

TABLE OF CONTENTS

September 23, 2016 Volume 40, Issue 39

PROPOSED RULES

AGRICULTURE, DEPARTMENT OF

Animal Control Act

8 Ill. Adm. Code 30.....13289

Humane Care for Animals Act

8 Ill. Adm. Code 35.....13293

GAMING BOARD, ILLINOIS

Video Gaming (General)

11 Ill. Adm. Code 1800.....13299

PUBLIC HEALTH, DEPARTMENT OF

Manufacturing, Processing, Packing or Holding of Food Code

77 Ill. Adm. Code 730.....13309

Processors of Fresh and Smoked Fish (Repealer)

77 Ill. Adm. Code 735.....13315

Processors of Cacao Products and Confectionery (Repealer)

77 Ill. Adm. Code 738.....13336

Soft Drink Manufacturers (Repealer)

77 Ill. Adm. Code 740.....13358

Sanitary Vending of Food and Beverages (Repealer)

77 Ill. Adm. Code 743.....13381

ADOPTED RULES

PUBLIC HEALTH, DEPARTMENT OF

Illinois Health and Hazardous Substances Registry Code

77 Ill. Adm. Code 840.....13397

REVENUE, DEPARTMENT OF

Income Tax

86 Ill. Adm. Code 100.....13432

Retailers' Occupation Tax

86 Ill. Adm. Code 130.....13448

Use Tax

86 Ill. Adm. Code 150.....13471

PEREMPTORY RULES

AGRICULTURE, DEPARTMENT OF

Meat and Poultry Inspection Act

8 Ill. Adm. Code 125.....13486

NOTICE OF EXPEDITED CORRECTION

LABOR RELATIONS BOARD, ILLINOIS

General Procedures

80 Ill. Adm. Code 1200.....13495

JCAR REVIEW OF PROPOSED RULES STATEMENT OF RECOMMENDATIONS

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF	
Joint Rules of the Comptroller and the Department of Central Management	
Services: Prompt Payment	
74 Ill. Adm. Code 900.....	13499
COMMUNITY COLLEGE BOARD, ILLINOIS	
Administration of the Illinois Public Community College Act	
23 Ill. Adm. Code 1501.....	13500
OFFICE OF THE COMPTROLLER	
Joint Rules of the Comptroller and the Department of Central Management	
Services: Prompt Payment	
74 Ill. Adm. Code 330.....	13501

INTRODUCTION

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

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or preemptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State Agencies; is also published in the Register.

The Register is a weekly update of the Illinois Administrative Code (a compilation of the rules adopted by State agencies). The most recent edition of the Code, along with the Register, comprise the most current accounting of State agencies' rulemakings.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1, et seq.].

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2016

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

23	May 23, 2016	June 3, 2016
24	May 31, 2016	June 10, 2016
25	June 6, 2016	June 17, 2016
26	June 13, 2016	June 24, 2016
27	June 20, 2016	July 1, 2016
28	June 27, 2016	July 8, 2016
29	July 5, 2016	July 15, 2016
30	July 11, 2016	July 22, 2016
31	July 18, 2016	July 29, 2016
32	July 25, 2016	August 5, 2016
33	August 1, 2016	August 12, 2016
34	August 8, 2016	August 19, 2016
35	August 15, 2016	August 26, 2016
36	August 22, 2016	September 2, 2016
37	August 29, 2016	September 9, 2016
38	September 6, 2016	September 16, 2016
39	September 12, 2016	September 23, 2016
40	September 19, 2016	September 30, 2016
41	September 26, 2016	October 7, 2016
42	October 3, 2016	October 14, 2016
43	October 11, 2016	October 21, 2016
44	October 17, 2016	October 28, 2016
45	October 24, 2016	November 4, 2016
46	October 31, 2016	November 14, 2016
47	November 7, 2016	November 18, 2016
48	November 14, 2016	November 28, 2016
49	November 21, 2016	December 2, 2016
50	November 28, 2016	December 9, 2016
51	December 5, 2016	December 16, 2016
52	December 12, 2016	December 27, 2016
53	December 19, 2016	December 30, 2016

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Animal Control Act
- 2) Code Citation: 8 Ill. Adm. Code 30
- 3) Section Number: 30.130 Proposed Action:
Amendment
- 4) Statutory Authority: Animal Control Act [510 ILCS 5] and Sections 9 and 10 of the Illinois Diseased Animals Act [510 ILCS 50/9 and 10]
- 5) A Complete Description of the Subjects and Issues Involved: Rulemaking is being proposed due to changes made by the National Association of State Public Health Veterinarians (NASPHV) to the Compendium of Animal Rabies Prevention and Control, 2016. Changes include timing for the slaughter of exposed livestock; cats and ferrets being added as animals that can be managed with vaccination and isolation in the post exposure setting; and increasing post exposure isolation period for previously vaccinated animals from 30 to 45 days.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: Compendium of Animal Rabies Prevention and Control, 2016
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does affect owners of meat animals, dogs, cats, and ferrets that have been exposed or potentially have been exposed to a rabid animal. The objective is to prevent the exposed animal from developing rabies and exposing humans to the disease.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the Notice of Proposed Amendments appears in the *Illinois Register*. Please mail written comments on the proposed rulemaking to the attention of:

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT

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

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: There will be minimal affects to municipal animal control facilities and veterinary practices.
 - B) Reporting, bookkeeping or other procedures required for compliance: There should be no changes in current reporting or bookkeeping.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: The agency did not anticipate the need for this rulemaking.

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

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)PART 30
ANIMAL CONTROL ACT

Section

30.10	Definitions
30.20	Interstate Shipment of Dogs; Health Certificate Required
30.30	Causes for Removal of Administrator or Wardens from Office
30.40	District Boards
30.50	Training of Animal Control Wardens
30.60	Rabies Vaccination Tags; County Accountable for Rabies Tags
30.70	Rabies Vaccination Tag and Certificate Honored by All Counties; Interstate Shipment of Dogs Recognized as Officially Vaccinated
30.80	Approval of Rabies Vaccination Tags and Color
30.90	Recognized Immunity Period of Animal Rabies Vaccines
30.100	Unvaccinated Impounded Dog
30.110	Confinement Period for Animal Which Has Bitten a Person
30.120	Biting Animal Considered Officially Vaccinated; Brains of Dogs Suspected of Having Rabies and Which Have Died Shall Be Submitted for Examination
30.130	Rabid Animals; Procedures for Revaccination, Confinement or Destruction
30.140	Dangerous Dog; Control Methods
30.150	Claim for Loss of Animals or Poultry Killed or Injured by Dogs
30.160	County Animal Control Program; Requirements
30.170	County and Municipality Sharing Registration Fees

AUTHORITY: Implementing and authorized by the Animal Control Act [510 ILCS 5] and authorized by Sections 9 and 10 of the Illinois Diseased Animals Act [510 ILCS 50/9 and 10].

SOURCE: Rules and Regulations Relating to the Animal Control Act, filed September 16, 1974, effective September 26, 1974; amended August 19, 1975, effective August 29, 1975; filed December 10, 1976, effective January 1, 1977; codified at 5 Ill. Reg. 10440; amended at 7 Ill. Reg. 1712, effective January 28, 1983; amended at 12 Ill. Reg. 2216, effective January 19, 1988; amended at 16 Ill. Reg. 11751, effective July 8, 1992; amended at 18 Ill. Reg. 14891, effective September 26, 1994; amended at 20 Ill. Reg. 1505, effective January 12, 1996; amended at 40 Ill. Reg. _____, effective _____.

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT

Section 30.130 Rabid Animals; Procedures for Revaccination, Confinement or Destruction

When circumstances indicate animals were bitten by a rabid animal, the following procedures shall apply:

- a) Immediate humane destruction is preferred. (If meat animal, slaughter is permitted within 72 hours after~~7 days of~~ exposure or after 6 months from date of exposure.)
- b) If the bitten dog, cat or ferret~~bitten~~ had been officially vaccinated more than 30 days prior to exposure, and within the recognized period of immunity, it shall be revaccinated and confined for 45~~30~~ days.
- c) If the bitten dog, cat or ferret~~bitten~~ had not been officially vaccinated more than 30 days prior to exposure, it shall be vaccinated immediately and be placed under strict confinement for a 6-month period. If the exposed dog, cat or ferret is apparently normal at the end of 5 months of the confinement period, it shall be revaccinated against rabies at that time and then remain in confinement for another 30 days.

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

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Humane Care for Animals Act
- 2) Code Citation: 8 Ill. Adm. Code 35
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
35.5	Amendment
35.10	Amendment
- 4) Statutory Authority: Humane Care for Animals Act [510 ILCS 70]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking will allow the Department to utilize additional resources for training and testing of humane investigators. The Department will still maintain complete control over the content of the material presented and will continue to maintain control over the approval process.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the Notice of Proposed Amendments appears in the *Illinois Register*. Please mail written comments on the proposed rulemaking to the attention of:

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

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Animal control, humane societies, and police departments that utilize humane investigators.
 - B) Reporting, bookkeeping or other procedures required for compliance: No additional procedures are required.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: None. The agency did not anticipate the need for this rulemaking.

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

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 35
HUMANE CARE FOR ANIMALS ACT

Section

35.5	Definitions
35.10	Approved Humane Investigator; Qualifications; Requirements; Suspension; Reports; Appointment Period
35.20	Notice of Violation; Impoundment Procedure (Repealed)
35.30	Administrative Hearings

AUTHORITY: Implementing and authorized by the Humane Care for Animals Act [510 ILCS 70].

SOURCE: Rules and Regulations Relating to Humane Care for Animals, filed December 14, 1973, effective December 24, 1973; codified at 5 Ill. Reg. 10441; amended at 7 Ill. Reg. 865, effective January 10, 1983; amended at 8 Ill. Reg. 5936, effective April 23, 1984; amended at 9 Ill. Reg. 4498, effective March 22, 1985; amended at 18 Ill. Reg. 14909, effective September 26, 1994; amended at 28 Ill. Reg. 13390, effective October 1, 2004; amended at 40 Ill. Reg. _____, effective _____.

Section 35.5 Definitions

"Act" means the Humane Care for Animals Act [510 ILCS 70].

"Approved humane investigator" or "Department investigator" means:

a person employed by or approved by the Department to determine whether there has been a violation of the Humane Care for Animals Act;
or

an animal control warden or animal control administrator appointed under the Animal Control Act [510 ILCS 5].

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

"Humane society" means any chartered, not for profit organization authorized to do business in this State and organized for the purpose of preventing cruelty to animals and promoting humane care and treatment of animals.

"Governmental agency" means any local, municipal, county and/or State law enforcement agency.

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

Section 35.10 Approved Humane Investigator; Qualifications; Requirements; Suspension; Reports; Appointment Period

Persons, when submitting an application for appointment as an approved humane investigator, will furnish the following information: name, address, telephone number; name and address of the humane society or governmental agency with whom they are affiliated; and a brief resume of their experience and education, both practical and formal, relative to the humane care of animals.

