tax. It is not restricted to retailers located in jurisdictions which have established enterprise zones.
- 6) Sales to Lessors of Certified Business Enterprises
- A) For this exemption to apply, the purchaser need not himself employ the tangible personal property in the

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operation of pollution control facilities. If the purchaser leases the items to a lessee-certified business enterprise which uses the items in an exempt manner, the sale to the purchaser-lessor will be exempt from tax. A supplier may deduct such sales from his taxable gross receipts provided the purchaser-lessor provides to him a properly completed exemption certificate and the information contained thereon would support the exemption if the sale were made directly to the lessee-certified business enterprise.

- B) Should a purchaser-lessor lease the items to a lessee which is not a certified business enterprise or to a certified business enterprise which does not use those items in the operation of pollution control facilities within an enterprise zone, then the purchaser-lessor will become liable for the tax from which he was previously exempted.
- 7) Exemption Certification
- A) When a certified business enterprise (or the lessor of a certified business enterprise) initially purchases qualifying items from an Illinois registered supplier, the supplier must be provided with:
- i) a copy of the current certificate of eligibility issued by the Department of Commerce and Community Affairs, and
- ii) a written statement of exemption signed by the certified business enterprise (or its lessor) that the items being purchased will be used or consumed (or leased for use or consumption) in the operation of pollution control facilities at a specified location in a named enterprise zone established under the authority of the Illinois Enterprise Zone Act.
- B) So long as a copy of a current certificate of eligibility and a statement of exemption are maintained by a supplier, the certified business enterprise (or its lessor) may claim the exemption on subsequent purchases from that supplier by indicating on the face of purchase orders that the transaction is exempt by referencing the certificate of eligibility and statement of exemption. This procedure on subsequent purchases is authorized

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ILLINOIS REGISTER

~~District, County, Supplementary or County Water Commission-Retailers, Occupation-Tax-habittes-~~

(Source: Amended at 15 Ill. Reg. 6621 effective April 17, 1991)

Section 130.1955 Farm Chemicals

a) Effective October 1, 1975, vendors of farm chemicals are exempt from Retailers' Occupation Tax on their receipts from such sales.

b) Farm chemicals include any chemical product used in the production of crops agriculture, the products of which are to be sold, or in the production of care of animals that are to be sold or the products of which are to be sold. Examples of exempted items are stock sprays, poultry remedies and other medicinal preparations and vaccines, poultry purifying products, insecticides, weed killers and conditioners, water purifying products, insecticides, weed killers and the like. (For a definition of production agriculture, see Section 2-35 of the Act.)

(Source: Amended at 15 Ill. Reg. 6621 effective April 17, 1991)

Section 130.1970 Hatcheries

a) When Liable For Tax

1) Sales of baby chicks which are purchased for the buyers' consumption, and which are consumed by such buyer or lost and not subsequently resold on the market, constitute retail sales, the receipts from which are subject to the Retailers' Occupation Tax.

2) Hatcherymen also incur Retailers' Occupation Tax liability when they sell brooders, water troughs and other poultry-raising equipment to purchasers for use or consumption unless such sale is exempt by virtue of 86 Ill. Adm. Code 130.305 Farm Machinery and Equipment.

b) When Not Liable For Tax

1) Baby chicks which are purchased by the buyer for resale on the market as poultry and which are not consumed by such buyer, or which are purchased by the buyer for the production of eggs for sale, are deemed to be sold for resale by the hatcheryman, notwithstanding the fact that some of the chicks so purchased may die before they are resold. The

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only so long as the certificate of eligibility remains current. That is, the exemption can be claimed only as to purchases made during the effective period of the certificate of eligibility specified by the Department of Commerce and Community Affairs on the face of the certificate of eligibility.

C) If a certified business enterprise (or its lessor) purchases tangible personal property which could reasonably be used in the operation of pollution control facilities, then the certified business enterprise (or its lessor) should certify to the seller in writing in order to relieve the seller of the duty of collecting and remitting tax on the sale. However, the purchaser who certifies that the item is being purchased for a qualifying use in an enterprise zone by a qualified business enterprise will be held liable for the tax by the Department if it is found that the item was not so used.

D) An item which is used primarily in a qualifying manner at a qualifying location but which is converted to a nonexempt use or is moved to a nonexempt location will become subject to tax at the time of its conversion based on the fair market value of the item at the time of conversion to the nonexempt use.

E) The certificate of eligibility issued by the Department of Commerce and Community Affairs can be used only to document exemption from Illinois Retailers' Occupation Tax liability. A certificate of eligibility issued by the Department of Commerce and Community Affairs cannot be used to document exemption from Municipal, County, Regional, Transportation Authority, Metro-East, District, County, Supplementary or County Water-Commission-Retailers, Occupation-Tax-habittes-

F) Municipalities and counties are authorized to adopt ordinances which provide for the local (municipal or county) certification of businesses which satisfy the requirements set out at Section 130.1951(b)(1)(A) and (B) of this Part. Such a certification by a municipality or county can be used to document exemption from the Retailers' Occupation Tax imposed by the certifying municipality or county.

G) This exemption is not available for Regional Transportation Authority, Metro-East, Mass-Transit

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hatcheryman is not liable for tax with respect to his receipts from such sales of chicks for resale.

- 2) Also, persons engaged in the business of operating incubators or hatcheries, who hatch baby chicks for other persons from eggs belonging to such persons (custom hatching), are deemed to render service with respect to such transactions, and they are not required to remit Retailers' Occupation Tax measured by their gross receipts from their rendering of such service.

c) Records of Sales of Baby Chicks

If a seller of baby chicks has adequate records to establish which of his sales of baby chicks are at retail and which of such sales are for resale, such records will control. ~~In the absence of such records, the Department will presume that 10% of the seller's sales of baby chicks are at retail and will require that Retailers' Occupation Tax be paid on that basis.~~

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.1980 Optometrists, ~~Oculists~~ and Opticians

a) Optometrists ~~and Oculists~~ When Liable For Tax

When optometrists ~~or oculists~~ sell tangible personal property to purchasers for use or consumption apart from their rendering of service as optometrists ~~or oculists~~, they incur Retailers' Occupation Tax liability. This is the case, for example, where optometrists ~~or oculists~~ sell spectacles, frames or mountings, without examination or treatment of the eyes, to purchasers for use or consumption, or where optometrists ~~or oculists~~ sell such items as sun glasses, cleaning solutions for lenses, barometers, telescopes, field glasses, opera glasses or other tangible personal property to purchasers for use or consumption apart from their rendering of service.

b) Optometrists ~~and Oculists~~ When Not Liable For Tax

Optometrists ~~and oculists~~ are engaged in professions and primarily render service. To the extent to which they engage in such profession, they are not engaged in the business of selling tangible personal property to purchasers for use or consumption within the meaning of the Act. Consequently, they are not required to remit Retailers' Occupation Tax measured by their receipts from engaging in such professions, including receipts from both services and tangible personal property.

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c) Opticians

- 1) When opticians sell such tangible personal property as lenses which they produce in accordance with the prescriptions of licensed optometrists ~~or oculists~~, the opticians are engaged primarily in a service occupation and do not incur Retailers' Occupation Tax liability on their receipts from sales. However, they incur Service Occupation Tax liability on their cost price of the tangible personal property which they purchase and retransfer as an incident to service (see Subpart A of the Service Occupation Tax Regulations, 86 Ill. Adm. Code Part 140).
- 2) An optician would incur Retailers' Occupation Tax liability if he should engage in selling any tangible personal property at retail apart from engaging in a service occupation.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.1990 Peddlers, Hawkers and Itinerant Vendors

a) When Liable For Tax

- 1) Persons who transport a supply of tangible goods from place to place, whether upon trucks, wagons or otherwise, exposing such goods for sale, soliciting and negotiating sales, and immediately delivering the goods sold, are considered to be peddlers, hawkers or itinerant vendors. Where such peddlers, hawkers or itinerant vendors sell such tangible personal property at retail in Illinois, on their own behalf, they are required to obtain a certificate of registration from the Department, file tax returns in conformance with the requirements of Section 3 of the Act and Subpart E of this Part and remit to the Department the Retailers' Occupation Tax on their receipts from such sales. It is unlawful for any person to engage in the selling of tangible personal property at retail in this State without a certificate of registration from the Department. (Section 2a of the Act).
- 2) It is immaterial what methods are employed in consummating sales, whether door-to-door canvass, solicitation by telephone or mail, or display in salesrooms.

b) When Not Liable For Tax

- 1) Where such persons do not sell on their own behalf, but merely act as agents for a manufacturer or distributor, or

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hospital which qualifies as a charitable institution, primarily for the purposes of the selling organization.

- B) Examples of sales that come under this exemption are sales of uniforms, insignia and Scouting equipment by Scout organizations to their members; sales of Bibles by a church to its members, and sales of choir robes by a church to the members of the church's choirs. The selling organization would incur Retailers' Occupation Tax liability if it should engage in selling any of the foregoing items at retail to the public.
- C) The selling of school books and school supplies by schools at retail to students shall not be deemed to be "primarily for the purpose of" the school which does such selling. Consequently, schools incur Retailers' Occupation Tax liability when they engage in selling school books or school supplies at retail to their students or to others.

3) Noncompetitive Sales

- A) The second exception is that sales by exclusively charitable, religious or educational organizations are not subject to the Retailers' Occupation Tax when it can be said that such selling is noncompetitive with business establishments.
- B) The Attorney General has laid down the following tests for determining that such selling is noncompetitive:
- i) "The transactions are conducted by members of the charitable entity and not by any franchisee or licensee.
 - ii) "All of the proceeds must go to the charity.
 - iii) "The transaction must not be a continuing one but rather should be held either annually or a reasonably small number of times within a year. The test of reasonableness would be an administrative decision, to be made by the Department of Revenue.
 - iv) "The reasonably ascertainable dominant motive of most transferees of the items sold must be the making of a charitable contribution, with the

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transfer of property being merely incidental and secondary to the dominant purpose of making a gift to the charity.

- C) "In addition, the Attorney General has stated that there are these further considerations which--I--adduce for the purpose of furnishing some guides to the resolution of questions raised by each individual situation:
- i) "The nature of the particular item sold. All other things being equal, the decision as to candy might well be different from the decision as to refrigerators.
 - ii) "The character of the particular sale, and the real practical effect upon punitive competition."
- D) Under this second exception, examples of exempt sales are infrequent sales of cookies, doughnuts, candy, calendars or Christmas trees by Scout organizations or by other exclusively charitable organizations or by exclusively religious organizations. In this category, the Attorney General's opinion stresses that the sale must be infrequent, and that the dominant motive of the purchase must be the making of a donation to the charitable or religious organization which conducts the sale, rather than the acquisition of property.
- E) Even if the sale to the public occurs only once a year, the charitable or religious organization which conducts the sale would incur Retailers' Occupation Tax liability if it sells hats, greeting cards or other items for which the dominant motive of the purchase is the acquisition of the property rather than the exchanging of the property merely as a token for the making of a donation.
- 4) Occasional Dinners and Similar Activities
- A) The third exception is that occasional dinners, socials or other similar activities which are conducted by exclusively charitable, religious or educational organizations or institutions are not taxable, whether or not such activities are open to the public. This exemption extends to occasional dinners, ice cream socials, fun fairs, carnivals, rummage sales, bazaars, bake sales and the like, when conducted by exclusively charitable, religious or educational organizations or

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- C) The same distinctions apply to nonprofit sanitaria and nonprofit nursing homes when they qualify as exclusively charitable institutions.
- 2) Gift Shops and Rummage Stores
- Charitable or religious organizations incur Occupation Tax liability on the retail selling which they do in the course of operating gift shops and rummage stores.
- 3) Meals
 - A) Charitable or religious organizations incur Retailers' Occupation Tax liability on their receipts from sales of meals to the public unless such selling is done only occasionally (not more than twice in any given period of one year). In the latter case, such sales are tax exempt, provided that all the profits from such sales are used for charitable or religious purposes.
 - B) Also, a church or religious organization does not incur Retailers' Occupation Tax liability on its receipts from sales of meals where the following conditions are met:
 - i) The profits, if any, are used for religious purposes;
 - ii) the meals are confined to the members of such church and their guests and are not open to the public, and
 - iii) the serving of the meals is connected with some religious service or function.
 - C) Under the circumstances just described, even if this type of selling of meals is done rather frequently, it is exempt from the Retailers' Occupation Tax because of being in the category of sales to members "primarily for the purposes of" the religious organization (the seller).
- 4) Special Problems Concerning Sales by Schools
 - A) Dining Facilities
 - A school does not incur Retailers' Occupation Tax liability on its operation of a cafeteria or other dining facility which is conducted on the school's premises, and they are competitive.