- a) Qualifications for appointment as an approved humane investigator shall include:
- 1) Membership in or employment by a humane society, as defined in Section 2.05 of the Act, or other individual so designated by official action of that particular humane society's board of directors, or any law enforcement officer who has been officially designated by the governmental agency responsible for his/her action or duty;
 - 2) Responsibility to his/her organization, in compliance with all administrative rules issued by the Department;
 - 3) Attendance in and completion of a Department-approved training program for humane investigators;
 - 43) Demonstration of satisfactory knowledge of the Act and its applications by oral and/or written examination to be given by the Department at times to be designated by the Department as needed.
 - A) Knowledge of how to conduct and complete an investigation, including legally guided knowledge of how to file charges if required.

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

- B) Applicant shall have a high school diploma or its equivalent and two years experience raising, caring for or breeding the particular species of animal being investigated.
- b) The Department shall require additional consultation and training when the applicant does not have experience in caring for certain animals that could reasonably be encountered in the performance of his/her duties or has no experience in conducting investigations and the proceedings that accompany ~~thosesueh~~ investigations.
- c) An approved humane investigator shall comply with the following:
- 1) Cooperation, whenever possible, with other approved humane investigators or law enforcement authorities, if requested, to aid in an investigation of complaints relative to the care and treatment of animals;
 - 2) Except when so authorized by the Department, no approved humane investigator shall represent himself/herself, at any stage in ~~conductingthe~~ ~~conduct of~~ an investigation, as acting directly ~~on~~ behalf of or as an agent of the Department.
- d) An approved humane investigator shall be suspended for any of the following reasons:
- 1) Material misstatement in the original application;
 - 2) Wilful disregard or violation of the ~~Humane Care for Animals~~ Act or ~~this~~ ~~Partrules issued pursuant to that Act~~;
 - 3) Pursuing a continued course of misrepresentation or false statements regarding investigations relative to humane care of animals after a warning letter is given;
 - 4) Failure to perform his/her investigational duties and enforcement of the ~~Humane Care for Animals~~ Act ~~and this Partor rules~~;
 - 5) Loss of membership, in or employment by, a humane society as defined in subsection (a)(1) or on written request of the society's board of directors;

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

- 6) Failure to perform job duties, including failure to promptly submit documents in a case in which~~where~~ enforcement actions have been taken (i.e., Notice of Violation, impoundments or prosecution); ~~and~~
 - 7) Conduct, while performing duties, that is unprofessional or contrary to customary investigative procedures; ~~and-~~
 - 8) Failure to submit the required annual report.
- e) Reinstatement following suspension as an approved humane investigator requires the suspended investigator to submit a new application and to successfully complete the requirements for becoming an approved humane investigator (see subsection (a)).
 - f) All approved humane investigators shall prepare and submit to the Department an annual report on forms furnished by the Department. It shall contain the species and number of animals involved, and total number of investigations performed that calendar year. The annual report shall be filed by April 1 for the preceding calendar year's activity.
 - g) The appointment as an approved humane investigator shall be for a two-year period beginning on January 1 and expiring on December 31 of the following year. The reappointment procedure shall be the same procedure used for the original appointment as set forth in this Section. Qualifications for reappointment as an approved humane investigator shall be as set forth in subsection (a).

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

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Video Gaming (General)
- 2) Code Citation: 11 Ill. Adm. Code 1800
- 3) Section Number: 1800.815 Proposed Action:
New Section
- 4) Statutory Authority: The proposed rulemaking is authorized by the following statutory sections:

Section 78 (a) (3) of the Video Gaming Act [230 ILCS 40/ 78 (a) (3)] gives the Illinois Gaming Board (Board) authority "[t]o adopt rules for the purpose of administering the provisions of this Act and to prescribe rules, regulations, and conditions under which all video gaming in the State shall be conducted. Such rules and regulations are to provide for the prevention of practices detrimental to the public interest and for the best interests of video gaming..."

Section 45 (e) of the Video Gaming Act [230 ILCS 40/45 (e)] provides that "[a]ny applicant for any license under this Act has the burden of proving his or her qualifications to the satisfaction of the Board. The Board may adopt rules to establish additional qualifications and requirements to preserve the integrity and security of video gaming in this State."

Section 2 (b) of the Riverboat Gambling Act [230 ILCS 10/2 (b)] provides that "[w]hile authorization of riverboat gambling will enhance investment, development and tourism in Illinois, it is recognized that it will do so successfully only if public confidence and trust in the credibility and integrity of the gambling operations and the regulatory process is maintained. Therefore, regulatory provisions of this Act are designed to strictly regulate the facilities, persons, associations and practices related to gambling operations pursuant to the police powers of the State, including comprehensive law enforcement supervision."

Section 80 of the Video Gaming Act [230 ILCS ILCS 40/80] provides in pertinent part that "[t]he provisions of the Illinois Riverboat Gambling Act, and all rules promulgated thereunder, shall apply to the Video Gaming Act, excepts where there is a conflict between the 2 Acts." As the provisions of Section 2 (b) do not conflict with the Video Gaming Act, they are deemed to be incorporated into the latter act.

- 5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking adds a new Section 1800.815 to the Video Gaming (General) Part, entitled "Video

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

Gaming Locations Within Malls." Subsection (a) of the new section provides that the Board shall not grant an application to become a licensed video gaming location within a mall if the Board determines that granting the application will more likely than not cause a terminal operator, individually or in combination with other terminal operators, licensed video gaming locations, or other persons or entities, to operate the video gaming terminals in two or more locations as a single video gaming operation. In making determinations under this subparagraph, factors to be considered by the Board include, but are not limited to, the physical aspects of the location; its ownership, control, and management; any arrangements for the conducting of video gaming business; and the manner in which any terminal operator or other related entity markets, advertises or otherwise describes any location to another person or entity or to the public.

Under subsection (b) of the new section, the Board shall presume, subject to rebuttal, that the granting of a video gaming location license will cause a terminal operator, individually or in combination with other terminal operators, licensed video gaming locations, or other persons or entities, to operate the video gaming terminals in two or more licensed video gaming locations as a single video gaming operation, if the Board determines that granting the license would create a "local concentration of licensed video gaming locations." "Local concentration of video gaming locations" is defined to mean that the combined number of licensed video gaming locations within a mall exceeds half of the separate locations within the mall. A "location" for purposes of the new section is defined as a space within a mall containing a separate business, a place for a separate business, or a place subject to a separate leasing arrangement by the mall owner.

Subsection (c) of the new section defines a "mall" as a building, or adjoining or connected buildings, containing four or more locations.

The granting of location licenses to multiple establishments within malls has the potential to turn them into full-fledged casinos housing dozens or even hundreds of video gaming terminals. Unlike riverboat casinos in which Board agents are constantly present, and which are subject to round-the-clock, on-site surveillance, the licensed video gaming locations within malls will receive only occasional visits from the Board's limited numbers of field agents. Instead, the locations will be primarily monitored remotely through the Board's Central Communications System. This type of remote monitoring falls short of the comprehensive law enforcement supervision required by statute, and will not be sufficient to ensure the adequate regulation, integrity and security of video gaming. As a consequence, public confidence and trust in the credibility and integrity of video gaming will be diminished. Effective regulation of video gaming operations within

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

malls can only be achieved by placing reasonable restrictions on the numbers of licensed video gaming locations which they can contain.

- 6) Published studies and reports, and underlying sources of data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citation</u>
1800.110	Amendment	40 Ill. Reg. 9024; July 8, 2016
1800.430	Amendment	40 Ill. Reg. 9024; July 8, 2016

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

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

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

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: The rulemaking will affect small businesses located in malls containing

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

two or more businesses, which have applied to become licensed video gaming locations.

- B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: The proposed rulemaking will impose no additional requirements.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized in a regulatory agenda because the need for it was not anticipated at the time Agendas were published.

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

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

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

PART 1800
VIDEO GAMING (GENERAL)

SUBPART A: GENERAL PROVISIONS

Section	
1800.110	Definitions
1800.115	Gender
1800.120	Inspection
1800.130	Board Meetings

SUBPART B: DUTIES OF LICENSEES

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

SUBPART C: STANDARDS OF CONDUCT FOR LICENSEES

Section	
1800.310	Grounds for Disciplinary Actions
1800.320	Minimum Standards for Use Agreements
1800.330	Economic Disassociation

SUBPART D: LICENSING QUALIFICATIONS

Section	
1800.410	Coverage of Subpart
1800.420	Qualifications for Licensure
1800.430	Persons with Significant Influence or Control

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

1800.440 Undue Economic Concentration

SUBPART E: LICENSING PROCEDURES

Section

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

SUBPART F: DENIALS OF APPLICATIONS FOR LICENSURE

Section

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

SUBPART G: DISCIPLINARY ACTIONS AGAINST LICENSEES

Section

1800.710 Coverage of Subpart

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

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

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

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

SUBPART I: SECURITY INTERESTS

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

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

Section	
1800.1010	Restriction on Sale, Distribution, Transfer, Supply and Operation of Video Gaming Terminals
1800.1020	Transportation of Video Gaming Terminals into the State
1800.1030	Receipt of Video Gaming Terminals in the State
1800.1040	Transportation of Video Gaming Terminals Between Locations in the State

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

- 1800.1050 Approval to Transport Video Gaming Terminals Outside of the State
- 1800.1060 Placement of Video Gaming Terminals
- 1800.1065 Registration of Video Gaming Terminals
- 1800.1070 Disposal of Video Gaming Terminals

SUBPART K: STATE-LOCAL RELATIONS

Section

- 1800.1110 State-Local Relations

SUBPART L: FINGERPRINTING OF APPLICANTS

Section

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

SUBPART M: PUBLIC ACCESS TO INFORMATION

Section

- 1800.1310 Public Requests for Information

SUBPART N: PAYOUT DEVICES AND REQUIREMENTS

Section

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

SUBPART O: NON-PAYMENT OF TAXES

Section

- 1800.1510 Non-Payment of Taxes

SUBPART P: CENTRAL COMMUNICATIONS SYSTEM

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

Section

1800.1610 Use of Gaming Device or Individual Game Performance Data

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

SOURCE: Adopted by emergency rulemaking at 33 Ill. Reg. 14793, effective October 19, 2009, for a maximum of 150 days; adopted at 34 Ill. Reg. 2893, effective February 22, 2010; emergency amendment at 34 Ill. Reg. 8589, effective June 15, 2010, for a maximum of 150 days; emergency expired November 11, 2010; amended at 35 Ill. Reg. 1369, effective January 5, 2011; emergency amendment at 35 Ill. Reg. 13949, effective July 29, 2011, for a maximum of 150 days; emergency expired December 25, 2011; amended at 36 Ill. Reg. 840, effective January 6, 2012; amended by emergency rulemaking at 36 Ill. Reg. 4150, effective February 29, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 5455, effective March 21, 2012; amended at 36 Ill. Reg. 10029, effective June 28, 2012; emergency amendment at 36 Ill. Reg. 11492, effective July 6, 2012, for a maximum of 150 days; emergency expired December 2, 2012; emergency amendment at 36 Ill. Reg. 12895, effective July 24, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 13178, effective July 30, 2012; amended at 36 Ill. Reg. 15112, effective October 1, 2012; amended at 36 Ill. Reg. 17033, effective November 21, 2012; expedited correction at 39 Ill. Reg. 8183, effective November 21, 2012; amended at 36 Ill. Reg. 18550, effective December 14, 2012; amended at 37 Ill. Reg. 810, effective January 11, 2013; amended at 37 Ill. Reg. 4892, effective April 1, 2013; amended at 37 Ill. Reg. 7750, effective May 23, 2013; amended at 37 Ill. Reg. 18843, effective November 8, 2013; emergency amendment at 37 Ill. Reg. 19882, effective November 26, 2013, for a maximum of 150 days; emergency amendment suspended by the Joint Committee on Administrative Rules at 38 Ill. Reg. 3384, effective January 14, 2014; suspension withdrawn at 38 Ill. Reg. 5897; emergency repeal of emergency amendment at 38 Ill. Reg. 7337, effective March 12, 2014, for the remainder of the 150 days; amended at 38 Ill. Reg. 849, effective December 27, 2013; amended at 38 Ill. Reg. 14275, effective June 30, 2014; amended at 38 Ill. Reg. 19919, effective October 2, 2014; amended at 39 Ill. Reg. 5401, effective March 27, 2015; amended at 39 Ill. Reg. 5593, effective April 1, 2015; amended at 40 Ill. Reg. 2952, effective January 27, 2016; amended at 40 Ill. Reg. 8760, effective June 14, 2016; amended at 40 Ill. Reg. 12762, effective August 19, 2016; amended at 40 Ill. Reg. _____, effective _____.

SUBPART H: LOCATION OF VIDEO GAMING TERMINALS IN
LICENSED VIDEO GAMING LOCATIONS[Section 1800.815 Licensed Video Gaming Locations Within Malls](#)

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

- a) The Board shall not grant an application to become a licensed video gaming location within a mall if the Board determines that granting the application would more likely than not cause a terminal operator, individually or in combination with other terminal operators, licensed video gaming locations, or other persons or entities, to operate the video gaming terminals in two or more licensed video gaming locations as a single video gaming operation. In making determinations under this subsection (a), factors to be considered by the Board shall include, but not be limited to, the following:
- 1) the physical aspects of the location;
 - 2) the ownership, control or management of the location;
 - 3) any arrangements, understandings or agreements, written or otherwise, among or involving any persons or entities that involve the conducting of any video gaming business or the sharing of costs or revenues; and
 - 4) the manner in which any terminal operator or other related entity markets, advertises or otherwise describes any location or locations to any other person or entity or to the public.
- b) The Board shall presume, subject to rebuttal, that the granting of an application to become a licensed video gaming location within a mall will cause a terminal operator, individually or in combination with other terminal operators, licensed video gaming locations, or other person or entities, to operate the video gaming terminals in two or more licensed video gaming locations as a single video gaming operation, if the Board determines that granting the license would create a local concentration of licensed video gaming locations. For purposes of this subsection (b), "local concentration of licensed video gaming locations" means that the combined number of licensed video gaming locations within a mall exceeds half of the separate locations within the mall, and a "location" means a space within a mall containing a separate business, a place for a separate business, or a place subject to a separate leasing arrangement by the mall owner.
- c) For purposes of this Section, a "mall" means a building, or adjoining or connected buildings, containing four or more separate locations.

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Manufacturing, Processing, Packing or Holding of Food Code
- 2) Code Citation: 77 Ill. Adm. Code 730
- 3) Section Number: 730.1005 Proposed Action: Amendment
- 4) Statutory Authority: Authorized by the Illinois Food, Drug and Cosmetic Act [410 ILCS 620]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking seeks to amend the incorporated and referenced materials Section of the rule to add new references with respect to federal references for cacao products, hazard analysis and critical control point systems and canned fruit juices.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? None
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand any State mandates on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written or e-mail comments may be submitted within 45 days after this issue of the *Illinois Register* to:

Elizabeth Paton
Assistant General Counsel
Division of Legal Services

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

Illinois Department of Public Health
535 W. Jefferson St., 5th floor
Springfield IL 62761

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2016

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER m: FOOD, DRUGS AND COSMETICS

PART 730
MANUFACTURING, PROCESSING, PACKING OR HOLDING OF FOOD CODE

SUBPART A: GENERAL PROVISIONS

Section	
730.1000	Definitions
730.1005	Incorporated and Referenced Materials
730.1006	Compliance with National Standards
730.1010	Adequate (Repealed)
730.1020	Plant (Repealed)
730.1030	Sanitize (Repealed)

SUBPART B: CURRENT GOOD MANUFACTURING PRACTICE (SANITATION)

Section	
730.2010	Scope

SUBPART C: PLANT AND GROUNDS

Section	
730.3010	Grounds
730.3020	Plant Construction and Design

SUBPART D: EQUIPMENT AND UTENSILS

Section	
730.4010	Suitable for Intended Use
730.4020	Cleanable
730.4030	Maintenance
730.4040	Prevents Contamination
730.4050	Installation

SUBPART E: SANITARY FACILITIES AND CONTROLS

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

Section

730.5000	Adequate Sanitary Facilities and Accommodations
730.5010	Water Supply
730.5020	Sewage Disposal
730.5030	Plumbing
730.5040	Toilet Facilities
730.5050	Hand-washing Facilities
730.5060	Waste Disposal

SUBPART F: SANITARY OPERATIONS

Section

730.6010	General Maintenance
730.6020	Animal and Vermin Control
730.6030	Sanitation of Equipment and Utensils
730.6040	Storage and Handling of Cleaned Portable Equipment and Utensils

SUBPART G: PROCESSES AND CONTROLS

Section

730.7000	Adequate Sanitation Principles
730.7010	Raw Material Inspection, Storage, and Preparation
730.7020	Raw Material Carrier Inspection
730.7030	Potable Ice
730.7040	Cross Contamination
730.7050	Equipment Cleaning
730.7060	Proper Processing
730.7070	Testing Procedures
730.7080	Packaging
730.7090	Products Coded and Records Retained
730.7100	Product Storage and Carriers

SUBPART H: PERSONNEL

Section

730.8000	Management Responsibilities
730.8010	Disease Control
730.8020	Cleanliness
730.8030	Education and Training

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

730.8040 Supervision

SUBPART I: EXCLUSIONS

Section

730.9010 Operations Excluded

AUTHORITY: Implementing and authorized by the Illinois Food, Drug and Cosmetic Act [410 ILCS 620].

SOURCE: Filed November 12, 1969, effective January 12, 1970; codified at 8 Ill. Reg. 16832; amended at 35 Ill. Reg. 14187, effective August 2, 2011; amended at 40 Ill. Reg. 9201, effective June 21, 2016; amended at 40 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 730.1005 Incorporated and Referenced Materials

- a) The following federal guidelines and regulations are incorporated by reference:
- 1) 21 CFR 123: Fish and Fishery Products (April 1, 2012); <https://www.gpo.gov/fdsys/pkg/CFR-2012-title21-vol2/pdf/CFR-2012-title21-vol2-part123.pdf>.
 - 2) [21 CFR 120: Hazard Analysis and Critical Control Point \(HACCP\) Systems \(April 1, 2012\); https://www.gpo.gov/fdsys/granule/CFR-2012-title21-vol2/CFR-2012-title21-vol2-part120.](https://www.gpo.gov/fdsys/granule/CFR-2012-title21-vol2/CFR-2012-title21-vol2-part120)
 - 3) [21 CFR 146: Canned Fruit Juices \(April 1, 2011\); https://www.gpo.gov/fdsys/granule/CFR-2011-title21-vol2/CFR-2011-title21-vol2-part146.](https://www.gpo.gov/fdsys/granule/CFR-2011-title21-vol2/CFR-2011-title21-vol2-part146)
 - 4) [21 CFR 163: Cacao Products \(April 11, 2011\); https://www.gpo.gov/fdsys/pkg/CFR-2011-title21-vol2/pdf/CFR-2011-title21-vol2-part163.pdf.](https://www.gpo.gov/fdsys/pkg/CFR-2011-title21-vol2/pdf/CFR-2011-title21-vol2-part163.pdf)
 - 5) Guide for the Control of Molluscan Shellfish 2013 Revision. U.S. Food and Drug Administration, Office of Food Safety, Division of Food Safety, HFS-325, 5100 Paint Branch Parkway, College Park MD 20740-3835; <http://www.fda.gov/downloads/Food/GuidanceRegulation/FederalStateFoodPrograms/UCM415522.pdf>.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

63) 21 CFR 117: Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventative Controls for Human Food (September 17, 2015); <http://www.gpo.gov/fdsys/pkg/FR-2015-09-17/pdf/2015-21920.pdf>.

- b) All incorporations by reference of federal guidelines and regulations refer to the materials on the date specified and do not include any amendments or editions subsequent to the date specified.

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Processors of Fresh and Smoked Fish
- 2) Code Citation: 77 Ill. Adm. Code 735
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
735.10	Repealed
735.20	Repealed
735.30	Repealed
735.40	Repealed
735.50	Repealed
735.60	Repealed
735.70	Repealed
735.80	Repealed
- 4) Statutory Authority: Implementing and authorized by the Illinois Food, Drug and Cosmetic Act [410 ILCS 620]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being repealed because all relevant content is contained in 21 CFR 123 Fish and Fishery Products, which is incorporated by reference into the Manufacturing, Processing, Packing or Holding of Food Code (77 Ill. Adm. Code 730).

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

The Department anticipates adoption of this repealer approximately six to nine months after publication of the Notice in the *Illinois Register*.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand any State mandates on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written or e-mail comments may be submitted within 45 days after this issue of the *Illinois Register* to:

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

217/782-2043
e-mail: dph.rules@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2016

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER m: FOOD, DRUGS AND COSMETICSPART 735
PROCESSORS OF FRESH AND SMOKED FISH (REPEALED)

Section

735.10	Definitions
735.20	Scope
735.30	Plant and Grounds
735.40	Equipment and Utensils
735.50	Sanitary Facilities and Controls
735.60	Sanitary Operations
735.70	Processes and Controls
735.80	Personnel

AUTHORITY: Implementing and authorized by the Illinois Food, Drug and Cosmetic Act (Ill. Rev. Stat. 1981, ch. 56½, pars. 501 et seq.).

SOURCE: Filed September 18, 1972; codified at 8 Ill. Reg. 7276; repealed at 40 Ill. Reg. _____, effective _____.