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- B) For the purposes of this exemption, "occasional" means not more than twice in any given one-year period.
- C) This exemption does not extend to "occasional" sales, by exclusively charitable, religious or educational organizations or institutions, of hats, greeting cards, cookbooks, flag kits and other similar items because these are not "occasional dinners, socials or similar activities" within the meaning of the Act, and the selling of these kinds of items at retail even on an occasional basis does generally place the selling organization in substantial competition with business establishments.
- b) Rules Governing Some Special Kinds of Selling by Exclusively Charitable and Religious Organizations
 - 1) Hospital Sales
 - A) Nonprofit hospitals which qualify as exclusively charitable institutions are not taxable when selling food or medicine to their patients in connection with the furnishing of hospital service to them, nor on the operation of restaurant facilities which are conducted primarily for the benefit of the hospital's employees, and which are not open to the public. However, sales made in a hospital cafeteria which is open to the public will be taxable sales.
 - B) In the case of hospitals which qualify as charitable institutions, such hospitals are not taxable when selling drugs to anyone because this is for the relief of the sick (which is the hospital's primary purpose) and so is "primarily for the purpose of" such hospitals, thus qualifying such transactions for tax exemption. However, a hospital or hospital auxiliary incurs Retailers' Occupation Tax liability when selling candy, chewing gum, tobacco products, razor blades and the like at retail even when such items are sold only to patients because (unlike food and medicine) these items are not necessary to the furnishing of hospital service, and they are competitive.

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and which confines its selling to the students and employees of the school. In any instance in which the dining facility is opened up for the use of other persons, all sales that are made at such facility while that condition continues to prevail are taxable.

B) Meaning of "Student"

For the purpose of the exemptions under discussion, a "student" is a person who is taking a course from the school for credit.

C) School Books and School Supplies

i) A school incurs Retailers' Occupation Tax liability when selling school books and school supplies to its students or others, for use.

ii) Schools are not taxable on their sales of school annuals because these are noncompetitive items.

D) Clothing and Dormitory Supplies

Schools incur Retailers' Occupation Tax liability when they sell sweaters, sweat shirts, gym shoes, jackets and other items of clothing to students or others for use. The same is true when a school sells furniture, rugs or other dormitory supplies to users.

E) Miscellaneous Items

A school or school organization incurs Retailers' Occupation Tax liability when it sells soft drinks, candy, peanuts, popcorn, chewing gum and the like to students or to members of the public for use or consumption, where these items are sold at a school book store, through vending machines or otherwise than in a restricted school cafeteria as a part of the selection which the student has in buying meals in such cafeteria. However, the proceeds from the sale of tangible personal property by teacher-sponsored student organizations affiliated with an elementary or secondary school located in Illinois are exempt from Retailers' Occupation Tax. (See Section 2-5(6) of the Act and 86 Ill. Adm. Code 130.2006.)

c) Registration and Returns

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- 1) Nonprofit organizations which incur Retailers' Occupation Tax liability as retail sellers of tangible personal property are required to register with the Department and file periodic returns. Returns are due monthly, except that if the taxpayer's average monthly liability to the Department is ~~\$20.00~~ \$50.00 or less, the taxpayer may apply to the Department for permission to file one return each year covering the calendar year, with the return being due by January 31 of the following year. Whenever tax is due for a return period, the remittance for the tax should accompany the return which discloses such tax to be due.
 - 2) For more information concerning the filing of returns with the Department, see Subpart E of this Part.
 - 3) Registration and return forms may be obtained from the Department on request.
 - 4) ~~In the case of a church, it is recommended that if a return is due for any return period, the church should file the return for itself and all of its organizations which have taxable activities to report. Likewise, if there will be a frequently recurring liability so that registration with the Department of Revenue is necessary, it is recommended that a single Certificate of Registration be applied for by the church and that this be allowed to cover the selling activities of that church and all of its organizations. Registration must be obtained prior to the commencement of selling activities. (Section 2a of the Act.)~~
In the case of a church, it is recommended that a single Certificate of Registration be applied for by the church and that this be allowed to cover the selling activities of that church and all of its organizations. Registration must be obtained prior to the commencement of selling activities. (Section 2a of the Act.)
 - 5) In the case of public schools or school organizations which incur some Retailers' Occupation Tax liability so as to be required to register with the Department of Revenue, the Board of Education which governs the school district (rather than each individual school or school organization) should apply to the Department for a Certificate of Registration, and such Board of Education should file a single return for the return period covering all the taxable school activities that occur under its jurisdiction during the return period covered by the return.
- d) Suppliers of Nonprofit Institutions, Associations and Organizations
- 1) Suppliers of nonprofit institutions, associations and organizations do not incur Retailers' Occupation Tax liability

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Nonprofit Bar Associations, Medical Associations, Lions Clubs, Rotary Clubs, Chambers of Commerce and other professional, trade or business associations and labor unions, which draw their funds largely from their own members, and as to which an important purpose is to protect and advance the interests of their members in the business world, are not organized and operated exclusively for charitable or educational purposes, even though such organizations may engage in some charitable and educational work. The same conclusion applies to the American Legion, Veterans of Foreign Wars, Amvets, the Daughters of the American Revolution and other similar nonprofit patriotic organizations.

h) Organization Must be Nonprofit to be Exclusively Charitable

On the other hand, a purchaser cannot qualify as being organized and operated exclusively for charitable purposes unless it is organized and conducted on a not-for-profit basis, with no personal profit inuring to anyone as a result of the purchaser's operation. The payment of reasonable salaries to necessary employees for services actually rendered does not convert a nonprofit enterprise into a business enterprise.

i) Other Conditions Necessary for Being Exclusively Charitable

1) In the case of a corporation, there can be no capital structure nor capital stock, no provision for disbursing dividends or other profits and no payment of director's fees if the corporation seeks to qualify as an exclusively charitable corporation.

2) The Supreme Court has stated that a charitable purpose may refer to almost anything which promotes the well-being of society and which is not forbidden by law; but to qualify as a charity, the purchaser must be organized and operated to benefit an indefinite number of the public. There may be restrictions on the group to be benefited (such as an organization for women, for children, for the aged, etc.), but the service rendered to those eligible for benefits must, nevertheless, in some way relieve the public of a duty which it would have to such beneficiaries or otherwise confer some benefit on the public.

j) Determination of Purpose for Which Organization or Institution is "Organized and Operated"

1) In the case of a corporation, the purpose for which it is "organized" will be determined by reference to its Charter.

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For example, it has been held by the Supreme Court that an Elks Lodge, whose Charter stated it was incorporated for the mutual benefit and social intercourse of its members, was not "organized" exclusively for "charitable purposes", even though the corporation engaged in a considerable amount of charitable work.

2) In the case of an unincorporated society, association, etc., the Constitution and By-laws thereof will determine the purpose for which it is organized.

3) To qualify for total exemption the purchaser must be organized "and operated" exclusively for charitable, religious or educational purposes.

k) Examples of Exempt Buyers

1) Some examples of purchasers which come within this exemption are churches, Sunday Schools, Church Ladies' Aid Societies, Salvation Army and other nonprofit corporations, societies, associations, foundations and institutions organized and operated exclusively for religious purposes (but not including Ministers or other individuals when making purchases from their own funds); corporations, societies, associations, foundations and institutions organized and operated exclusively for educational purposes, whether such purchaser is organized and operated as a business enterprise or on a not-for-profit basis (but see §subsection (1) below); homes for the aged which are not organized or operated as a business enterprise with a view to profit and which otherwise qualify as charitable institutions; nonprofit corporations, societies, associations, foundations and institutions organized and operated exclusively for the purpose of conducting scientific research of a character that would be beneficial to the public (held to be a charitable purpose); the American National Red Cross, Community Fund or United Fund organizations, the Y.M.C.A., the Y.W.C.A., Boy Scouts of America (as a corporation, but not as individuals), Girl Scouts of America (as a corporation or association, but not as individuals), nonprofit Parent-Teacher Associations, the National Safety Council and similar organizations and nonprofit societies for the prevention of cruelty to children or animals (all classified as charitable); free public libraries that are not operated for profit and that are not operated by commercial enterprises (whether such libraries are governmental units or not), and local housing authorities.

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in tax-supported schools within the meaning of the Retailers' Occupation Tax Act.

4) However, the exemption for educational purposes includes private schools (such as parochial grade and high schools, private colleges and the like) as well as government-owned tax-supported schools so long as the institution qualifies as a school as hereinabove described.

5) Also, the Retailers' Occupation Tax "educational purposes" exemption is not limited by the statute to nonprofit institutions--se. The exemption would include a--business-operated--school vocational or technical schools or institutions organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business or commercial occupation (such as a business-operated law school) as long as the institution otherwise qualifies as a school within the meaning of this subsection and the Act. (See §subsection (q) of this Section and Section 2(h) of the Act).

6) In addition, for Property Tax purposes, the Supreme Court has held that an association, which is not itself a school in the ordinary sense, but which provides a substantial service in improving the educational standards of schools (such as the Association of American Medical Colleges), is within the "school purposes" exemption, so the Department will consider such an organization to be organized and operated exclusively for "educational purposes" for Retailers' Occupation Tax purposes.

7) Literary societies, though somewhat educational, are mainly for the benefit of their own members as a hobby or pastime and do not relieve the public of a duty nor contribute sufficiently to the public to qualify for an exemption, and they are not places where systematic instruction in useful branches of learning is given by methods common to schools and institutions of learning in the ordinary or commonly accepted meanings of those terms.

m) Nonprofit Hospitals and Sanitaria

1) In the case of privately-owned hospitals, in addition to the fact that the hospital must be organized and operated as a nonprofit enterprise (with proceeds, if any, over expenses being put into the expansion of the hospital's services,

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3) To come within this exemption, the purchaser (in addition to being organized and operated exclusively for charitable, religious or educational purposes) must be a "corporation", a "society", an "association", a "foundation" or an "institution".

1) "Educational Purposes" and "School" Defined and Illustrated

1) Receipts received from retail sales to corporations, societies, associations, foundations and institutions that are organized and operated exclusively for educational purposes are not taxable. There is no specific exemption in the Constitution for "educational purposes" as to any kind of tax, but Section 6 of Article IX of the Illinois Constitution authorizes the General Assembly to grant a property tax exemption for property that is used for "school...purposes". Consequently, the Department will construe the Retailers' Occupation Tax exemption for "educational purposes" as meaning for "school...purposes", as the phrase "school...purposes" has been interpreted or may be interpreted by the Supreme Court. Section 2h of the Act provides the statutory definition of "a corporation, society, association, foundation or institution organized and operated exclusively for educational purposes."

2) The Supreme Court has said that a school is a place where systematic instruction in useful branches of learning is given by methods common to schools and institutions of learning and does not include schools for teaching dancing, riding and deportment. In that connection, the Supreme Court has held that an organization which conducts a four-week training school each summer for funeral directors is not a school because the courses given and the intensity of their instruction do not compare favorably with those in a department of mortuary science and mortuary practice at regular colleges and universities, but represent only a superficial or brief instruction in courses constituting a minor part of the study of mortuary science.

2) The Supreme Court has said that a school is a place where systematic instruction in useful branches of learning is given by methods common to schools and institutions of learning and does not include schools for teaching dancing, riding and deportment. In that connection, the Supreme Court has held that an organization which conducts a four-week training school each summer for funeral directors is not a school because the courses given and the intensity of their instruction do not compare favorably with those in a department of mortuary science and mortuary practice at regular colleges and universities, but represent only a superficial or brief instruction in courses constituting a minor part of the study of mortuary science.

3) Consequently, flying schools, driving schools, art association schools, modeling schools, charm schools, trade--schools and the like are not organized and operated exclusively for educational purposes because they do not offer courses which constitute systematic instruction in useful branches by methods common to public schools and which compare favorably in their scope and intensity with the course of study presented

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equipment and physical plant), some of the tests which the Supreme Court has required to be met before the hospital can qualify as being organized and operated exclusively for charitable purposes are that the hospital must not discriminate against patients or doctors because of race, color, creed or religion, and that the hospital must not refuse admittance to any patient because of his inability to pay for hospital service.