Section 735.10 Definitions

For the purpose of this Part, 77 Ill. Adm. Code 730, Subpart A, of The Manufacturing, Processing, Packing or Holding of Food applies as well as the following definitions:

"Adulterated" shall mean the condition of fish, fish products, or ingredients

if they bear or contain any poisonous or deleterious substance in a quantity which may render them injurious to health;

if they bear or contain any added poisonous or deleterious substance for which no safe tolerance has been established by regulation, or in excess of such tolerance if one has been established;

if they consist in whole or in part of any filthy, putrid or decomposed substance or are otherwise unfit for human consumption;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

if they have been processed, prepared, packaged or held under insanitary conditions whereby they may have become contaminated with filth, or whereby they may have been rendered injurious to health;

if they are in whole or in part the product of a diseased fish; or

if their container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.

"And/or" shall mean "and" wherever possible; otherwise, the word "or" shall apply.

"Approved" shall mean acceptable to the Illinois Department of Public Health based on its determination as to conformance with appropriate standards and good public health practice.

"Closed" shall mean fitted together snugly, leaving no openings large enough to permit the entrance of vermin.

"Contact surfaces" shall mean those surfaces of equipment and utensils with which fish, fish products, or ingredients normally come in contact, and those surfaces with which fish, fish products, or ingredients may come in contact and drain back onto surfaces normally in contact with fish, fish products, or ingredients.

"Corrosion-resistant material" shall mean a material which maintains its original surface characteristics under prolonged influence of fish, fish products, or ingredients, and cleaning compounds and sanitizing solutions to which it is normally subjected.

"Easily cleanable" shall mean readily accessible and of such material and finish and so fabricated that residues may be completely removed by normal cleaning methods.

"Employee" shall mean any person working in a fish processing establishment who transports fish, fish products, or ingredients, or ingredient containers, who engages in processing, or who comes in contact with any fish, fish products, ingredients, utensils or equipment.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

"Equipment" shall mean all processing machines, tables, refrigerators, sinks, utensil washing machines, vats, tanks, pumps, and similar items used in the operation of a fish processing establishment.

"Fish" shall mean any cold blooded, strictly aquatic animal of the class Pisces.

Whole fish are fish as captured, ungutted.

Gutted fish are fish from which the guts have been removed.

Fresh fish have either received no preserving treatment or have been preserved only by chilling.

"Fish product" shall mean any fish or part thereof which, wholly or in a combination with other ingredients, is intended for further processing for human consumption.

"Fish-smoking establishment (plant)" shall mean the premises, buildings, structures, and equipment employed or used in connection with the processing, storage, or handling of fish, fish products, or ingredients for smoking and/or the smoking and subsequent processing, storage, or handling of the smoked fish, fish products, or fish ingredients within the plant.

"Hot-process smoked or hot-process smoked-flavored fish" shall mean the finished food prepared by subjecting forms of smoked fish referred to in the definitions of "smoked fish" and "smoked-flavored fish" to heat as prescribed in Section 735.70(f).

"Loin muscle" shall mean the longitudinal quarter of the great lateral muscle freed from skin, scales, visible blood clots, bones, gills, and viscera and from the nonstriated part of such muscle, which part is known anatomically as the median superficial muscle.

"Person" shall mean an individual, or a firm, partnership, company, corporation, trustee, association, or any public or private entity.

"Potable water" shall mean water which complies with USPHS Drinking Water Standards.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

"Regulatory authority" shall mean the Illinois Department of Public Health.

"Sealed" shall mean free from cracks or other openings which permit the entry or passage of moisture.

"Single-service articles" shall mean cups, containers, lids or closures, trays, knives, spoons, stirrers, wrapping materials, and similar articles which are constructed wholly or in part of paper, paperboard, plastic, molded pulp, foil, wood, synthetic, or other readily destroyable materials, and which are intended by the manufacturers for one use only and then to be discarded.

"Smoked fish" shall mean any fish that is prepared by treating it with salt (sodium chloride) and then subjecting it to the direct action of smoke from burning wood, sawdust, or similar material.

"Smoked-flavored fish" shall mean any fish that is prepared by treating it with salt (sodium chloride) and then imparting to it the flavor of smoke by other than the direct action of smoke.

"Utensils" shall mean any hand implements or multi-use portable containers used in the preparation, processing, conveying and storage of fish, fish products, or ingredients.

"Water phase salt" shall mean the percent salt (sodium chloride) in the finished product as determined by the method described in the "Official Methods of Analysis of the Association of Agricultural Chemists," multiplied by 100 and divided by the percent salt (sodium chloride) plus the percent moisture in the finished product.

"Wholesome" shall mean in sound condition, clean, free from adulteration, and otherwise suitable for use as human food.

Section 735.20 Scope

This Part is intended to explain how The Manufacturing, Processing, Packing or Holding of Food (77 Ill. Adm. Code 730) may be satisfactorily complied with by processors of fresh fish and smoked fish. This Part is not intended to be all inclusive and it may be possible to satisfactorily comply by using other means. If other means are used, they must be approved by the Illinois

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

Department of Public Health prior to their use. Proof of such approval shall be maintained by the firm for presentation to a representative of the Illinois Department of Public Health during an inspection of the establishment.

Section 735.30 Plant and Grounds

- a) Grounds.
 - 1) The area surrounding the processing plant shall be free of discarded truck bodies, discarded equipment, litter, uncut weeds and uncut grass and any other condition that may constitute an attractant, breeding place or harborage for rodents, insects and other pests. This also shall include the proper storage of waste in sound containers with tight fitting lids and shall prohibit open sewage ditches.
 - 2) Roads and parking lots shall be constructed or surfaced in such a manner as to minimize dust and dirt. All adjacent yards shall have sufficient growth or be surfaced so as to prevent an excess of dirt and dust.
 - 3) The premises shall be sufficiently well drained to prevent pooling or an accumulation of liquids. This shall include proper grading so that drainage is away from the processing plant so as to preclude the possibility of surface water pooling or seeping or draining into the plant. Vehicle washing areas shall be constructed of concrete or equivalent material, shall be properly drained, and graded so that any runoff flows away from the plant.
- b) Plant Construction and Design.
 - 1) Adequate Size: The processing plant shall be of sufficient size for the purpose intended without crowding of equipment or personnel.
 - 2) Proper Construction: The building and surrounding area should be such as can be kept reasonably clean of objectionable odors, smoke, dust, or other contamination. The building shall be of such construction as to protect against the entrance and harborage of insects or birds or vermin.
 - 3) Clean and In Good Repair:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- A) Interior walls and ceilings shall be constructed of a smooth, nonabsorbent material, easily cleanable, free of cracks, ledges or shelves where dust and debris may collect. Floors shall be smooth and kept in good repair. Floors in all rooms or areas where fish, fish products, or ingredients are processed or stored, or where utensils and equipment are washed, and floors in refuse rooms, and other floors which are not kept dry, shall be constructed of good quality concrete, or of equally impervious and easily cleanable material. Floor and wall junctures shall be covered and sealed in all new construction. In all cases, the juncture between the floor and wall shall be closed.
 - B) All surfaces of such floors shall be graded to drain and floor drains shall be equipped with traps and grills, and shall be so located as to drain all waste liquids.
 - C) Gutters, if used to conduct such drainage, shall be so constructed and located as to be easily cleanable.
 - D) All floors shall be kept clean.
- 4) Partitioned as Required: Areas where raw materials are received or stored should be so separated from areas in which final product preparation or packaging is conducted as to preclude contamination of the finished product. Areas used for storage, manufacture or handling of edible products should be separate and distinct from those used for inedible materials. The fish handling area shall be completely separated from any part of the premises used as living quarters.
- 5) Lighting:
- A) All areas in which fish, fish products, or fish ingredients are processed, examined, or stored, or equipment and utensils are washed, handwashing areas, dressing and locker rooms and toilet rooms shall be well lighted.
 - B) At least 50 foot-candles of light shall be provided on work surfaces, in areas where fish and fish products are examined for cleanliness or wholesomeness; at least 30 foot-candles of light on

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

all other working surfaces; and at least 5 foot-candles of light at a distance of 30 inches above the floor in all other areas of the plant. Toilet facilities shall have a minimum of 10 foot-candles of light.

- C) Light bulbs or fixtures suspended over food in any step of preparation shall be of the safety type or otherwise protected to prevent food contamination in the case of breakage.
- 6) Ventilation: All rooms in which fish or fish products are processed, or equipment and utensils are washed, dressing or locker rooms, toilet rooms and refuse storage rooms, shall be well ventilated. Equipment giving off noxious odors, fumes or vapors shall be ventilated to the outside air. Ventilation systems shall not create conditions whereby fish or fish products are subjected to contamination.
- 7) Screened as Required: All outside doors, windows, and open skylights shall be kept in good repair and, whenever flying insects are prevalent, be provided with tight screens of 16-mesh or equivalent to prevent the entrance of such insects; provided that fans or other devices which prevent the entrance of flying insects may be used in lieu of screen doors. If such equipment is used, tight fitting doors shall be installed and, whenever such insects are prevalent, doors shall be kept closed at all times when such devices are not in operation. Conveyor, air-vent, and other special outside openings shall be effectively protected at all times against the entrance of insects, rodents, and other vermin by the use of doors, flaps, fans, screens, or other means.

Section 735.40 Equipment and Utensils

- a) Suitable for Intended Use: Equipment and product containers should not constitute a hazard to health. Containers which are reused should be of such material and construction as will facilitate thorough cleaning, and should be so cleaned and maintained as not to constitute a source of contamination to the product.
- b) Cleanable:
 - 1) Design: Equipment and utensils shall be so designed as to prevent contamination of the food and permit easy and thorough cleaning.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 2) Construction: All equipment and utensils shall be so designed and of such material and so fabricated as to be smooth, easily cleanable and durable, and shall be in good repair.
- 3) Food Contact Surfaces: All food contact surfaces shall be smooth; free from pits, crevices, and loose seals; nontoxic; unaffected by food products; capable of withstanding repeated exposure to normal cleaning.
- 4) Nonfood Contact Surfaces:
 - A) Surfaces of equipment and utensils not intended for contact with fish or fish products but which are exposed to splash, fish debris, or otherwise require frequent cleaning, shall be reasonably smooth, washable, free of unnecessary ledges, projections, or crevices; readily accessible for cleaning; and of such material and in such repair as to be readily maintained in a clean and sanitary condition.
 - B) Equipment and utensils used for inedible or contaminating materials should be so identified and should not be used for handling edible products.
- c) Clean and In Good Repair: All utensils and product-contact surfaces of equipment shall be thoroughly cleaned to sight and touch immediately following the day's operations and at such time during operations as may be required to prevent contamination of fish and fish products. All product contact surfaces of all equipment and utensils shall be sanitized by a method acceptable to the Illinois Department of Public Health.

Section 735.50 Sanitary Facilities and Controls

- a) Water Supply: The water supply shall be adequate, of a safe, sanitary quality and from a source approved by the Illinois Department of Public Health. Hot and cold running water, under pressure, shall be provided at hand washing lavatories and in all areas where fish and fish products are processed, or equipment, utensils or containers are washed.
- b) Sewage Disposal: All sewage and water carried wastes shall be disposed of in a public sewerage system when one is available. When a public sewerage system is

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

not available, all sewage and water carried wastes shall be disposed of in an approved sewage disposal system which is constructed and operated in conformance with applicable state and local laws, ordinances and regulations.

- c) **Plumbing:** Plumbing shall be so sized, installed and maintained as to carry adequate quantities of water to required locations throughout the establishment; as to prevent contamination of the water supply; as to properly convey sewage and liquid wastes from the establishment to the sewerage system; and so that it does not constitute a source of contamination of fish, fish products, or fish ingredients, equipment, or utensils, or create an insanitary condition or a nuisance, shall comply with the Illinois State Plumbing Code (77 Ill. Adm. Code 890).
- d) **Toilet Rooms and Facilities:** Adequate and convenient toilets should be provided and toilet areas should be equipped with self-closing doors and be vented to the outside. Toilet rooms should not open into a food handling area. They shall be kept in a sanitary condition at all times. There should be associated hand-washing facilities within the toilet area and notices shall be posted requiring personnel to wash their hands after using the toilet.
- e) **Hand Washing Facilities:** Adequate and convenient facilities for employees to wash and dry their hands should be provided wherever the process demands. Single-use towels are recommended, or such satisfactory method for hand drying as approved by the Illinois Department of Public Health. The facilities shall be kept in a sanitary condition at all times.
- f) **Offal and Solid Waste Disposal:** All offal and rubbish containing fish wastes shall, prior to disposal, be kept in leakproof, nonabsorbent containers which shall be kept covered with tight fitting lids when filled or stored or not in continuous use; provided that such containers need not be covered when stored in a special vermin-proofed room or enclosure, or in a fish-waste refrigerator. All other rubbish shall be stored in container rooms, or areas, in an approved manner. The rooms, enclosures, areas, and containers used shall be adequate for the storage of all fish waste and rubbish accumulating on the premises. Adequate cleaning facilities shall be provided, and each container room, or area, shall be thoroughly cleaned after the emptying or removal of offal and rubbish. All offal shall be disposed of with sufficient frequency and in such a manner as to prevent a nuisance.

Section 735.60 Sanitary Operations

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- a) General Maintenance.
- 1) Physical Facilities: The building, equipment, utensils, and all other physical facilities of the plant shall be kept in good repair and shall be kept clean and maintained in an orderly, sanitary condition. Waste materials shall be frequently removed from the working area during plant operation and adequate waste receptacles shall be provided. Detergents and disinfectants employed should be appropriate to the purpose and should be so used as to present no hazard to public health.
 - 2) Toxic Materials: All rodenticides, fumigants, insecticides or other toxic substances shall be stored in separate locked rooms or cabinets and handled only by or under the supervision of personnel with a thorough understanding of the hazards involved, including the possibility of contamination of the product.
- b) Animal and Vermin Control.
- 1) The fish processing plant shall be free of rodents, rodent harborages, insects and insect breeding places. Effective measures shall be used to control and eliminate insects, rodents, other vermin, dogs, cats and other domestic animals from the plant at all times.
 - 2) Insecticides and rodenticides shall be used in a manner which precludes the possibility of contamination of a food product. In the case of rodenticides this shall mean the use of an enclosed bait station of sufficient strength and so fastened to prevent its being crushed or tipped over, thereby allowing the rodenticide to become scattered outside of the bait station. Insecticides shall be used in a manner approved by the Illinois Department of Public Health.
- c) Sanitation of Equipment and Utensils.
- 1) General: All utensils and product contact surfaces of equipment used in a fish smoking establishment shall be sanitized prior to each use, and following any interruption of operations during which contamination of such utensils and contact surfaces of equipment is likely to have occurred. When such equipment and utensils are used on a continuous or production

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

line basis in a fish smoking plant, the contact surfaces of such equipment and utensils shall be cleaned and sanitized at approved intervals throughout the processing day on an approved schedule.

- 2) Single-Service Articles: All single-service articles shall be stored, handled and dispensed in a sanitary manner, and shall be used only once.
- d) Storage of Cleaned Equipment and Utensils: After cleaning and until use, all utensils and product contact surfaces of equipment shall be so stored and handled as to be protected from contamination.

Section 735.70 Processes and Controls

- a) Raw Material:
 - 1) Fish, fish products, and ingredients shall be from sources approved by the Illinois Department of Public Health and shall have been protected from contamination and spoilage at all times during handling, packaging and storage and while in transit to the processing plant.
 - 2) All fish shall be adequately refrigerated from the time of catch to the time of processing.
 - 3) Ice shall be obtained from a source approved by the Illinois Department of Public Health and shall be stored and handled in a clean manner and used only once.
 - 4) All fish, fish products, and ingredients in the fish processing establishment shall be wholesome and free of spoilage and adulteration, and shall not be misbranded.
- b) Carriers: All carriers delivering raw materials and/or ingredients shall be subject to inspection prior to acceptance of the materials to determine if any toxic materials such as pesticides or other poisons have been carried with the fish or ingredients, to check for the presence of insects or rodents or any other type of contamination which may be caused by the carrier and which would render the fish or ingredients unfit for human consumption.
- c) Potable Ice: Ice shall be made from water of potable quality and manufactured,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

handled, stored and used so as to protect it from contamination.

- d) Cross Contamination: Only such poisonous and toxic materials as are required to maintain sanitary conditions and for sanitization purposes may be used or stored in fish processing establishments. Poisonous and toxic materials shall be identified, and shall be used only in such a manner and under such conditions as will not contaminate fish, fish products, or ingredients, or constitute a hazard to employees or customers.
- e) Product Handling: Fish, fish products, and ingredients shall be processed, stored, packaged, transported and displayed for sale in such a manner and under such conditions as to be protected from unnecessary handling and against sources of contamination, such as dust, vermin, unclean utensils, and work surfaces, coughs and sneezes, flooding drainage and overhead leaking.
- f) Proper Processing (hot-process smoked or hot-process smoked-flavored fish):
 - 1) Raw Materials.
 - A) Fresh fish received shall be inspected and adequately washed before processing. Only sound, wholesome fish free from adulteration and organoleptically detectable spoilage shall be processed.
 - B) Every lot of fish that has been partially processed in another plant, including frozen fish, shall be adequately inspected, and only clean, wholesome fish shall be processed.
 - C) Fresh or partially processed fish, except those to be immediately processed, shall be iced or otherwise refrigerated to an internal temperature of 38°F. or below upon receipt and shall be maintained at that temperature until the fish are to be processed.
 - D) All fish received in a frozen state shall be either thawed promptly and processed, or stored at a temperature that will maintain it in a frozen state.
 - 2) Defrosting of Frozen Fish.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- A) Defrosting shall be carried out in a sanitary manner and by such methods that the wholesomeness of the fish is not adversely affected. Frozen fish shall be defrosted:
 - i) In air at 45°F. or below until other than hard frozen; or
 - ii) In air so that the temperature in any part of the fish does not exceed 45°F.; or
 - iii) In a continuous water-overflow thaw tank or spray system in such a manner that the temperature in any part of the fish does not exceed 45°F.
 - B) When a thaw tank is used, fish should not remain in the tank longer than one-half hour after they are completely defrosted.
 - C) Fish entering the thaw tanks shall be free of exterior packaging material and substantially free of liner material.
 - D) After thawing, fish shall be washed thoroughly with a vigorous water spray or a continuous water flow system.
- 3) Presmoking Operation.
- A) Evisceration of fish shall be performed with minimum disturbance of intestinal tract contents. Removal of viscera shall be complete.
 - B) After the evisceration process, the fish (including the body cavity) shall be thoroughly washed with a vigorous water spray or a continuous waterflow system.
 - C) All fish shall be brined in a solution that does not exceed 38°F. or dry-salted at a temperature not to exceed 38°F. throughout the fish.
 - D) Hot-process smoked or hot-process smoked-flavored fish shall be brined in such a manner that the final salt (sodium chloride) content of the loin muscle of the finished product, expressed as percent in the water phase of the loin muscle, shall not be less than:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- i) 3.5 percent if heat-processed as prescribed under subsection (f)(4)(B)(i) of this Section; or
 - ii) 5.0 percent if heat-processed as prescribed under subsection (f)(4)(B)(i) of this Section.
 - iii) The food additive sodium nitrate may be used in combination with salt (NaCl) to aid in inhibiting the outgrowth and toxin formation from *Clostridium botulinum* type E in the commercial processing of smoked chub in accordance with the following prescribed conditions: The brining procedure is controlled in such a manner that the water phase portion of the edible portion of the finished smoked product has a salt (NaCl) content of not less than 3.5 percent, as measured in the loin muscle, and the sodium nitrite content of the edible portion of the finished smoked product is not less than 100 parts per million and not greater than 200 parts per million, as measured in the loin muscle.
- E) Fish shall be rinsed with fresh water after brining.
- 4) Heating, Cooking, Smoking Operation.
- A) A point-sensitive, continuous temperature recording device shall be used to monitor both the internal temperature of the fish and the ambient temperature within the oven. Each recording device record shall be identified as to the specific oven load and date processed.
 - B) Hot-process smoked or hot-process smoked-flavored fish shall be heated by a controlled heat process that provides a monitoring system positioned in as many strategic locations in the oven as necessary to assure a continuous temperature throughout each fish of:
 - i) Not less than 180°F. for a minimum of 30 minutes for hot-process smoked or hot-process smoked-flavored fish which have been brined to contain 3.5 percent water phase salt in

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

the finished product as prescribed in paragraph (f)(3)(D)(i) of this Section, except that smoked chub containing sodium nitrite as provided for in paragraph (f)(3)(D)(iii) of this Section shall be maintained at a continuous temperature throughout each fish of at least 160°F. for a minimum of 30 minutes.

- ii) Not less than 150°F. for a minimum of 30 minutes for hot-process smoked or hot-process smoked-flavored fish which have been brined to contain 5.0 percent water phase salt in the finished product as prescribed in paragraph (f)(3)(D)(ii) of this Section.