- 2) It is immaterial that most of the hospital's patients may be paying patients if the hospital does not adopt any policy which is calculated to prevent persons who cannot pay from seeking and obtaining admittance to the hospital.
 - 3) Delaying the admittance of nonemergency cases while the hospital makes an investigation to try to find someone who will give the prospective patient financial help has been held not to be an obstacle to admittance if the hospital does not engage in such delaying tactics in the case of emergency patients and if the hospital ultimately admits destitute patients notwithstanding the fact that they cannot pay for services and cannot procure financial help.
 - 4) A hospital does not lose its character as a charitable organization because of the fact that it refuses admittance to patients who are suffering from dangerously contagious diseases.
 - 5) Government-owned hospitals are deemed by the Department to be organized and operated exclusively for charitable purposes within the meaning of this Regulation Section.
 - 6) The principles stated in this Subsection with respect to hospitals apply also to sanitarium and clinics.
- n) Meaning of "Exclusively"
- 1) Although the provision of the Retailers' Occupation Tax Act under discussion, in excluding receipts from all sales to certain kinds of purchasers, refers to them as being organized and operated "exclusively" for charitable, religious or educational purposes, the Supreme Court has not given the word "exclusively" its most literal interpretation under similar circumstances because of the virtual impossibility of anyone being engaged "exclusively" in anything, and so the Department will follow a similar policy in applying the word "exclusively", as used in the Retailers' Occupation Tax Act

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and in this Section, in order to carry out the manifest intention of the General Assembly.

- 2) However, if a substantial purpose or activity of the purchaser is not charitable, religious or educational, the Department will not consider the purchaser to be organized and operated exclusively for charitable, religious or educational purposes within the meaning of the Act.
- o) Educational, Scientific and Similar Institutions, Associations and Organizations Operated as "Business" Enterprises--When Liable For Tax
- Persons engaged habitually, for livelihood or gain, in hospital, educational, religious, scientific, social or cultural enterprises are among those who are engaged in a service occupation which is nevertheless a "business" within the meaning of the Act. When persons who operate businesses of the type described in the preceding sentence sell tangible personal property to purchasers for use or consumption apart from their rendering of service, such persons incur Retailers' Occupation Tax liability. This is the case, for example, where hospitals which are conducted as "business" enterprises operate public dining rooms, public pharmaceutical dispensaries or otherwise sell tangible personal property at retail to the general public, or where schools which are operated as "business" enterprises sell tangible personal property at retail to the general public or make retail sales to students of clothing, dormitory supplies or other items which cannot be said to be used "primarily for the purposes of" the school. Also, business-operated schools incur Retailers' Occupation Tax liability on their retail sales of school books and school supplies to their students and faculty members.
- p) Educational, Scientific and Similar Institutions, Associations and Organizations Operated as "Business" Enterprises--When Not Liable for Tax
- 1) Persons of the type described in the preceding paragraph are engaged primarily in rendering service, and, to this extent, they are engaged in a service occupation. To the extent to which they engage in such service occupation, they are not required to remit Retailers' Occupation Tax measured by any of their receipts which they realize from their rendering of service, including those receipts which represent the price of tangible personal property which they transfer to others as a necessary incident to their rendering of service. The sale of meals to patients and the furnishing of medicine for a consideration to patients in the course of treatment by

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- 1) If incorporated, copy of Articles of Incorporation.
- 2) If unincorporated, copy of organization's Constitution.
- 3) Copy of By-laws.
- 4) A narrative explaining purposes, functions and activities of the organization.
- 5) Copy of Internal Revenue Service (I.R.S.) letter, respecting federal tax-exempt status, if organization has one.
- 6) Copy of brochures or other printed material explaining the purposes, functions and activities of the organization.
- 7) Copy of most recent financial statement.
- 8) Any other information which reflects the purposes, functions and activities of the organization.

c) Determination

The information noted in subsection (b), above, enables the Department to determine the status of an organization for sales tax purposes (refer to Section 130.2005).

d) Exempt Entities With Multiple Subsidiaries, Issuance of Number

The Department, in its sole discretion, may issue to a tax-exempt organization with more than 50 subsidiaries operating in Illinois, one exemption identification number for the use of the parent organization and each of its subsidiary organizations. (Ill. Rev. Stat. 1985, ch. 120, par. 440d Section 1g of the Act.) ~~THE DEPARTMENT WILL CONSIDER THE SIZE, UNIFORMITY, STRUCTURE, AND PURPOSES OF THE ORGANIZATION AS WELL AS ADMINISTRATIVE BURDENS OF THE DEPARTMENT AND OF THE APPLICANTS.~~ The Department will consider the size, uniformity, structure, and purposes of the organization as well as administrative burdens of the Department and of the applicants.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.2008 Sales by Nonprofit Service Enterprises

- a) The Retailers' Occupation Tax does not apply to some sales of merchandise by nonprofit organizations whose main purpose is to

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benefit persons who are 65 years of age or older. These organizations are called "service enterprises".

- b) An organization will be viewed as a service enterprise if it is organized and operated on a not-for-profit basis and if it provides services which are primarily designed to benefit persons 65 years of age or older. The types of services offered can include, but are not limited to, the following:

- Counseling services;
- employment services;
- facilities improvement services;
- health services;
- nutritional services;
- transportation services;
- volunteer program services.

- c) Qualifying not-for-profit service enterprises are not required to remit tax to the Department on their sales of merchandise at retail if such organizations did not originally purchase the merchandise free from tax. The term "merchandise" includes raw materials which are fabricated into such merchandise.

- d) If a qualifying not-for-profit enterprise sells merchandise which was purchased tax-free under either a Certificate of Resale or an exemption identification number, it must collect and remit tax to the Department.

(Source: Added at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.2010 Persons Who Rent or Lease the Use of Tangible Personal Property to Others

- a) **Persons Who Rent or Lease the Use of Tangible Personal Property to Others--When Liable for Retailers' Occupation Tax**

If persons who are engaged in the business of selling tangible personal property to purchasers for use or consumption purport to rent or lease the use of any such property to a nominal lessee or bailee, but in fact sell such tangible personal property to the nominal lessee or bailee for use or consumption, such persons are liable for payment of the Retailers' Occupation Tax. This is the case, for example, when the transaction involves a lease with a dollar or other nominal option to purchase. Such a transaction is considered to be a conditional sale from the outset, and all of the receipts from the transaction are subject to Retailers' Occupation Tax.

a service occupation or profession and are not required to remit Retailers' Occupation Tax measured by their receipts from such transactions, including receipts from both labor and tangible personal property.

2) For information concerning newspapers, magazines, books, sheet music and phonograph records, see Section 130.2105 of this Part.

3) For information concerning photographing, see Section 130.2000 of this Part.

4) For information concerning sales of medicines, see Section 130.310 of this Part.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.2040 Retailers of Clothing

a) When Liable For Tax

Persons who engage in the business of selling clothing to purchasers for use or consumption and not for resale incur Retailers' Occupation Tax liability when making such sales whether such clothing is sold as a stock or standard item or whether it is produced on special order for the purchaser. Suits, hats and other forms of clothing, when made on special order, serve substantially the same function as stock or standard clothing items that are sold at retail.

b) Production Labor Cost Not Deductible

In computing Retailers' Occupation Tax liability on the retail sale of custom-made clothing, no deduction may be taken for the cost of labor involved in producing the finished item for sale. This is true whether such production labor is included in a lump sum price with the tangible personal property or whether such production labor is priced separately from the tangible personal property. The thing that is being sold is the finished item of clothing, and the cost of labor involved in making such item is no more deductible than is the cost of labor that is involved in producing a stock or standard item for sale.

e) Effective-Date

~~This Section is effective August 1, 1991.~~

b) Persons Who Rent or Lease the Use of Tangible Personal Property to Others--When Not Liable For Retailers' Occupation Tax

Persons who, under bona fide agreements, rent or lease the use of automobiles under lease terms of more than one year, furniture, bus tires, costumes, towels, linens or other tangible personal property to others are, to this extent, not engaged in the business of selling tangible personal property to purchasers for use or consumption within the meaning of the Retailers' Occupation Tax Act and are not required to remit Retailers' Occupation Tax measured by their gross receipts from such transactions. However, such lessors (not being resellers) are users of the property and are subject to the Use Tax when purchasing tangible personal property which they rent or lease to others (see Sections 150.201 and 150.305(e) of the Use Tax Regulations, (86 Ill. Adm. Code Part 150) and Section 130.220 of this Part).

c) Rentors of automobiles under lease terms of one year or less incur neither Use Tax liability on the cost price of the vehicle(s), nor Retailers' Occupation Tax liability on rental receipts. Persons engaged in this State in the business of renting automobiles in Illinois under lease terms of one year or less incur liability under the Automobile Renting Occupation and Use Tax Act (Ill. Rev. Stat. 1989, ch. 120, pars. 1701 et seq.). The Automobile Renting Occupation Tax rules are found at 86 Ill. Adm. Code 180.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.2035 Registered Pharmacists and Drugists

a) When Liable For Tax

When registered pharmacists or drugists sell drugs or medicines "over-the-counter" to purchasers for use or consumption apart from their filling of the prescription of a licensed physician or other person qualified to issue prescriptions, or when registered pharmacists or drugists sell other tangible personal property to purchasers for use or consumption, such registered pharmacists or drugists incur Retailers' Occupation Tax liability.

b) When Not Liable For Tax

1) When registered pharmacists and drugists, who, themselves, are engaged in the practice of a licensed profession, sell medicines or drugs on the prescription of a licensed physician or other person qualified to issued prescriptions, such registered pharmacists and drugists are engaged primarily in

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(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.2055 Sales by Governmental Bodies

a) Sales by the State of Illinois and by Local Governments in Illinois

Effective August 1, 1961, the State of Illinois or any local governments in Illinois, or any agency or instrumentality of any such governmental body, incurs Retailers' Occupation Tax liability when it engages in the selling of tangible personal property at retail to the public other than in the performance of a governmental function. This includes the selling of fuel to users by airport authorities or other governmental bodies, except that it does not include the proceeds from the sale of fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage, in the conduct of its business or as an air common carrier, for a flight destined for a destination outside the United States. Also included is the operation of public stands by park districts or other governmental bodies, etc., but does not include the furnishing of utility services to the public, and does not include sales that may be made by such a governmental body to the public, and does not include the performance of a governmental function (such as the sale of motor vehicle license plates by the State of Illinois).

b) Sales by the United States Government and by Foreign Governments

Since a state may not place the legal incidence of its taxes directly on the United States Government or on a foreign government, sales by the United States Government and foreign governments, or any agency or instrumentality of any such government, are not subject to the Retailers' Occupation Tax even though such sales may be made in Illinois.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.2060 Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products

a) Retailers' Occupation Tax on Retail Sales of Alcoholic Beverages

Persons engaged in the business of selling alcoholic beverages to purchasers for use or consumption are required to remit Retailers' Occupation Tax to the Department upon their gross receipts from such sales, notwithstanding the fact that manufacturers and importing distributors of alcoholic beverages are required to pay certain taxes under ~~an Act entitled "an Act relating to alcoholic~~

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~~liquors", approved January 31, 1934, as amended~~ The Liquor Control Act of 1934 (Ill. Rev. Stat. 1989, ch. 43, pars. 93.9 et seq.). It is immaterial whether such alcoholic beverages are consumed on or off the premises where such alcoholic beverages are sold. In computing Retailers' Occupation Tax liability, no amount may be deducted from gross receipts from retail sales of alcoholic beverages to cover the taxes which have been paid by manufacturers or importing distributors of alcoholic beverages under ~~"An Act relating to alcoholic liquors"~~ The Liquor Control Act of 1934. Since the legal incidence of the Cook County Liquor Gallonage Tax is on the consumer, with the seller acting merely as a collector of the tax for the county, amounts collected because of the Cook County Liquor Tax are not considered to be a part of the liquor retailer's receipts that are subject to Retailers' Occupation Tax.

b) Retail Sales of Motor Fuel

Persons engaged in the business of selling motor fuel to purchasers for use or consumption are also required to remit Retailers' Occupation Tax to the Department upon their taxable receipts from such sales. In computing their Retailers' Occupation Tax liability, persons who sell motor fuel for use or consumption may deduct, from their gross receipts from such sales, the Illinois Motor Fuel Tax collected with respect to such sales, because the Illinois Motor Fuel Tax is on the consumer and is not considered to be a part of the "selling price" of the motor fuel. The rate of the Illinois Motor Fuel Tax is ~~7-1/2~~ 19 cents per gallon. (Also, see 86 Ill. Adm. Code 500.)

c) Retailers' Occupation Tax on Retail Sales of Cigarettes and Other Tobacco Products

1) Persons engaged in the business of selling cigarettes, cigars and other tobacco products incur Retailers' Occupation Tax liability when selling such products to purchasers for use or consumption. ~~However, in the case of cigarettes, the amount of the retail selling price represented by the State Cigarette Tax or Cigarette Use Tax should be deducted from~~ included in the total selling price in arriving at the net taxable selling price. The rate of the Cigarette Tax and the Cigarette Use Tax is ~~6~~ 15 mills per cigarette, or ~~12~~ 30 cents per package on a package of 20 cigarettes.