- 5) Protective Equipment and Facilities.
 - A) Refrigeration, freezing, and heating equipment and facilities shall be adequately sized and conveniently located. Each such item of equipment and/or facility shall be equipped with an approved temperature indicating and/or recording device which is properly located, installed and utilized.
 - B) Where necessary to prevent contamination of fish, covers shall be provided for tanks, and containers, including brining and thawing tanks.
 - C) Facilities shall be provided in each fish dressing, eviscerating, and trimming room for washing the inside and outside of the fish. Such facility or equipment shall be supplied with ample quantities of potable water under sufficient pressure to wash the fish thoroughly and efficiently. Outlets or facilities providing a continuous flow or spray of potable water for the purpose of rinsing hands, and hand-operated items of equipment, or utensils, shall be located within arms' length of persons engaged in the dressing, eviscerating or trimming operations.
 - D) Freezers and coolers must be maintained in a clean and orderly manner. The raw fish and the final product shall be stored off the floor in separate rooms, and in such a position that the rooms shall be readily accessible for cleaning.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- E) Each freezer and cold storage compartment used for the product shall be fitted with at least the following:
 - i) An automatic control for regulating temperature;
 - ii) An indicating thermometer so installed as to show accurately the temperature within the compartment;
 - iii) A recording thermometer so installed as to indicate accurately at all times the temperature within the compartment.
 - F) Thermometers or other temperature-measuring devices shall have an accuracy of plus or minus 2°F.
 - G) Packaging rooms shall be kept scrupulously clean. Raw fish shall never be permitted in smoked fish and smoked fish product cooling, packing or storage rooms. Smoked fish or smoked fish products shall be handled only with clean hands or sanitized rubber or plastic gloves, and such handling shall be kept to a minimum.
 - H) Personnel changing from raw product areas to processed areas or operations shall thoroughly wash their hands before handling smoked fish or smoked fish products. Every reasonable precaution shall be employed to prevent contamination of smoked fish, smoked fish products, ingredients, and equipment and utensils by raw fish or raw fish products.
 - I) Smoked fish and smoked fish products shall not be moved through the raw fish rooms or areas, or refuse rooms.
- g) Testing (hot-process smoked or hot-process smoked-flavored fish):
- 1) Microbiological examination of in-line and finished product samples should be conducted with sufficient frequency to assure that processing steps and sanitary procedures are adequate.
 - 2) The finished product shall be analyzed chemically with sufficient

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

frequency to assure that the required salinity is obtained in every fish and that other chemical additives are present at authorized levels.

- h) Packaging (hot-process smoked or hot-process smoked-flavored fish):
 - 1) The finished product shall be handled only with clean, sanitized hands, gloves or utensils.
 - 2) Manual manipulation of the finished product shall be kept to a minimum.
 - 3) The finished product shall be cooled to a temperature of 50°F. or below within 3 hours after cooking and further cooled to a temperature of 38°F. or below within 12 hours after cooking, and this temperature shall be maintained during all subsequent storage and distribution.
 - 4) The shipping containers, retail packages, and shipping records shall indicate by appropriate labeling the perishable nature of the product and shall specify that the product shall be shipped, stored, and/or held for sale at 38°F. or below until consumed.
- i) Products Coded and Records Retained (hot-process smoked or hot-process smoked-flavored fish): Permanently legible code marks shall be placed on the outer layer of every finished product package and master carton. Such marks shall identify at least the plant where packed, the date of packing, and the oven load. Records shall be so maintained as to provide positive identification
 - 1) of the process procedures used for the manufacture of hot-process smoked or hot-process smoked-flavored fish and
 - 2) of the distribution of the finished product.
- j) Product Storage (hot-process smoked or hot-process smoked-flavored fish): Receiving, loading, and shipping docks shall not be simultaneously used for the handling of smoked fish and smoked fish products and for the handling of raw fish or refuse unless the operations are kept separate. Docks or portions thereof, which are used for raw fish or refuse, shall be thoroughly cleaned before being used for handling of smoked fish and smoked fish products.

Section 735.80 Personnel

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- a) Disease Control: No person while affected with any disease in a communicable form, or while a carrier of such disease, or while afflicted with infected wounds, sores or respiratory infection, shall work in any area of a fish processing establishment in any capacity in which there is a likelihood of such person contaminating fish, fish products, ingredients, or product contact surfaces with pathogenic organisms, or transmitting disease to other individuals; and no person known or suspected of being affected with any such disease or condition shall be employed in such an area or capacity. If the manager or person in charge of the establishment has reason to suspect that any employee has contracted any disease in a communicable form or has become a carrier of such disease, he shall notify the Illinois Department of Public Health or their representative immediately.
- b) Cleanliness:
- 1) All employees in the fish processing plant shall wear clean outer garments, maintain a high degree of personal cleanliness and conform to hygienic practices while on duty. They shall wash their hands thoroughly in an approved hand-washing facility before starting or resuming work, and as often as may be necessary to remove soil and contamination. No employee shall resume work after visiting the toilet room without first washing hands.
 - 2) The outer garments of all employees engaged in handling fish, fish products, ingredients, or their contact surfaces shall be reasonably clean.
 - 3) Gloves, if worn by packers, shall be sanitized as often as necessary but at least twice daily, and shall be properly stored when not in use.
 - 4) Soiled clothing and gloves shall be placed in nonabsorbent containers or laundry bags.
 - 5) Hair nets, headbands, caps, or other effective hair restraints shall be used by employees engaged in processing operations.
 - 6) Employees shall not use tobacco in any form while engaged in processing operations, or while in equipment and utensil washing or processing areas; provided that designated locations in such areas may be approved for smoking, where no contamination hazards will result.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- c) Education and Training: Personnel responsible for sanitary control in the fish processing plant shall have a sufficient background of education, experience, or combination thereof, to provide a level of competency necessary for the production of a clean and safe finished product. All employees shall have received proper indoctrination in handling techniques so as to be aware of the dangers of poor personal hygiene and insanitary conditions.

- d) Supervision: It is suggested that each fish processing plant, in its own interest, designate a single individual whose duties are preferably divorced from production, to be held responsible for the cleanliness of the plant. His staff should be a permanent part of the organization and should be well trained in the use of special cleaning tools, methods of disassembling equipment for cleaning, and in the significance of contamination and the hazards involved. Critical areas, equipment and materials should be designated for specific attention as part of a permanent sanitation schedule.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Processors of Cacao Products and Confectionery
- 2) Code Citation: 77 Ill. Adm. Code 738
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
738.100	Repealed
738.200	Repealed
738.310	Repealed
738.320	Repealed
738.410	Repealed
738.420	Repealed
738.430	Repealed
738.510	Repealed
738.520	Repealed
738.530	Repealed
738.540	Repealed
738.550	Repealed
738.560	Repealed
738.610	Repealed
738.620	Repealed
738.630	Repealed
738.640	Repealed
738.710	Repealed
738.720	Repealed
738.730	Repealed
738.740	Repealed
738.760	Repealed
738.770	Repealed
738.780	Repealed
738.790	Repealed
738.800	Repealed
738.910	Repealed
738.920	Repealed
738.930	Repealed
738.940	Repealed
- 4) Statutory Authority: Implementing and authorized by the Illinois Food, Drug and Cosmetic Act [410 ILCS 620]

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 5) A Complete Description of the Subjects and Issues Involved: This Part is being repealed because all relevant content is contained in 21 CFR 163 Cacao Products, which is being incorporated by reference into the Manufacturing, Processing, Packing or Holding of Food Code (77 Ill. Adm. Code 730).

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

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

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand any State mandates on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written or e-mail comments may be submitted within 45 days after this issue of the *Illinois Register* to:

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

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2016

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER m: FOOD, DRUGS AND COSMETICS

PART 738
PROCESSORS OF CACAO PRODUCTS AND CONFECTIONERY (REPEALED)

SUBPART A: DEFINITIONS

Section
738.100 Definitions

SUBPART B: SCOPE

Section
738.200 Scope

SUBPART C: PLANT AND GROUNDS

Section
738.310 Grounds
738.320 Plant Construction and Design

SUBPART D: EQUIPMENT AND UTENSILS

Section
738.410 Suitable for Intended Use
738.420 Cleanable
738.430 Cleaning and Maintenance

SUBPART E: SANITARY FACILITIES AND CONTROLS

Section
738.510 Water Supply
738.520 Sewage Disposal
738.530 Plumbing
738.540 Toilet Rooms and Facilities
738.550 Hand-Washing Facilities
738.560 Solid Waste Disposal

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

SUBPART F: SANITARY OPERATIONS

Section

738.610	General Maintenance
738.620	Animal and Vermin Control
738.630	Sanitizing of Equipment and Utensils
738.640	Storage and Handling of Cleaned Portable Equipment and Utensils

SUBPART G: PROCESSES AND CONTROLS

Section

738.710	Raw Material Inspection, Storage and Preparation
738.720	Raw Material Carrier Inspection
738.730	Potable Ice
738.740	Multiple Use Equipment
738.760	Proper Processing
738.770	Testing Procedures
738.780	Packaging
738.790	Products Coded and Records Retained
738.800	Product Storage and Carriers

SUBPART H: PERSONNEL

Section

738.910	Disease Control
738.920	Cleanliness
738.930	Education and Training
738.940	Supervision

AUTHORITY: Implementing and authorized by the Illinois Food, Drug and Cosmetic Act (Ill. Rev. Stat. 1981, ch. 56½, pars. 501 et seq.).

SOURCE: Filed April 21, 1977; codified at 8 Ill. Reg. 6998; repealed at 40 Ill. Reg. _____, effective _____.

SUBPART A: DEFINITIONS

Section 738.100 Definitions

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

For the purpose of this Part, Rules 1.01 through 1.03 of the General Rule and Regulations for Food Manufacturing, Processing, Packing or Holding (77 Ill. Adm. Code 730) apply as well as the following definitions:

"Cacao Products" – means any form of chocolate, chocolate product, cocoa or cocoa product. Such foods include but are not limited to cacao nibs, sweet chocolate, milk chocolate, other foods standardized by 21 CFR 14, and chocolate sirup. They do not include the raw cacao bean, extracts, flavoring derived from such extracts, and chocolate flavored or cocoa flavored foods.

"Confectionery" – means candy and other food products made with sweeteners and frequently prepared with colorings, flavorings, milk products, cacao products, nuts, fruits, starches and other materials. Such foods include but are not limited to frostings, toppings and cake decorations. They do not include chewing gum, sauces, sirups, jellies, jams, preserves, cakes or cookies.

"Lot" – means a collection of primary containers or units of the same size, type and style, containing finished product produced under conditions as nearly uniform as possible, designated by a common container code or marking, and in any event, no more than a day's production.

"Return" – means clean, wholesome product(s) returned to the manufacturer for reprocessing for reasons other than insanitary conditions and which is suitable for use as food.

"Rework" – means clean, wholesome product(s) removed from processing for reasons other than insanitary conditions and which is suitable for reprocessing and for use as food.

"Shall" – refers to mandatory requirements and "should" refers to recommended or advisory procedures or equipment.

"Waste" – means product rejected due to adulteration that renders it unsuitable for use as human food.

SUBPART B: SCOPE

Section 738.200 Scope

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

This Part is intended to explain how the General Regulations for Food Manufacturing, Processing, Packing or Holding may be satisfactorily complied with by Processors of Cacao Products and Confectionery. These are not intended to be all inclusive and it may be possible to satisfactorily comply by using other means. If other means are used, they must be approved by the Illinois Department of Public Health prior to their use. Proof of such approval shall be maintained by the firm for presentation to a representative of the Illinois Department of Public Health during an inspection of the establishment.