2) If a home rule jurisdiction, such as Chicago, imposes a cigarette tax ~~whose legal incidence clearly falls on consumers, with sellers being merely collectors of such tax,~~ the amount of such local cigarette tax likewise is ~~not~~ subject to Retailers' Occupation Tax. If any local government, pursuant to

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must pay the Municipal or County Retailers' Occupation Tax thereon, if applicable.

- 3) The ~~Municipal or County~~ local Retailers' Occupation Tax to be paid by the contractor or builder in this situation shall be paid for the benefit of the ~~municipality~~ entity in which the place of business at or from which the contractor or builder handles the transaction is located (~~or the unincorporated area of the county in which such place of business of the contractor or builder is located~~), if such ~~municipality or county~~ (as the case may be) entity has adopted the local Retailers' Occupation Tax at the time when the contractor or builder converts the tangible personal property in question into real estate.
- 4) Such purchaser, who assumes the responsibility for accounting for the tax, must pay State Retailers' Occupation Tax (plus local Retailers' Occupation Tax, if applicable) on the full selling price of the tangible personal property if he resells the property "over-the-counter" to a user (including a construction contractor) apart from acting as a construction contractor himself.
- 5) A purchaser of this type would have to be registered with this Department under the Retailers' Occupation Tax Act since he would be incurring some Retailers' Occupation Tax liability, so he would be required to furnish his vendor with his Retailers' Occupation Tax registration number in the Certificate of Resale referred to hereinabove.
- 6) The tax involved in this Section is State Retailers' Occupation Tax and Use Tax and local Retailers' Occupation Tax, but not State or local Service Occupation Tax or Service Use Tax.

c) Use Tax on Out-Of-State Purchases

Tangible personal property bought outside this State either by Illinois or out-of-State construction contractors or builders in such a way that the seller does not incur Retailers' Occupation Tax liability and used in this State for building purposes is subject to the Use Tax. If the purchaser buys such tangible personal property from an out-of-State seller who is registered with the Department as a Use Tax collector, the purchaser should pay the Use Tax to such seller unless the purchaser is also a retailer and elects to assume responsibility for accounting for all the tax on such materials. If the purchaser buys such materials outside Illinois from an unregistered seller, the purchaser should pay the Use Tax directly to this

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Department. No local Retailers' Occupation Tax is applicable in this situation.

- d) Sales of Materials to Construction Contractors Acting for Exclusively Charitable, Religious or Educational Organizations or Institutions, or for Governmental Bodies
 - 1) Sales of materials to construction contractors for incorporation into real estate owned by exclusively charitable, religious or educational institutions or organizations, or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older, or for incorporation into real estate owned by governmental bodies, are exempt from Retailers' Occupation Tax and Use Tax. The intent of the Legislature was to relieve the above-designated kinds of purchasers from the burden of tax on their purchases whether the purchases are made directly or indirectly by these organizations. Therefore, the exemption applies to their indirect purchase of building materials.
 - 2) However, effective March 17, 1965, this exemption does not extend to sales of materials to construction contractors for incorporation into real estate owned by a national bank, a State chartered bank or a Federally or State-chartered savings and loan association (see Section 130.2085 of this Part). Sales of materials to, and purchases of materials by, such construction contractors are taxable sales and purchases.
 - 3) Also, sales of tools, fuel, lumber for forms and other end use or consumption items to construction contractors who do not incorporate these items into real estate are taxable sales regardless of who the contractor's customer may be, and this has been true since the beginning of the Act.
 - 4) A supplier claiming exemption hereunder shall have among his records a certification from the purchasing contractor stating that his purchases are for conversion into real estate under a contract with a church, charity, school or governmental body, identifying the church, charity, school or governmental body that is involved by name and address and stating on what date his contract was entered into. The supplier shall also have among his records the active exemption number issued by the Department to the organization for which the purchasing contractor is acting.

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5) The person claiming the exemption has the burden of proving that the contractor's customer qualifies as an exclusively charitable, religious or educational organization or institution, or as a governmental body. In case of doubt on this point, require the contractor's customer to obtain a ruling from the Department of Revenue.

e) Sales of Materials to Construction Contractors for Incorporation into Public Improvements Which Are Required to be Transferred to a Unit of Local Government Upon Completion

For the same reason stated in subsection (d) of this Part, sales to construction contractors of materials which will be physically incorporated into public improvements, the ownership of which is required to be conveyed to a unit of local government pursuant to a pre-development transfer requirement are exempt from Retailers' Occupation Tax and Use Tax. The supplier shall have among his records the active registration number issued by the Department to the governmental unit to which the public improvements will be transferred upon completion. The pre-development transfer requirement may take the following forms:

1) Where language in the local governmental unit's subdivision ordinance explicitly requires that title to public improvements be transferred to the local governmental unit upon completion, the pre-development transfer requirement is satisfied as to all public improvements (such as roads and streets, sidewalks, sanitary sewer systems and storm water drainage systems) actually required to be transferred under the terms of that ordinance;

2) Where language in a pre-development agreement between the local governmental unit and a developer explicitly requires that title to public improvements be transferred to the local governmental unit upon completion, the pre-development transfer requirement is satisfied as to all public improvements actually required to be transferred under the terms of that pre-development agreement;

3) Where a plat of subdivision, formally approved by a municipality, has been recorded with the County Recorder of Deeds and where that recorded plat contains a public dedication of improvements, the pre-development transfer requirement is satisfied as to roads and streets located within the corporate limits of the approving municipality and any other improvements located within the corporate limits which

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are dedicated on the plat to the public use and for no other purpose;

4) Where a plat of subdivision, formally approved by a county with fewer than 500,000 inhabitants which has established regulations regarding location, width and course of roads and streets, has been recorded with the County Recorder of Deeds and where that recorded plat contains a public dedication of roads and streets located in the unincorporated area of the approving county, the pre-development transfer requirement is satisfied as to those public roads and streets. In this context, only grading and surface materials which actually become part of the roadbed and materials incorporated into curbs and gutters qualify for the exemption. Other items such as catchbasins, drainage pipe or materials incorporated into sidewalks do not qualify for the exemption.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.2080 Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel

a) Sales made on or after March 21, 1963, to a governmental body (Federal, State, local or foreign) are exempt from the Retailers' Occupation Tax. Such sales are not exempt from the Retailers' Occupation Tax unless a governmental body has an active exemption identification number issued by the Department. However, retailers may accept U.S. Government Bank Cards in sales to the U.S. Government and its agencies without requiring an Illinois exemption number.

b) 1) For the foregoing purposes, the date of sale is considered to be the date of delivery to the purchaser.
2) The purchase of meals, fuel and other tangible personal property by corporations in Illinois are taxable sales at retail, unless otherwise exempt, notwithstanding the fact that the stock of such corporations may be owned exclusively or in part by foreign governments.

b) When making a purchase, the holder of the card presents it to the retailer, who records the card number instead of collecting the tax.

c) The U.S. State Department, Office of Foreign Missions, issues tax exemption identification cards to accredited foreign diplomatic and consular officials. Under the authority of the Foreign Missions Act,

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various levels of exemption are authorized. Section 130. Illustration A depicts examples of the various cards currently being issued.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.2085 Sales to or by Banks, and Savings and Loan Associations and Credit Unions

a) Sales to Banks, Etc.

- 1) Retail sales to national banks, State-chartered banks, Federally-chartered savings and loan associations and other privately-owned financial institutions are subject to the Retailers' Occupation Tax. This conclusion also applies to sales of building materials and fixtures to construction contractors for incorporation into real estate owned by banks and savings and loan associations even if such real estate is used for bank or savings and loan association purposes. For the foregoing purposes, the date of sale is considered to be the date of delivery to the purchaser. Federally-chartered credit unions do not incur Use Tax liability when making purchases of tangible personal property for use or consumption. (See 12 U.S.C. 1768) Retailers making sales of tangible personal property to Federal credit unions are not able to reimburse themselves for the Retailers' Occupation Tax they incur as a result of making such sales by collecting the reimbursing Use Tax. Nonetheless, retailers making sales of tangible personal property to Federal credit unions do incur Retailers' Occupation Tax liability on their gross receipts from such sales.

- 2) ~~However,~~ Sales to Federal Reserve Banks, Federal Land Banks and Federal Home Loan Banks are exempt from the Retailers' Occupation Tax under the exemption for sales to governmental bodies.

b) Sales by Banks, Etc.

State-chartered banks and both Federally and State-chartered savings and loan associations, which engage in selling tangible personal property at retail, are liable for Retailers' Occupation Tax on their receipts from such sales commencing March 17, 1965. Effective February 1, 1970, national banks, which engage in selling tangible personal property at retail, also are liable for Retailers' Occupation Tax on their receipts from such sales.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

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Section 130.2090 Sales to Railroad Companies

When persons who are engaged in the business of selling equipment, supplies or other tangible personal property sell any such tangible personal property to railroad companies for use or consumption, such persons are required to remit Retailers' Occupation Tax to the Department on their gross receipts from such sales except when the sale qualifies for the rolling stock exemption described in Section 130.340 of this Part and in Section 150.310(a)(2) of the Use Tax Regulations; or the sale is of tangible personal property to a common carrier by rail which receives the physical possession of such property in Illinois, and which transports such property, or shares with another common carrier in the transportation of such property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of such property to a destination outside Illinois for use outside Illinois.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.2105 Sellers of Newspapers, Magazines, Books, Sheet Music and Phonograph Records, and Their Suppliers

a) Sellers of Newspapers, Magazines, Books, Sheet Music and Phonograph Records

- 1) Sellers of books, sheet music and phonograph records incur Retailers' Occupation Tax liability when they sell any of these items to purchasers for use or consumption and not for resale.
- 2) Sales of newspapers and magazines are not subject to the tax.
- 3) Sales by exclusively religious, charitable or educational organizations of books or other items containing such organizations' own individualized literature which cannot be bought from persons who are engaged in business are not subject to the Retailers' Occupation Tax even if such sales are made to the public because such sales are not competitive with retailers.
- 4) Sales of school books by schools to their students are not considered to be sales that are made "primarily for the purpose" of the school and so are subject to the Retailers' Occupation Tax.

b) Suppliers of Persons Who Sell Newspapers, Magazines, Books, Sheet Music and Phonograph Records

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- A) The purchaser employs the seller primarily for his engineering or other scientific skill to design and produce the property on special order for the purchaser and to meet the particular needs of the purchaser;
- B) the property has use or value only for the specific purpose for which it is produced, and
- C) the property has use or value only to the purchaser.
- 2) On the requirement of design by the seller, it is sufficient if the seller is responsible for making a substantial contribution to the designing of the property that is to be produced on special order and sold.
- 3) If the item qualifies for Retailers' Occupation Tax exemption under this Section, such exemption is not lost merely because the seller subcontracts the service work to someone else as long as the seller is contractually responsible to see that the necessary service work is provided.
- 4) On the question of "use or value only to the purchaser", this test for exemption is met if the property is not standard enough to be stocked or to be ordered from a catalog or other type of sales literature, but has to be produced in accordance with special requirements which are peculiar to the purchaser and not common to someone else whose conditions for possible use of the property can be shown by the Department to be reasonably comparable to those of the purchaser.
- 5) In the case of special assemblies such as special conveyors, the sale does not become taxable (if it would otherwise be exempt hereunder) merely because a fairly substantial portion of the completed product is made of standard parts or of raw material (such as steel) which can be stocked for sale.

c) Cross Reference to Service Occupation Tax Regulations

When a seller is exempt from the Retailers' Occupation Tax under ~~paragraph~~ subsection (b) of this Section because of being engaged primarily in a service occupation, he is liable for Service Occupation Tax on his ~~cost~~ selling price of ~~raw materials and other~~ tangible personal property which he ~~purchases and retransfers~~ transfers as an incident to a sale of service (see Subpart A of the Service Occupation Tax Regulations, 86 Ill. Adm. Code Part 140).

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(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.2140 Vendors of Curtains, Slip Covers, Floor Covering and Other Similar Items Made to Order

- a) When Liable for Tax
- 1) Persons who engage in the business of selling portieres, drapes, curtains, marquee curtains, slip covers, floor covering, tents, tarpaulins and other similar items incur Retailers' Occupation Tax liability when selling such items (with or without installation by the seller) to purchasers for use or consumption and not for resale whether such items are sold as stock or standard items or whether the seller produces such items on special order for the purchaser.
 - 2) The same is true when custom-made Venetian blinds, window shades, awnings, screen doors, window screens, storm doors and storm windows are sold at retail "over-the-counter" without installation by the seller as a construction contractor under Section 130.1940(c) of this Part. This is true because such items, when produced on special order, serve substantially the same function as stock or standard items of tangible personal property which is sold at retail.
- b) Labor Charges
- 1) In computing Retailers' Occupation Tax liability on the retail sale of custom-made items, no deduction may be taken for the cost of labor involved in producing the finished item for sale. This is true whether such production labor is included in a lump sum price with the tangible personal property or whether such production labor is priced separately from the tangible personal property. The thing that is being sold is the finished item (drapes, carpeting, etc.), and the cost of labor involved in making such item is no more deductible than is the cost of labor that is involved in producing a stock or standard item for sale.
 - 2) However, receipts from installation charges are deductible from total receipts in computing Retailers' Occupation Tax liability if such charges are contracted for by the seller and the purchaser separately from the selling price of the finished tangible personal property, but even receipts from installation charges are taxable if the installation charge is included in a

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H) sellers of food and beverages, delivered in Illinois to airlines, for use in serving passengers on aircraft without a separate charge for the food or beverages being made by the airlines, regardless of whether the airline may serve the food and beverages in Illinois or outside Illinois; sales of meals to airlines for use on their aircraft in serving crews, where the cost is deducted from a food allowance, are nontaxable sales for resale, but if the meals are delivered to the airline in Illinois, the airline incurs Retailers' Occupation Tax liability on its receipts (consideration in the form of compensation for service rendered) from reselling such meals to crews, regardless of whether the aircraft is in Illinois or outside Illinois when it serves such meals to its crew.

b) Vendors of Meals to Organizations or Their Members

1) Effective August 1, 1961, when members of an organization meet at a hotel, restaurant or other place of business where food or drinks are sold and pay for any such items, the hotel, or other vendor of meals, is considered to be selling such tangible personal property directly to such members as users or consumers, and such sales shall be considered to be taxable. This is true even if the organization collects from the members and makes payment to the vendor, and even if the organization is permitted to retain a portion of what it collects for its own purposes.

2) In this situation, the organization is deemed to be acting for the accommodation of all concerned and is not deemed to be standing in the role of a purchaser and reseller.

3) The measure of the tax is the amount received by the hotel, etc., for the tangible personal property which it furnishes. If the organization itself pays for the food or drinks and gives them to its members or others, the hotel, or other vendor of meals, nevertheless incurs Retailers' Occupation Tax liability except when the purchasing organization which gives the food or drinks away is an exclusively charitable, religious or educational organization (see Section 130.2005(d) of this Part), or except when such purchaser buys the food or drinks and gives them away as a governmental body.

4) The principles stated in this Section apply also when the tangible personal property that is being sold is something

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ILLINOIS REGISTER

NOTICE OF ADOPTED AMENDMENTS

e) Effective Date
Section 130.450 of this Part.)

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

a) Vendors of Meals--When Liable for Tax

1) Persons engaged in the business of selling meals to purchasers for use or consumption incur Retailers' Occupation Tax liability on their receipts from such sales. It is immaterial that no profit is realized from the operation of any such business if the seller is engaged in a commercial enterprise, or if the seller engages in activities which make him taxable under the terms of Section 130.2005 of this Part. It is also immaterial that the class of purchasers may be a limited one, such as the employees of a particular employer who operates a cafeteria or other dining facilities for the benefit of his employees.

2) The foregoing Regulation includes, but is not limited to, the following types of vendors:

- A) Hotels;
- B) restaurants;
- C) caterers;
- D) boarding houses;
- E) concessionaires;
- F) nonprofit service organizations and institutions to the extent indicated in Section 130.2005(a), (b) and (c) of this Part, and similar enterprises when conducted with a view to profit to the extent indicated in Section 130.2005(o) of this Part;
- G) employers who operate dining facilities for the benefit of their employees, except to the extent noted in Section 130.2005(b) of this Part, and

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other than food and drinks, but this ~~Regulation~~ Section is concerned primarily with vendors of food and drinks.

c) Cover Charges and Minimum Charges

- 1) Cover charges are not included in the taxable receipts of persons operating restaurants, hotels and other places of business which come within the Act, where such cover charges are made exclusively for the privilege of occupying space within such eating place, and where the payment of a cover charge by a patron does not entitle such patron to use or consume any food or beverage or other tangible personal property.
- 2) In such an instance, the cover charge is a receipt on account of a service rendered, whether such service be entertainment or otherwise, and does not accrue on account of the sale of tangible personal property at retail.
- 3) The preceding statement does not apply to so-called "minimum charges" which are made by night clubs, public eating places, private clubs or other retailers of food or beverages or both, and which entitle the persons paying such charge to use or consume some tangible personal property, such as food or beverages. The retailer's receipts from these charges are subject to Retailers' Occupation Tax. This revision of Section 130.2145 is for clarification purposes only.

d) Mandatory Service Charges

Mandatory gratuities are not included in the taxable receipts of persons operating restaurants, hotels and other places of business which come within the Act, if such mandatory gratuity is added to banquet or dinner checks in the form of a percentage of the total bill, or as a flat rate, provided that *all of the proceeds of the service charge are in fact turned over to the employees who would normally have received tips had the service charge policy not been introduced.* (Section 2-5(15) of the Act) If any part of the service charges are used to fund or pay wages, labor costs, employee benefits or employer costs of doing business, all of the service charge is includable in gross receipts.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.2150 Vendors of Memorial Stones and Monuments

a) When Liable for Tax

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- 1) Persons who engage in the business of selling monuments, grave markers and the like to purchasers for use or consumption and not for resale incur Retailers' Occupation Tax liability on their receipts from such sales whether such items are sold as stock or standard items, or whether such items are produced on special order by the seller for the purchaser. Such items, when produced on special order, serve substantially the same function as stock or standard items that are sold at retail.
- b2) For information concerning the taxability or exemption of the seller's receipts from additional special service charges, such as lettering or installing the item for the purchaser, see Section 130.450 of this Part.
- c3) Vendors of memorial stones and monuments also incur Retailers' Occupation Tax liability when they sell wreaths, flowers, floral or other grave blankets or other tangible personal property at retail. This is true even though such vendors make such things as wreaths, bouquets, floral and other grave blankets on special order because such items have commercial value.

b) ~~Effective-Date~~

~~This Section is effective August 1, 1961.~~

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

Section 130.2165 Veterinarians

a) When Liable for Tax

When veterinarians sell items of tangible personal property, such as pet food, animal tags, pet collars, leashes, and the like, other than farm chemicals (see Section 130.1955 of this Part) to purchasers for use or consumption apart from their rendering of service as veterinarians, they incur Retailers' Occupation Tax liability. Veterinarians who sell items over-the-counter must be registered as retailers. (See Subpart G of this Part.) Any item sold to a veterinarian who intends to resell the item shall be taxable unless the veterinarian provides the seller with a Certificate of Resale.

b) When Not Liable for Tax

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DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Section 130. ILLUSTRATION A: Examples of Tax Exemption Cards
(Continued)

UNITED STATES DEPARTMENT OF STATE Tax Exemption Card					
MISSION OF RURITANIA			PICTURE		
DATE OF BIRTH 07/07/58		EYE COLOR BLUE			
HAIR COLOR BROWN	WEIGHT 145	HEIGHT 72			SEX M
NAME DOE, Charles Sample					
SEE REVERSE FOR EXEMPTION INFORMATION					

CARDS WITH GREEN STRIPES exempt the bearer from all sales taxes excluding taxes on hotel rooms.

THIS CARD ENTITLES BEARER, WHOSE PHOTO APPEARS ON REVERSE, TO EXEMPTION FROM:	
ALL SALES TAXES INCLUDING HOTEL ROOM TAXES	
EXPIRATION DATE 04/15/88	TAX EXEMPTION NO. RR-84-0101-01
If Found, Return To: Office of Foreign Missions U.S. Dept. of State Washington, D.C. 20520 Return Postage Guaranteed	

000124

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Section 130. ILLUSTRATION A: Examples of Tax Exemption Cards
(Continued)

UNITED STATES DEPARTMENT OF STATE Tax Exemption Card					
MISSION OF RURITANIA			PICTURE		
DATE OF BIRTH 06/15/59		EYE COLOR BLUE			
HAIR COLOR BROWN	WEIGHT 137	HEIGHT 69			SEX M
NAME DOE, Jim Sample					
SEE REVERSE FOR EXEMPTION INFORMATION					

CARDS WITH RED STRIPES have different minimum levels of exemption; \$50, \$100, \$150, or \$200. Total of all items purchased in a single transaction (that is, all items on a single bill) must exceed the amount indicated on the card to be exempted from sales taxes.

THIS CARD ENTITLES BEARER, WHOSE PHOTO APPEARS ON REVERSE, TO EXEMPTION FROM:	
ALL SALES TAXES INCLUDING HOTEL ROOM TAXES	
EXPIRATION DATE 03/15/87	TAX EXEMPTION NO. RR-82-0102-01
If Found, Return To: Office of Foreign Missions U.S. Dept. of State Washington, D.C. 20520 Return Postage Guaranteed	

000125

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENT

DEPARTMENT OF REVENUE
NOTICE OF ADOPTED AMENDMENTS

Section 130. ILLUSTRATION A: Examples of Tax Exemption Cards (Continued)

- 1) The Heading of the Part: Minimum Standards for Individual and Group Medicare Supplement Insurance
- 2) Code Citation: 50 Ill. Adm. Code 2008
- 3) Section Numbers: Action
- 4) Date Notice of Proposed Amendments were published in the Register: March 29, 1991 at 15 Ill. Reg. 4566
- 5) Summary of Action Taken by the Agency: This part will require numerous substantive changes in the coming months. The Department has chosen to make these changes all at the same time.

MISSION CARDS are to be used for official purchases ONLY, and not individual, personal purchases. Like individual cards, are non-transferable, are issued with Red, Green and Blue stripes and are subject to the same restrictions as individual cards.

UNITED STATES DEPARTMENT OF STATE Tax Exemption Card			
MISSION OF RUTLANDIA		DATE OF BIRTH 03/15/59	
EYE COLOR BROWN	HAIR COLOR WEIGHT HEIGHT SEX		
	BROWN	115	63
NAME DOE, Susan Sample			
SEE REVERSE FOR EXEMPTION INFORMATION			

THIS CARD ENTITLES BEARER, WHOSE PHOTO APPEARS ON REVERSE, TO EXEMPTION FROM: ALL SALES TAXES INCLUDING HOTEL ROOM TAXES	
EXPIRATION DATE 04/15/88	TAX EXEMPTION NO. RR-83-0103-01
If Found, Return To: Office of Foreign Missions U.S. Dept. of State Washington, D.C. 20520 Return Postage Guaranteed 000126	

DEPARTMENT OF PUBLIC AID

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

- 1) The Heading of the Part: MEDICAL PAYMENT
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: Action:
140.569 Refusal
- 4) Date Notice of Proposed Rules Published in the Register:
May 25, 1990, (14 Ill. Reg. 7834)
- 5) Date JCAR Statement of Objection Published in the Register:
April 5, 1991, 15 Ill. Reg. 5115
(Issue Date)
- 6) Summary of Action Taken by the Agency:

The Joint Committee has objected to this rulemaking on the grounds that:

[T]he Department has failed to provide standards governing when additional registered nursing staff will be required by the Department, based on the individual care clients' needs or the exceptional care needs relative to the category of services contracted for by the Department. . .

The Department disagrees. The APA requires that standards set out in rule be "stated clearly and precisely as practicable under the conditions". In this instance it is not practicable to set out all the criteria that are used in determining the necessity for additional RN staff.

Exceptional care services cover a broad range of medical conditions: head trauma, ventilator services, complex respiratory care, AIDS, multiple complex diagnoses and pressure ulcers. Facilities may contract to provide services to cover one, some or all of these medical conditions. In determining the need for additional RNs in a particular facility contracting under the Exceptional Care Program, Department staff must take into account the level of care being provided, the needs of the individual requiring care and the capacity of the facility to provide the care. Essentially, the review is on a case-by-case basis. Obviously, the Department cannot set out every possible criteria it uses in its reviews. .