SUBPART C: PLANT AND GROUNDS

Section 738.310 Grounds

- a) The area surrounding the processing plant shall be free of discarded truck bodies, discarded equipment, litter, uncut weeds and uncut grass and any other condition that may constitute an attractant, breeding place or harborage for rodents, insects and other pests. This also shall include the proper storage of waste in sound containers with tight fitting lids and shall prohibit open sewage ditches.
- b) Roads and parking lots shall be constructed or surfaced in such a manner as to minimize dust and dirt. All adjacent yards shall have sufficient growth or be surfaced so as to prevent an excess of dirt and dust.
- c) The premises shall be sufficiently well drained to prevent pooling or an accumulation of liquids. This shall include proper grading so that drainage is away from the processing plant so as to preclude the possibility of surface water pooling or seeping or draining into the plant. Vehicle washing areas shall be constructed of concrete or equivalent material, shall be properly drained and graded so that any run-off flows away from the plant.

Section 738.320 Plant Construction and Design

- a) **Adequate Size:** The processing plant shall be of sufficient size for the purpose intended without crowding of equipment or personnel.
- b) **Proper Construction:** The building and surrounding area should be such as can be kept reasonably clean of objectionable odors, smoke, dust or other contamination. The building shall be of such construction as to protect against the entrance and harborage of insects or birds or vermin.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- c) Clean and in Good Repair:
- 1) Interior walls and ceilings shall be constructed of a smooth, nonabsorbent material, easily cleanable, free of cracks, ledges or shelves where dust and debris may collect. Floors shall be smooth and kept in good repair. Floors in all rooms or areas where products or ingredients are processed or stored, or where utensils and equipment are washed, and floors in refuse rooms and other floors which are not kept dry, shall be constructed of good quality concrete, or of equally impervious and easily cleanable material. Floor and wall junctures shall be covered and sealed in all new construction. In all cases, the juncture between the floor and wall shall be closed.
 - 2) All surfaces of such floors shall be graded to drain and floor drains shall be equipped with traps and grills and shall be located as to be easily cleanable.
 - 3) All floors shall be kept clean.
- d) Partitioned as Required: Effective measures shall be taken to prevent contamination of products, raw materials or packaging materials with microorganisms, chemicals, filth or other extraneous material. This may be accomplished by separating the following operations by partition, location, air flow, enclosed systems or other effective means:
- 1) Receiving.
 - 2) Raw material storage.
 - 3) Cacao bean cleaning, roasting, cooling, cracking and fanning.
 - 4) Cacao product milling, pressing, mixing, refining, conching, tempering and molding.
 - 5) Pulverizing or separating of cocoa, and other dusty operations.
 - 6) Cacao product and confectionery processing.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 7) Portable equipment and utensil cleaning and sanitizing.
 - 8) Packaging and packing.
 - 9) Finished product storage and shipping.
- e) Lighting:
- 1) At least 50 foot candles of light shall be provided on work surfaces, in areas where products are examined for cleanliness or wholesomeness; at least 30 foot candles of light on all other working surfaces; and at least 5 foot candles of light at a distance of 30 inches above the floor in all other areas of the plant. Toilet facilities shall have a minimum of 10 foot candles of light.
 - 2) Light bulbs or fixtures suspended over food in any step of preparation shall be of the safety type or otherwise protected to prevent food contamination in the case of breakage.
- f) Ventilation: All rooms in which cacao products and confectionery are processed or equipment and utensils are washed, dressing or locker rooms, toilet rooms and refuse storage rooms shall be well ventilated. Equipment giving off noxious odors, fumes or vapors shall be ventilated to the outside air. Ventilation systems shall not create conditions whereby products are subjected to contamination.
- g) Screened as Required: All outside doors, windows and open skylights shall be kept in good repair, and whenever flying insects are prevalent, be provided with tight screens of 16 mesh or equivalent to prevent the entrance of such insects; provided that fans or other devices which prevent the entrance of flying insects may be used in lieu of screen doors. If such equipment is used, tight fitting doors shall be installed and whenever such insects are prevalent, doors shall be kept closed at all times when such devices are not in operation. Conveyor, air-vent and other special outside openings shall be effectively protected at all times against the entrance of insects, rodents and other vermin by the use of doors, flaps, fans, screens or other means.

SUBPART D: EQUIPMENT AND UTENSILS

Section 738.410 Suitable for Intended Use

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

Equipment and product containers should not constitute a hazard to health. Containers which are reused should be of such material and construction as will facilitate thorough cleaning and should be so cleaned and maintained as not to constitute a source of contamination to the product.

Section 738.420 Cleanable

- a) Design: Equipment and utensils shall be so designed as to prevent contamination of the food and permit easy and thorough cleaning.
- b) Construction: All equipment and utensils shall be so designed and of such material and so fabricated as to be smooth, easily cleanable and durable, and shall be in good repair.
- c) Food Contact Surface:
 - 1) Food contact surfaces shall be corrosion-free and made of non-toxic material that will not crack or disintegrate in normal operation and will withstand the environment of its intended use and the action of food ingredients, cleaning compounds and sanitizing agents. All food contact surfaces shall be maintained to prevent product contamination and shall be in compliance with the Illinois Food, Drug and Cosmetic Act as it pertains to indirect food additives.
 - 2) Seams on food contact surfaces shall be smoothly bonded or maintained so as to prevent microbiological contamination in places where dirt or organic material might accumulate.
- d) Non-food contact surfaces of equipment shall be so constructed that they can be kept in a clean condition.

Section 738.430 Cleaning and Maintenance

- a) Cleaning and sanitizing of utensils and equipment shall be carried out in such a manner as to prevent raw material, packaging material or product contamination.
- b) Food contact surfaces of equipment used for processing or holding low moisture raw materials or products such as chocolate, fats and oils, liquid nutritive

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

sweeteners, peanut butter and similar materials which are not conducive to microbial growth shall be maintained in a sanitary condition. When wet cleaning of such equipment may cause conditions conducive to microbial growth, other appropriate cleaning methods shall be utilized to prevent product contamination.

- c) Regulating and/or recording controls, thermometers, other temperature measuring devices and temperature recording devices on equipment used to pasteurize raw materials or products shall be accurate and effective for their designated uses. The accuracy of temperature controlling, measuring and recording devices on equipment used to control or prevent undesirable microbial growth in raw materials or finished products shall be within +2 degrees F.
- d) Each freezer and cold storage compartment used for storing or holding raw materials or products capable of supporting growth of microorganisms shall be fitted with an indicating thermometer, temperature measuring device or temperature recording device so installed as to show accurately the temperature within the compartment and should be fitted with an automatic control for regulatory temperature or an automatic alarm system to indicate a significant temperature change in a manual operation.
- e) Cooling tunnels on processing lines shall have access doors or other provisions to permit cleaning of the interior.

SUBPART E: SANITARY FACILITIES AND CONTROLS

Section 738.510 Water Supply

- a) General. The water supply shall be adequate, of a safe, sanitary quality and from an approved public or private water supply system which is constructed, protected, operated and maintained in conformance with applicable local laws, ordinances and regulations; provided that a nonpotable water supply system may be permitted within the plant for purposes such as air conditioning and fire protection, only if such system complies fully with Section 738.530 and the nonpotable water supply is not used in such a manner as to bring it into contact, directly or indirectly, with the products, ingredients, equipment or utensils.
- b) Hot and Cold Running Water. Hot and cold running water under adequate pressure shall be conveniently accessible in all preparation rooms, toilet room (or directly adjacent to the toilet room) and any other area where the washing of

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

equipment utensils or personnel hand washing may be required. The hot water system must deliver water of a minimum of 140 degrees F. at the point of use during all periods of operation.

Section 738.520 Sewage Disposal

All sewage and water carried waste shall be disposed of in an approved sewage disposal system which is constructed and operated in conformance with applicable laws and regulations of the Illinois Department of Public Health.

Section 738.530 Plumbing

Plumbing shall be so sized, installed and maintained as to carry adequate quantities of water to required locations throughout the establishment; as to prevent contamination of the water supply; as to properly convey sewage and liquid wastes from the establishment to the sewage system; and so that it does not constitute a source of contamination of products, equipment or utensils, or create an insanitary condition or nuisance; and shall comply with the Illinois State Plumbing Code (77 Ill. Adm. Code 890).

Section 738.540 Toilet Rooms and Facilities

Adequate and convenient toilets should be provided and toilet areas should be equipped with self-closing doors and be vented to the outside. Toilet rooms should not open directly into the preparation or ingredient storage rooms. They shall be kept in a sanitary condition at all times. There should be associated hand washing facilities within the toilet area and notices shall be posted requiring personnel to wash their hands after using the toilet.

Section 738.550 Hand-Washing Facilities

- a) Adequate and readily accessible hand-washing and sanitizing facilities shall be provided in the plant for employees who may handle unprotected food, unprotected packaging materials, and food contact surfaces. Such facilities shall be furnished with running water at a suitable temperature for hand-washing, effective hand cleaning and sanitizing preparations, sanitary towel service or suitable drying devices, and, where appropriate, refuse receptacles constructed and maintained in a manner to prevent product contamination. These facilities should also be equipped with water control valves so designed and constructed as to prevent recontamination of clean, sanitized hands.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- b) Readily understandable signs directing employees handling unprotected food, unprotected packaging materials, or food contact surfaces, to wash and sanitize their hands before starting work, after each absence from post of duty, and when their hands may have become soiled or contaminated shall be conspicuously posted in the processing room(s) and in all other areas where employees may handle such materials and surfaces.
- c) Management shall maintain sufficient control to ensure that employees handling unprotected food, unprotected packaging materials, or food contact surfaces wash and sanitize their hands before starting work, after each absence from post of duty, and when their hands may have become soiled or contaminated.

Section 738.560 Solid Waste Disposal

- a) Containers shall be fly-proof and rodent-proof, shall not leak nor absorb liquids and shall be thoroughly cleaned on the inside and outside in a way that does not contaminate equipment, utensils, or processing areas.
- b) Storage of solid waste on the premises shall be done in a manner inaccessible to insects and rodents.
- c) Disposal of all solid wastes shall be done daily or at such other frequencies as may be approved by the regulatory authority and in such a manner as to prevent a nuisance.

SUBPART F: SANITARY OPERATIONS

Section 738.610 General Maintenance

- a) **Physical Facilities.** All buildings, fixtures and other physical facilities are kept neat, clean, free of litter and rubbish and in good repair. All manufacturing plants shall have a definite cleaning schedule set up for all areas of the plant to guarantee the preceding sentence.
- b) **Toxic Materials.** Only those poisonous and toxic materials required to maintain manufacturing plants in a sanitary condition and for sanitizing of equipment and utensils shall be present in any area used in connection with food processing operations. All containers of poisonous and toxic materials shall be marked and labeled, and when not in use, shall be stored in cabinets which are used for no

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

other purpose. These storage cabinets shall not be located in the preparation, packaging or ingredient storage rooms. Bactericides and cleaning compounds shall not be stored in the same cabinet or room area with poisonous and/or toxic materials.