DEPARTMENT OF PUBLIC AID

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

In their objection, JCAR asserts that field staff who conduct the reviews are not professionally qualified. This is wrong. All field staff who conduct reviews of facilities for enrollment in the Exceptional Care Program are registered nurses. If these staff encounter situations where additional expertise is required, they consult with Department physicians. In the case of respiratory care, the Department consults with a registered respiratory therapist who is the Director of Respiratory Therapy at St. John's Hospital in Springfield.

JCAR's objection appears in large part to be based on this erroneous assumption that Department staff are not professionally qualified. Since JCAR has relied upon incorrect facts as the basis for its objection, the Department can only conclude that the objection is itself in error.

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JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF OBJECTION
TO EXISTING RULESDEPARTMENT OF REVENUE
(Continued Page 2)

(III. Rev. Stat. 1989, ch. 120, par. 441, now 441-5, as amended by Public Act 86-1475, effective January 10, 1991);

2. Section 130.120(d) (Nontaxable Transactions):

- d) of services included in gross receipts for purposes of the Retailers' Occupation Tax and which are designated mandatory service charges by vendors of meals provided that all of the proceeds of the service charge are in fact turned over to the employees who would normally have received tips had the service charge policy not been introduced. Service charges which are used to fund or pay wages, labor costs, employee benefits or employer costs of doing business are taxable gross receipts;

3. Section 130.2145(r) (Vendors of Meals):

- r) **Mandatory Service Charges**
Mandatory gratuities are not included in the taxable receipts of persons operating restaurants, hotels and other places of business which come within the Act, if such mandatory gratuity is added to banquet or dinner checks in the form of a percentage of the total bill, or as a flat rate, provided that all of the proceeds of the service charge are in fact turned over to the employees who would normally have received tips had the service charge policy not been introduced. (Section 2(e) of the Act) If any part of the service charges are used to fund or pay wages, labor costs, employee benefits or employer costs of doing business, all of the service charge is includable in gross receipts.

The argument has been made that the clarifying text added to its rulemaking is not necessary because Section 2(e) of the Act contains all the requirements intended by the legislature, and that hotels "have not collected sales tax on the service charge because they did not consider it to be taxable under the plain meaning of Section 2(e)" of the Act. The Hotel Motel Association cited legislative history to Public Act 81-1108, the legislative precursor to Section 2(e):

SENATOR SAVICKAS:

Yes, I . . . Mr. President, members of the Senate. I could see the need for this bill. **The only question comes to mind is how are we**

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF OBJECTION
TO EXISTING RULESDEPARTMENT OF REVENUE
(Continued Page 3)

sure that the employees are getting this tip or the service charge and the employer is not just keeping it in his pocket. Is there some way that this can be determined that the waitresses or whatever are receiving the gratuity charge?

* * *

SENATOR MITCHLER

Senator Savickas, there is nothing in the bill that relates to the collection and distribution of the gratuities to the employees, that's a[n] . . . arrangement between the employees. I have discussed this bill, however, in the various restaurants and find that there's many, many ways that the gratuity that's shown on an American Express card or other types of the bill, when it's added on the bill and not given as direct cash to the waiter or waitress, is distributed. Some places immediately hand it to the waiter or waitress upon presentation of the bill at the cash registers, other . . . others hold it till the end of the evening. Some hold it till the end of the week, some till the end of the month. And I found all different systems. So I guess it's up to the employer and employee when they're making their contractual arrangements for employment how they work that out.

The Association commented that Senator Mitchler's:

"explanation of the statute's pay-out provision was not disputed by any other legislator and is consistent with the hotels' treatment of the service charges.

Thus, the legislature intended the exemption to apply where the employer did not "pocket" any part of the service charge. As Senator Mitchler explained, the method of accomplishing this is to be decided by the employer and its employees."

The Department's position is that its amendments to Sections 130.120(r) and 130.2145 are a restatement of the provisions of Section 2(e) of the Act: that all of the proceeds of a mandatory service charge assessed by hotels must be turned over to the employees who would normally have received tips had the service charge policy not been introduced. The Department cited two cases in opposition to the Association's position that part of the service charge may be apportioned to the employer if done so pursuant to employer-employee wage agreements, one of which,

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO EXISTING RULES

DEPARTMENT OF REVENUE

(Continued Page 4)

Hyatt Corporation v. Sweet, No. 89-L-51285 (Circuit Court of Cook County), is presently being appealed.

Arguably the Association's position deserves consideration. The

Department's posture that its rulemaking amendments merely implement its longstanding enforcement policy, and are merely a restatement of the provisions of Section 2(e) of the Act that all of the proceeds of a mandatory service charge must be turned over to the employees may be contraverted by the Association's argument that the exemption is also to apply where employer and employees had an agreement that the employer could apportion a part of a service charge.

Therefore, the Committee objects to Sections 130.120(r) and 130.2145 of the Department of Revenue's rulemaking entitled "Retailers' Occupation Tax" (14 Ill. Reg. 20194) because, these provisions are contrary to Section 2(5)(15) of the Retailers' Occupation Tax Act (as amended by Public Act 86-1475, effective January 10, 1991).

88620194

Second
Notice
Expires

5/30/91

Department of Nuclear Safety,
General Provisions (32 Ill. Adm.
Code 310)

7/20/90
14 Ill. Reg.
11450

May 14, 1991

5/30/91

Department of Nuclear Safety,
Use of Sealed Radioactive
Sources in the Healing Arts,
Repeal of (32 Ill. Adm. Code 370)

7/20/90
14 Ill. Reg.
11653

May 14, 1991

5/31/91

Department of Nuclear Safety,
Requirements for the Disposal
of Low-Level Radioactive Waste
Away from the Point of Genera-
tion (32 Ill. Adm. Code 606)

12/28/90
14 Ill. Reg.
20573

May 14, 1991

5/31/91

Department of Professional
Regulation, The Illinois
Nursing Act of 1987 (68 Ill.
Adm. Code 1300)

2/15/91
15 Ill. Reg.
2519

May 14, 1991

6/3/91

Department of Public Aid,
Reimbursement for Nursing
Costs for Geriatric Facili-
ties (89 Ill. Adm. Code
147)

2/22/91
15 Ill. Reg.
2919

May 14, 1991

6/3/91

Department of Transportation,
Aurora Municipal Airport Hazard
Zoning, Repeal of (92 Ill. Adm.
Code 18)

3/1/91
15 Ill. Reg.
3231

May 14, 1991

6/3/91

Department of Transportation,
Aurora Municipal Airport Hazard
Zoning (92 Ill. Adm. Code 18)

3/1/91
15 Ill. Reg.
3252

May 14, 1991

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the week of April 15, 1991 through April 19, 1991, and have been scheduled for review by the Committee at its May 14, 1991 meeting. Other items not contained in this published list may also be considered by the Joint Committee at its May meeting. Members of the public wishing to express their views with respect to a proposed rule should submit written comments to the Joint Committee at the following address: Joint Committee on Administrative Rules, 509 South Sixth Street, Room 500, Springfield, IL 62701.

Second
Notice
Expires
Agency and Rule
Start
of First
Notice
Scheduled for
Consideration
by JC&R

	Start of First Notice	Scheduled for Consideration by JCAR
tion, g	3/1/91 15 Ill. Reg. 3275	May 14, 1991
and quire- ted Adm.	12/21/90 14 Ill. Reg. 20138	May 14, 1991
idential 1987	2/15/91 15 Ill. Reg. 2573	May 14, 1991

PROCLAMATION

91-128

FREDERICK STEIGMANN, M.D., DAY
(Revised)

Whereas, Dr. Frederick Steigmann has served as a physician to Cook County patients for more than 50 years; and

Whereas, Dr. Steigmann was one of the first midwestern doctors to use the gastroscope. This ability and dexterity allowed him to provide superior diagnostic information for those patients with liver disease and often prolonged their lives; and

Whereas, Dr. Steigmann, as a member of Alpha Omega Alpha, the medical honor society, and as a founder of both the Chicago Society of Gastroenterology and the Chicago Society for Gastrointestinal Endoscopy, has been a teacher, caring practitioner, and role model for many;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 25, 1991, as FREDERICK STEIGMANN, M.D., DAY in Illinois, in recognition of the dedication and skill Dr. Steigmann has contributed to our citizens and the medical community.

Issued by the Governor April 18, 1991.

Filed with the Secretary of State April 22, 1991.

91-180

DISASTER AREAS - SEVERAL COUNTIES

The severe winter storm involving snow, freezing rain and high wind on March 12 and 13, 1991, caused serious power outages and extensive damages to power lines and poles in the rural electric system serviced by the Eastern Illini Electric Cooperative and the Illinois Valley Electric Cooperative in east-central Illinois.

In the interest of aiding those electric-cooperative consumers to recover as a result of enormous damage restoration cost estimates, I hereby declare the counties of Ford, Kendall, LaSalle and Livingston to be State of Illinois Disaster Areas, pursuant to the provisions of Section 7 (a) of the "Illinois Emergency Services and Disaster Agency Act of 1988" (Ill. Rev. Stat., 1989, ch. 127, par. 1051, et seq.).

This gubernatorial declaration of disaster will assist the Illinois Emergency Services and Disaster Agency in coordinating other State agency resources in the disaster recovery operations; provide for the reassessment of real and personal property substantially damaged by the storms; and make possible a request for Federal disaster assistance.

Issued by the Governor April 19, 1991.

Filed with the Secretary of State April 19, 1991.

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Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 20, 1991, as CENTENARIANS DAY in Illinois, honoring America's centenarians and extending to them my personal congratulations and best wishes.

Issued by the Governor April 16, 1991.

Filed with the Secretary of State April 22, 1991.

91-185

CINCO DE MAYO DAY

Whereas, the spirit of unity between the United States of America and the United States of Mexico is enhanced by more clearly understanding and appreciating their respective struggles for freedom; and

Whereas, Mexico celebrates the Cinco de Mayo (Fifth of May), recalling its struggle for freedom from France in its noted Batalla de Puebla on May 5, 1862, led by General Ignacio Zaragoza, a Mexican-American born in Texas; and

Whereas, thousands of Hispanics, including Mexicans, have participated in the United States' struggle for independence from the time of the Revolutionary War through today; and

Whereas, the eighth annual Cinco De Mayo Scholarship Banquet will be held Saturday, May 4, 1991, at the Chicago Athletic Association. Three scholarships will be presented to Hispanic high school ROTC cadets and the General Cavazos Saber Award will be given to a Hispanic cadet at the senior/university level;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 5, 1991, as CINCO DE MAYO DAY in Illinois.

Issued by the Governor April 16, 1991.

Filed with the Secretary of State April 22, 1991.

91-186

GATEWAY DAY

Whereas, the abuse of alcohol and other drugs is among our nation's foremost problems, affecting people from every ethnic and socioeconomic background; and

Whereas, despite increased demands for drug treatment programs and the difficulty inherent in rehabilitation, Gateway Foundation perseveres in its successful drug-free programs; and

Whereas, this nonprofit organization provides outreach services, residential and outpatient drug-free treatment, and prevention and community education through residential and outpatient centers; and

Whereas, since its inception, Gateway Foundation has continued its dedication to building alcohol abusers and other drug abusers into confident men and women capable of participating as self-sufficient, respected, and competent members of society; and

Whereas, at its 16th annual Citizen of the Year Dinner June

12, Gateway will celebrate its 23rd year of service to the chemically dependent and will honor Donald C. Clark, chairman and chief executive officer of Household International, Inc., for his outstanding leadership efforts and the positive example he has set in improving the lives of chemically dependent individuals; and

Whereas, a special Community Service Award will be presented to John R. Conrad, chairman and chief executive officer of S&C Electric Company, for his efforts to improve the quality of life for Chicago residents and to create treatment opportunities for those suffering from alcohol abuse or other drug abuse;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 12, 1991, as GATEWAY DAY in Illinois and commend the Gateway Foundation on its successful drug-free treatment and prevention programs.

Issued by the Governor April 16, 1991.

Filed with the Secretary of State April 22, 1991.

91-187

GEORGE VEST DAY

Whereas, after serving in the United States Navy during World War II, George Vest became a carpenter apprentice. He rapidly advanced in his chosen occupation, becoming a carpenter foreman, general foreman, and general superintendent; and

Whereas, in 1960, after serving a local union as business representatives for several years, he was elected business representative of the Chicago District Council of Carpenters by a general referendum vote of 35,000 members; and

Whereas, in 1966, George was unanimously elected by the delegate body to serve as president of the Chicago District Council of Carpenters, a position he still holds; and

Whereas, the progress of the district council has advanced tremendously under his guidance. For example, his negotiations in all major contracts has increased wages and benefits by 100 percent for all carpenter union members and their families; and

Whereas, in 1989, George was awarded the prestigious George K. Newman Award by the Residential Construction Employers Council for his outstanding work in the construction industry; and

Whereas, George has also taken part in raising funds and building schools for developmentally and physically disabled children. He has received numerous awards for the time he has donated to the Special Olympics;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 4, 1991, as GEORGE VEST DAY in Illinois.

Issued by the Governor April 16, 1991.

Filed with the Secretary of State April 22, 1991.

Whereas, the recycling industry in Illinois has made tremendous strides in the methods of collection, processing, and remanufacturing from these natural resources; and Whereas, local governments have taken an active participatory role in conserving and recycling resources within their areas of control; and Whereas, we should continue to stress the need for enhanced development of recycling programs and opportunities; and Whereas, progressive encouragement of the recycling industry is in the state's best economic and environmental interests; and Whereas, Illinois is recognized throughout our nation as a leader in recycling programs and must continue to maintain this leadership position; Therefore, I, Jim Edgar, Governor of the State of Illinois, encourage all Illinoisans to promote and support the recycling of our precious resources. Issued by the Governor April 16, 1991. Filed with the Secretary of State April 22, 1991.

91-191

ARSON AWARENESS WEEK

Whereas, arson is a serious crime that affects all of us and can only be stopped when citizens realize the severe damage arson causes; and Whereas, cities, communities, and neighborhoods are blighted by arson, resulting in the erosion of the tax base and loss of employment; and Whereas, arson completely destroys natural resources or renders them useless for long periods of time; and Whereas, arson needlessly injures or claims the lives of many of our citizens; and Whereas, arson has disrupted our educational and manufacturing systems by destroying irreplaceable buildings and artifacts; Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 5-11, 1991, as ARSON AWARENESS WEEK in Illinois and urge all citizens to support activities for this event. Issued by the Governor April 18, 1991. Filed with the Secretary of State April 22, 1991.

91-192

JOHN W. FITZGERALD DAY

Whereas, John "Fitz" W. Fitzgerald helped found the city of Burbank; and Whereas, he is the only mayor Burbank has ever had; and Whereas, for 32 years, Fitz served as an influential teacher, coach, and administrator at Burbank's only high school; and

Whereas, the State of Illinois is committed to excellence in education; and Whereas, the State of Illinois recognizes the importance of family support in educational programs; and Whereas, home education was proven successful in the lives of George Washington, Thomas Edison, Helen Keller, Agatha Christie, Franklin Roosevelt, and others and may be administered in Illinois under regulations set by the State Board of Education; Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 5-11, 1991, as HOME EDUCATION WEEK in Illinois. Issued by the Governor April 16, 1991. Filed with the Secretary of State April 22, 1991.

91-189

NURSES WEEK

Whereas, two million registered nurses in this country represent our nation's largest health care resource and provide high quality, cost-effective care of our citizens in a variety of settings; and Whereas, the demand for nursing services is greater than ever, due to an aging America and the ability to sustain life through increased technology, as well as changes in the settings where health care is delivered, changes in health care financing, and the changing health care needs of today's consumers; and Whereas, nurses have strongly supported efforts to improve access to health care services and to enhance the quality of our citizens' health and are calling for major incremental restructuring of the nation's health care system by the year 2000; and Whereas, the American Nurses Association and the Illinois Nurses Association have declared May 6-12 as National Nurses Week, with the theme "Nurses Care for America" to celebrate nurses' efforts to provide high quality patient care and improve our health care system; Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 6-12, 1991, as NURSES WEEK in Illinois to show appreciation for the dedication these individuals have shown in carrying out their profession. Issued by the Governor April 16, 1991. Filed with the Secretary of State April 22, 1991.

91-190

RECYCLING WEEK

Whereas, the preservation and reuse of our natural resources has become a primary concern in our state; and

Whereas, under his guidance, Burbank established police and fire departments and moved toward a retail-based economy; and

Whereas, Fitz will retire from his mayoral duties in May, and April 24 marks the final city council meeting over which he will preside;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 24, 1991, as JOHN W. FITZGERALD DAY in Illinois in recognition of the contributions he has made to the Burbank community and our state.

Issued by the Governor April 18, 1991.

Filed with the Secretary of State April 22, 1991.

91-193

SIX FLAGS GREAT AMERICA'S

"SALUTE TO OUR GREAT AMERICAN TROOPS DAY"

Whereas, Six Flags Great America in Gurnee has been the premier family entertainment center in Illinois since 1976; and

Whereas, Six Flags Great America was founded on the historic theme of American patriotism; and

Whereas, Six Flags Great America will conduct "A Great America Salute to Our Great American Troops" on the park's opening day Saturday, April 27, 1991; and

Whereas, the United States Military Entrance Training Command will present the United States Army, Navy, Air Force, and Marines in a joint service color guard to salute all members of the United States Armed Forces, especially those returning from service in Operation Desert Storm;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 27, 1991, as SIX FLAGS GREAT AMERICA'S "SALUTE TO OUR GREAT AMERICAN TROOPS DAY" in Illinois and encourage citizens to take part in activities and ceremonies designed to show patriotism.

Issued by the Governor April 18, 1991.

Filed with the Secretary of State April 22, 1991.

91-194

PAUL HARRIS MEMORIAL AND PRESIDENTIAL WALKWAY DAY

Whereas, the world's first service club, Rotary International, was founded February 25, 1905, in Chicago; and

Whereas, throughout its 86-year history of people-to-people programs and world fellowship, Rotary International has reaffirmed its dedication to the objective of goodwill and understanding between all nations and renewed the commitment of 25,244 local rotary clubs, with an overall membership of more than a million members serving in 172 countries and geographical regions; and

Whereas, Rotary's latest worldwide project is Target Polio 2005, a plan to eliminate polio across the globe with the help of

expert medical teams and 120 million dollars to fund vaccine research; and

Whereas, Paul Harris was one of Chicago's most significant civic leaders, founding Rotary International, an organization committed to providing humanitarian service to all people; and

Whereas, on April 27, the Rotary Club of Blue Island will formally dedicate the Paul Harris Memorial and Presidential Walkway at the Mt. Hope Cemetery in Chicago. The memorial will bear the names of all Rotary International presidents;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 27, 1991, as PAUL HARRIS MEMORIAL AND PRESIDENTIAL WALKWAY DAY in Illinois.

Issued by the Governor April 19, 1991.

Filed with the Secretary of State April 22, 1991.

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CONSERVATION, DEPARTMENT OF (CONT'D)

- 17 Ill. Adm. Code 830 Commercial Fishing and Musseling in Certain Waters of the State (P-2057)
 17 Ill. Adm. Code 115 Competitive Tournament Fishing on State-Owned &/or Leased Water Areas (P-3365)
 17 Ill. Adm. Code 2520 Consignment of Licenses (P-725)
 17 Ill. Adm. Code 730 Dove Hunting (P-4200)
 17 Ill. Adm. Code 590 Duck, Goose & Cool Hunting (P-17144/90; A-1487)
 17 Ill. Adm. Code 1590 Falconry & the Captive Propagation of Raptors (P-16174/90; A-32)
 17 Ill. Adm. Code 510 General Hunting & Trapping on Department-Owned or -Managed Sites (P-4829)
 17 Ill. Adm. Code 3040 Ill. Bicycle Path Grant Program (P-18380/90; A-4132)
 17 Ill. Adm. Code 2550 Ill. Salmon Stamp Contest Procedures (P-3655)
 17 Ill. Adm. Code 220 North Point Marina (P-16182/90; A-1495)
 17 Ill. Adm. Code 525 Nuisance Wildlife Control Permits (P-18397/90; A-4149)
 17 Ill. Adm. Code 690 Squirrel Hunting (P-4214)
 17 Ill. Adm. Code 810 Sport Fishing Regs. for the Waters of Ill. (P-18905/90; A-4699) (P-5160) (P-5160) (E-5430)
 17 Ill. Adm. Code 710 Taking of Wild Turkeys - Spring Season, The (P-18409/90; A-4161)
 17 Ill. Adm. Code 1535 Timber Harvest Fees (P-20117/90; A-5219)
 17 Ill. Adm. Code 670 White-Tailed Deer Hunting by Use of Bow & Arrow (P-4836)
 17 Ill. Adm. Code 650 White-Tailed Deer Hunting by Use of Firearms (P-4853)
 17 Ill. Adm. Code 660 White-Tailed Deer Hunting by Use of Muzzleloading Rifles (P-19123/90; A-4777)
 17 Ill. Adm. Code 740 Woodcock, Snipe, Rail & Teal Hunting (P-4222)

CORRECTIONS, DEPARTMENT OF

- 20 Ill. Adm. Code 415 Health Care (P-15228/90; O-21107; R-1168; A-988)
 20 Ill. Adm. Code 460 Impact Incarceration Program (P-18421/90; A-3479)
 20 Ill. Adm. Code 107 Records of Committed Persons (P-19507/90; A-5638)
 20 Ill. Adm. Code 502 Safety, Maintenance & Sanitation (P-5935)
 20 Ill. Adm. Code 405 School District #428 (P-1; A-5642)

EDUCATION, STATE BOARD OF

- 23 Ill. Adm. Code 250 Comprehensive Arts Programs (P-11447/90; A-463)
 23 Ill. Adm. Code 1 Public Schools Evaluation, Recognition & Supervision (P-6931/90; O-21110/90; M-2877; A-2692)
 23 Ill. Adm. Code 226 Special Education (P-11068/90; A-40)

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- 23 Ill. Adm. Code 2400 Ill. Consortium for Educational Opportunity Program (P-4550)

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- 26 Ill. Adm. Code 100 General Rules & Regs. Under the Campaign Financing Act (P-5939)
 26 Ill. Adm. Code 125 Practice & Procedure (P-5943)
 26 Ill. Adm. Code 210 Raffles Conducted by Political Committees (P-3814/90; A-4450)

EMPLOYMENT SECURITY, DEPARTMENT OF

- 56 Ill. Adm. Code 2770 Determination of Unemployment Contributions (P-15659/90; A-172) (P-3368)
 56 Ill. Adm. Code 2920 Disqualifying Income & Reduced Benefits (P-13905/90; A-180) (P-5495)
 56 Ill. Adm. Code 2815 Employees' General Rights & Duties (P-17152/90; A-1817)
 56 Ill. Adm. Code 2732 Employment (P-6382)
 56 Ill. Adm. Code 2765 Payment of Unemployment Contributions, Interest & Penalties (P-13910/90; A-185) (P-3381)
 56 Ill. Adm. Code 2875 Supplemental Federal Benefits (PR-4555)

FINANCIAL INSTITUTIONS, DEPARTMENT OF

- 38 Ill. Adm. Code 180 Uniform Disposition of Unclaimed Property Act (P-1207)

FIRE MARSHAL, OFFICE OF THE STATE

- 41 Ill. Adm. Code 250 Fire Equipment Distributor & Employee Standards (P-5322/90; A-5656)

HEALTH CARE COST CONTAINMENT COUNCIL, ILLINOIS

- 77 Ill. Adm. Code 2530 Hospital Price Information (P-17428/90; A-1821)

HISTORIC PRESERVATION AGENCY, ILLINOIS

- 17 Ill. Adm. Code 4160 Public Use of Historic Sites & Properties (P-1680)

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- 50 Ill. Adm. Code 2009 Group Coordination of Benefits (P-5953)
 50 Ill. Adm. Code 6101 Health Maintenance Organization (P-20205/89; O-2117/90; M-365; A-199)
 50 Ill. Adm. Code 2008 Minimum Standards for Individual & Group Medicare Supplement Insurance (P-4566; W-6788)
 50 Ill. Adm. Code 918 Policyholder Security Deposit Act (PR-2899)
 50 Ill. Adm. Code 3119 Preclicensing & Continuing Education (P-12127/90; A-69)
 50 Ill. Adm. Code 754 Rules & Rate Filings (P-15238/90; A-4458)
 50 Ill. Adm. Code 2014 Small Employer Group Health Insurance (P-5975)

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- 56 Ill. Adm. Code 205 Toxic Substances Disclosure to Employees (P-4872)

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- 20 Ill. Adm. Code 1720 Ill. Police Training Act (P-16198/90; A-999)

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- 59 Ill. Adm. Code 101 Administration (P-3386)
 59 Ill. Adm. Code 108 Education & Training (P-16718/90; A-6122)
 59 Ill. Adm. Code 117 Family Assistance & Home-Based Support Programs for Persons with Mental Disabilities (P-14671/90; A-1511)
 59 Ill. Adm. Code 130 Mental Health Clinic Program Standards & Provider Requirements (P-18100/90; O-21140/90; R-1171)
 59 Ill. Adm. Code 106 Services Charges (P-14674/90; A-1555)

MINES AND MINERALS, DEPARTMENT OF

- 62 Ill. Adm. Code 1761 Areas Designated by Act of Congress (P-1212)
 62 Ill. Adm. Code 1702 Exemption for Coal Extraction Incidental to the Extraction of Other Minerals (P-1221)
 62 Ill. Adm. Code 1700 General (P-1235)
 62 Ill. Adm. Code 1701 General Definitions (P-1242)
 62 Ill. Adm. Code 240 Ill. Oil & Gas Act, The (P-16205/90; A-2706) (P-20140/90; W-5110)
 62 Ill. Adm. Code 1816 Permanent Program Performance Standards--Surface Mining Activities (P-1266)
 62 Ill. Adm. Code 1817 Permanent Program Performance Standards--Underground Mining Activities (P-1314)
 62 Ill. Adm. Code 1778 Permit Applications--Minimum Requirements for Legal, Financial, Compliance & Related Information (P-1342)
 62 Ill. Adm. Code 1772 Requirements for Coal Exploration (P-1347)
 62 Ill. Adm. Code 1773 Requirements for Permits & Permit Processing (P-1352) (P-3393)
 62 Ill. Adm. Code 1774 Revision; Renewal; & Transfer, Assignment or Sale of Permit Rights (P-1363)
 62 Ill. Adm. Code 1823 Special Program Performance Standards on Prime Farmland (P-1368)
 62 Ill. Adm. Code 220 Surface Installation Health & Safety (P-14277/90; A-1006)
 62 Ill. Adm. Code 1780 Surface Mining Permit Application--Minimum Requirements for Reclamation & Operation Plan (P-1374)
 62 Ill. Adm. Code 1784 Underground Mining Permit Applications--Minimum Requirements for Reclamation & Operation Plan (P-1382)

NUCLEAR SAFETY, DEPARTMENT OF

- 32 Ill. Adm. Code 401 Accrediting Persons in the Practice of Medical Radiation Technology (P-1390)
 32 Ill. Adm. Code 331 Fees for Radioactive Material Licenses (P-15672/90; A-90)
 32 Ill. Adm. Code 360 Use of X-Rays in the Healing Arts Including Medical, Dental, Podiatry, & Veterinary Medicine (P-6940/90; A-6180)

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89 III. Adm. Code 140 Medical Payment (P-14317/90; O-21120; M-368; A-298) (P-13963/90; O-17718/90; R-366; A-298) (P-406) (E-592) (P-847) (P-14681/90; A-1051) (P-18813/90; C-1174) (P-1414) (P-4903) (P-7834/90; O-5115; R-6789; A-6534) (P-5585) (P-20170/90; A-6220)

89 III. Adm. Code 104 Practice in Administrative Hearings (P-15) (P-18705/90; A-5320)

89 III. Adm. Code 147 Reimbursement for Nursing Costs for Geriatric Facilities (P-870) (P-13967/89; A-2715) (P-9355/90; O-13039/90; R-3129; A-3058) (P-2919) (P-5434/90; O-5118; RC-5120) (P-15243/90; A-6238)

89 III. Adm. Code 117 Related Program Provisions (P-6435)

89 III. Adm. Code 102 Rights & Responsibilities (P-409)

89 III. Adm. Code 104 Rules of Practice in Administrative Hearings (P-15; A-6557)

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77 III. Adm. Code 205 Ambulatory Surgical Treatment Center Licensing Requirements (P-4932)

77 III. Adm. Code 595 Baccalaureate Assistance for Registered Nurses (P-3398)

77 III. Adm. Code 535 Emergency Medical Services Code (P-61237/90; A-5722)

77 III. Adm. Code 590 Family Practice Residency Code (P-R-8493/90; AR-1830) (P-8503/90; A-1833)

77 III. Adm. Code 550 Head & Spinal Cord Injury (P-10656/90; A-1068)

77 III. Adm. Code 1130 Health Facilities Planning Procedural Rules (E-4787) (P-6100)

77 III. Adm. Code 250 Hospital Licensing Requirements (P-4946) (P-16259/90; A-5328)

77 III. Adm. Code 710 II. Alzheimer's Disease & Related Disorders Assistance Code (P-15246/90; W-675)

77 III. Adm. Code 450 III. Clinical Laboratories Code (P-6440)

77 III. Adm. Code 245 III. Home Health Agency Code (P-14699/90; A-5376)

77 III. Adm. Code 790 III. Formulary for the Drug Product Selection Program, The (P-3417) (E-3537) (18457/90; A-6566)

77 III. Adm. Code 540 III. Trauma Center Code (P-10665/90; A-1084)

77 III. Adm. Code 920 III. Water Well Construction Code (P-6460)

77 III. Adm. Code 925 II. Water Well Pump Installation Code (P-6498)

77 III. Adm. Code 350 Intermediate Care for the Developmentally Disabled Facilities Code (P-9833/90; A-466) (P-4280)

77 III. Adm. Code 390 Long-Term Care for Under Age 22 Facilities Code (P-9883/90; A-1878) (P-4309)

77 III. Adm. Code 895 Sanitary Practice for Drinking Water, Sewage Disposal & Restroom Facilities (P-5005)

77 III. Adm. Code 330 Sheltered Care Facilities Code (P-9920/90; A-516) (P-4338)

77 III. Adm. Code 300 Skilled Nursing & Intermediate Care Facilities Code (P-9957/90; A-554) (P-4367)

77 III. Adm. Code 510 Testing of Breath, Blood & Urine for Alcohol &/or Other Drugs (P-418) (E-612)

77 III. Adm. Code 500 Vital Records Act, The (P-3422) (E-3593)

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77 III. Adm. Code 1130 Health Facilities Planning Procedural Rules (P-428)

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11 III. Adm. Code 1312 Entries & Declarations (P-14750/90; A-2727)

11 III. Adm. Code 1413 Entries, Subscriptions & Declarations (P-12385/90; A-2730)

11 III. Adm. Code 502 Licensing (P-5609)

11 III. Adm. Code 1408 Licensing of Participants (P-16843/90; A-5745)322

11 III. Adm. Code 509 Medication (P-5614)

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TYPE OF RULEMAKING		ACTION CODES	
am	= amendment to existing Section	A	= Adopted rule
cc	= codification changes	C	= Correction
n	= new Section	CC	= Codification Changes
r	= repeal of existing Section	E	= Emergency rule
rc	= recodified	F	= Failure to Remedy
#	= renumbered	Obj	= Objections
		M	= Modification
		RC	= JCAR Recommendation
		R	= Refusal to Modify or Withdraw
		PP	= Peremptory rule
		PF	= Prohibited Filing
		P	= Proposed rule
		O	= JCAR Objection
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TITLE 2

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700.130	am	(A-6105)	125.340	am	(PP-620; W-1574) (P-1583)
700140	am	(A-6105)	125.350	am	(PP-620; W-1574) (P-1583)
700150	am	(A-6105)	125.360	am	(PP-620; W-1574) (P-1583)
2375.110	am	(A-1571)	125.370	am	(PP-620; W-1574) (P-1583)
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2650.30	n	(A-2660)	125.400	am	(PP-620; W-1574) (P-1583)
2650.40	n	(A-2660)	125.410	am	(PP-620; W-1574) (P-1583)
2650.50	n	(A-2660)	255.50	am	(E-128)
2650.60	n	(A-2660)	270.261	am	(P-10965/90; A-455)
2650.100	n	(A-2660)	290.110	am	(P-19087/90; A-5207)
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2650.205	n	(A-2660)			
2650.210	n	(A-2660)			
2650.220	n	(A-2660)			
2650.300	n	(A-2660)			
2650.310	n	(A-2660)			
2650.311	n	(A-2660)			
2650.312	n	(A-2660)			
2650.313	n	(A-2660)			
2650.314	n	(A-2660)			
2650.320	n	(A-2660)			
2650.330	n	(A-2660)			
2650.340	n	(A-2660)			
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2650.II.B	n	(A-2660)			

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421.100	n	(P-19699/90; A-5752)
433.35	am	(P-12393/90; A-2736)
438.30	am	(P-5012)
438.90	am	(P-5012)
440.10	n	(P-8975/90; A-3492)
440.20	n	(P-8975/90; A-3492)
440.30	n	(P-8975/90; A-3492)
440.40	n	(P-8975/90; A-3492)
440.50	n	(P-8975/90; A-3492)
440.60	n	(P-8975/90; A-3492)
440.70	n	(P-8975/90; A-3492)
440.80	n	(P-8975/90; A-3492)
440.90	n	(P-8975/90; A-3492)
440.100	n	(P-8975/90; A-3492)
440.110	n	(P-8975/90; A-3492)
440.120	n	(P-8975/90; A-3492)
440.130	n	(P-8975/90; A-3492)
440.140	n	(P-8975/90; A-3492)
440.150	n	(P-8975/90; A-3492)
502.76	am	(P-5609)
509.100	am	(P-5614)
720.100	n	(P-19703/90; A-5755)
1312.265	am	(P-14750/90; A-2727)
1325.120	am	(P-19694/90; A-5748)
1408.90	am	(P-16843/90; A-5745)
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475.220	n	(P-6343)
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475.240	n	(P-6343)
475.250	n	(P-6343)
475.260	n	(P-6343)
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475.320	n	(P-6343)
475.330	n	(P-6343)
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475.350	n	(P-6343)
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219.444	n	(P-3892)	219.875	n	(P-3892)
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219.463	n	(P-3892)	219.943	n	(P-3892)
219.464	n	(P-3892)	219.946	n	(P-3892)
219.465	n	(P-3892)	219.947	n	(P-3892)
219.466	n	(P-3892)	219.948	n	(P-3892)
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219.481	n	(P-3892)	219.963	n	(P-3892)
219.482	n	(P-3892)	219.966	n	(P-3892)
219.483	n	(P-3892)	219.967	n	(P-3892)
219.484	n	(P-3892)	219.968	n	(P-3892)
219.485	n	(P-3892)	219.980	n	(P-3892)
219.486	n	(P-3892)	219.983	n	(P-3892)
219.487	n	(P-3892)	219.986	n	(P-3892)
219.488	n	(P-3892)	219.987	n	(P-3892)
219.489	n	(P-3892)	219.988	n	(P-3892)
219.521	n	(P-3892)	219.990	n	(P-3892)
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817.408	n	(P-3173)	500.300	r	(P-5162)
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500.700	n	(P-5179)	1075.705	n	(P-14758/90; A-1916)
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790.7740	am	(P-3417; E-3537)	2058.327	am	(P-6457/90; A-2597)
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			2058.336	am	(P-6457/90; A-2597)
			2058.342	am	(P-6457/90; A-2597)
790.8020	am	(P-3417; E-3537)	2058.343	n	(P-6457/90; A-2597)
790.8290	am	(P-3417; E-3537)	2058.348	am	(P-6457/90; A-2597)
790.8500	am	(P-3417; E-3537)	2058.354	am	(P-6457/90; A-2597)
790.8580	am	(P-3417; E-3537)	2058.366	am	(P-6457/90; A-2597)
790.8620	am	(P-3417; E-3537)	2058.400	am	(P-6457/90; A-2597)
790.9048	am	(P-18457/90; A-6566)	2058.405	am	(P-6457/90; A-2597)
790.9056	am	(P-3417; E-3537)	2058.410	am	(P-6457/90; A-2597)
790.9220	am	(P-3417; E-3537)	2058.600	am	(P-6457/90; A-2597)
790.9420	am	(P-3417; E-3537)	2058.705	am	(P-6457/90; A-2597)
790.9460	am	(P-3417; E-3537)	2058.805	am	(P-6457/90; A-2597)
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730.502	r	(P-1650)	757.120	r	(P-4803) (E-5082)
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57.60 (P-15283/90; A-2817) n
57.70 (P-15283/90; A-2817) n
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57.Ex. A (P-15283/90; A-2817) n
171.1000 (P-1452) am
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177.2000 (P-1442) am
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456.20 (P-17535/90; A-5894) n
456.30 (P-17535/90; A-5894) n
456.40 (P-17535/90; A-5894) n
456.50 (P-17535/90; A-5894) n
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530.10 (P-2940) n
530.10 (P-3003) r
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530.702 (P-3003) r
530.710 (P-2940) n

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