Section 738.620 Animal and Vermin Control

- a) The plant shall be free of rodents, rodent harborages, insects and insect breeding places. Effective measures shall be used to control and eliminate insects, rodents, other vermin, dogs, cats and all other animals from the plant at all times.
- b) Insecticides and rodenticides shall be used in a manner which precludes the possibility of contamination of products, ingredients, containers, closures and equipment. In the case of rodenticides, this shall mean the use of an enclosed bait station of sufficient strength and so fastened to prevent its being crushed or tipped over, thereby allowing the rodenticide to become scattered outside of the bait station.

Section 738.630 Sanitizing of Equipment and Utensils

Equipment and Utensil Sanitation.

- a) General. Multiple-service containers, premix and postmix tanks, equipment and utensils used in the handling, processing, storing or transporting of products or ingredients shall be thoroughly cleaned after use. They shall be subjected effectively to an approval sanitizing process prior to each use. The methods shall be such that products and their ingredients shall not be contaminated or adulterated. Chemicals used for cleaning and bactericidal treatments shall have labels which identify the contents.
- b) Single-Service Articles.
 - 1) Single-service articles, including cans or other containers, closures and gaskets, shall be stored in sanitary boxes, cartons, tubes or otherwise protected. Such articles shall be dispensed in such a manner as to prevent contamination.
 - 2) No single-service article shall be used more than once.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

Section 738.640 Storage and Handling of Cleaned Portable Equipment and Utensils

- a) Cleaned and sanitized portable equipment, equipment parts and utensils shall be stored above the floor in a clean, dry location in a suitable area in the manufacturing facility to protect contact surface from splash, dust and other contamination. Contact surfaces of fixed equipment shall also be protected from splash, dust and other contamination. Equipment parts may be reassembled after air drying, provided that the assembled equipment is protected from contamination and rinsed with a sanitizing solution followed by a potable water rinse prior to being used.
- b) Whenever practicable, equipment and utensils shall be stored, inverted or covered. In all cases, the equipment and utensils shall be air dried.

SUBPART G: PROCESSES AND CONTROLS

Section 738.710 Raw Material Inspection, Storage and Preparation

- a) **Source and Inspection.** The manufacturer shall employ appropriate quality control procedures and treatments to ensure that raw materials and finished products are wholesome and fit for food, that packaging materials are safe and suitable, and that all of the foregoing materials are otherwise in compliance with the Illinois Food, Drug and Cosmetic Act (Ill. Rev. Stat. 1981, ch. 56½, pars. 501 et seq.).
- b) **Storage and Handling**
 - 1) Milk and milk products shall have been pasteurized before use, and egg products shall have been pasteurized or otherwise treated to destroy viable Salmonella microorganisms before use, or these materials (i.e., milk, milk products and egg products) shall be pasteurized or otherwise treated during processing operations to destroy pathogenic microorganisms. The manufacturer shall ensure that gelatin, dried coconut, nuts and other raw materials susceptible to contamination by pathogenic microorganisms are free of such microorganisms before these materials are incorporated into finished products unless these materials are pasteurized or otherwise treated before or during processing operations to destroy pathogenic microorganisms. Compliance with this requirement may be accomplished by purchasing these materials under a supplier's guarantee or certification,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

or verified by analyzing these materials for pathogenic microorganisms.

- 2) The manufacturer shall ensure that peanuts, Brazil nuts, pistachio nuts, filberts, walnuts, almonds, pecans, corn meal and other raw materials susceptible to aflatoxin contamination comply with current Illinois Department of Public Health and Food and Drug Administration regulations, guidelines and action levels for poisonous or deleterious substances before these materials are incorporated into finished products. Compliance with this requirement may be accomplished by purchasing these materials under a supplier's guarantee or certification, or verified by analyzing these materials for aflatoxins.
- 3) The manufacturer shall ensure that nuts, raisins, cacao beans, spices, rework, return and other raw materials susceptible to infestation or contamination by animals, birds, vermin, microorganisms or extraneous material comply with current Illinois Department of Public Health and Food and Drug Administration regulations, guidelines and action levels for natural or unavoidable defects before these materials are incorporated into finished products. Compliance with this requirement may be verified by examining these materials for infestation and contamination.
- 4) Raw materials shall be held in containers so designed and constructed as to prevent raw material contamination. Raw materials and packaging materials shall be held at such temperature and relative humidity and in such a manner as to prevent their adulteration due to contamination or decomposition.
- 5) Materials capable of supporting growth of pathogenic microorganisms shall be stored at a temperature below 40 degrees F. or above 140 degrees F., except for such period of time actually required for the processing involved and which does not affect the wholesomeness of the raw materials.
- 6) Frozen materials shall be kept frozen and should be stored at a temperature of 0 degrees F. or below.
- 7) Liquid sugars shall be held in such a manner as to prevent microbial growth or any other direct or indirect contamination. Storage tanks for liquid sugars shall have filtered air-intake vents.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 8) Liquid mixtures containing egg products or other perishable materials and capable of supporting growth of pathogenic microorganisms shall be held in such a manner as to preclude the growth of these microorganisms or shall be processed in such a manner as to destroy these microorganisms. This may be accomplished by:
- A) Maintaining the mixtures at a temperature below 40 degrees F. after removal from storage and disposing of the unused portion at least every 12 hours during operations and at the end of the day's operation; or
 - B) Maintaining the mixtures at a temperature below 50 degrees F. after removal from storage and disposing of the unused portion at least every 4 hours during operations and at the end of the day's operations; or
 - C) Pasteurizing or otherwise treating the mixtures during processing operations to destroy pathogenic microorganisms.

Section 738.720 Raw Material Carrier Inspection

All carriers delivering raw materials and/or ingredients in mixed lots shall be visually inspected prior to acceptance of the materials to check for the presence of insects or rodents or toxic contaminants which may be caused by the carrier and render the materials unfit for human consumption or for their intended use.

Section 738.730 Potable Ice

If ice is used for any purpose in a manufacturing plant, it shall be manufactured from an approved water supply in an ice-making machine which is located, installed, operated and maintained so as to prevent contamination of the ice; or shall be obtained from an approved source. The ice shall be handled, transported and stored in such a manner as to be protected against contamination. Block ice must have all outer surfaces thoroughly flushed with potable water before being used. Any ice crusher used shall be maintained in a clean condition and shall be covered when not in use. Ice handling utensils and equipment shall comply with Section 738.420.

Section 738.740 Multiple Use Equipment

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

None of the equipment used for handling products, ingredients, containers or single-service articles shall be used for non-food products. No area of the plant shall be used to process or store non-food products unless it is so isolated and on a separate ventilation system so that there is no possibility of cross-contamination.

Section 738.760 Proper Processing

- a) Frozen egg products shall be defrosted in a sanitary manner and by such methods that their wholesomeness is not adversely affected. This may be accomplished by defrosting at a temperature of 40 degrees F. or below, or by defrosting at a temperature above 40 degrees F. for a period of time not exceeding 24 hours; provided that the temperature in any part of the defrosted liquid does not exceed 50 degrees F.
- b) Processes intended to pasteurize or otherwise treat materials to destroy pathogenic microorganisms shall be scientifically determined to be adequate under the conditions of manufacture for a given product to ensure destruction of such microorganisms.
- c) Rework and return shall be considered as raw materials. They shall be held in properly identified containers in a manner to prevent product contamination.
- d) Waste shall not contribute to direct or indirect product contamination. This may be accomplished by holding the waste in properly identified containers and removing it from the processing area daily.
- e) Effective measures shall be taken to prevent cross-contamination between raw materials and finished products or between refuse and these materials. When any of these materials are unprotected, they shall not be handled simultaneously in a receiving, loading or shipping area. Raw materials and products transported by conveyor shall be protected against contamination from extraneous material.
- f) Equipment, containers and utensils used to convey, process, hold or store raw materials or products shall be handled during processing or storage in such a manner as to prevent raw material or product contamination.
- g) Effective measures shall be taken to prevent the inclusion of metal or other extraneous material in finished products. This may be accomplished by using

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

suitable equipment such as sieves, magnets, electronic metal detectors, or by other effective means.

- h) Effective measures shall be taken to remove extraneous material from molding starch before it is reused in molding operations. This may be accomplished by passing the starch through a sieve and a metal trap or by otherwise treating it to remove extraneous material.
- i) The cooling and winnowing of roasted cacao beans and the processing and storage of cocoa nibs shall be carried out in such a manner as to prevent product contamination.
- j) Cacao bean shell, dust and other residue particles resulting from cracking operations shall be handled and held in such a manner as to prevent product contamination.
- k) Adulterated materials shall be disposed of in such a manner as to prevent product contamination or shall be reconditioned, if feasible, and then reexamined and found to be wholesome before being incorporated into finished products.

Section 738.770 Testing Procedures

See Section 738.710(a).

Section 738.780 Packaging

See Section 738.760(e-g).

Section 738.790 Products Coded and Records Retained

- a) Container Code. Permanently legible code marks shall be placed at a readily visible location on each shipping container or they shall be placed on each finished product package delivered or displayed to retail purchasers and be visible on the unopened package. The code marks may be placed in both locations if desired by the manufacturer. Such marks shall identify at least the plant where packed and the product lot or packaging lot.
- b) Records.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 1) Records shall be maintained of the results of examinations of raw materials, packaging materials and finished products. Suppliers' guarantees or certifications that verify compliance with the Illinois Department of Public Health and the Food and Drug Administration regulations and guidelines shall be retained.
- 2) Processing and production records covering processes intended to pasteurize or otherwise treat materials to destroy pathogenic microorganisms shall be maintained and shall contain sufficient information to permit a public health evaluation of the processes.
- 3) Records shall be maintained to identify the initial distribution of the finished product to facilitate, when necessary, the segregation of specific food lots that may have become contaminated or otherwise rendered unfit for their intended use.
- 4) The records required by paragraphs (b)(1), (2), and (3) above shall be retained for a period of time that exceeds the shelf life of the finished product, except that they need not be retained more than 2 years.

Section 738.800 Product Storage and Carriers

Finished products shall be handled in storage, during shipment and while being held for sale in such a manner as to prevent product contamination. Transportation equipment, warehouses and other facilities used for storing, holding or transporting finished products shall be of such design and construction as to prevent contamination or adulteration of the products. Such facilities and equipment shall be free of vermin or other objectionable conditions.

SUBPART H: PERSONNEL

Section 738.910 Disease Control

- a) No person while affected with a disease in a communicable form or while a carrier of such disease, or while affected with boils, infected wounds or acute respiratory infection, shall work in a manufacturing plant in an area and capacity in which there is a likelihood of that person contaminating the products, ingredients or contact surfaces with pathogenic organisms or of transmitting disease to other individuals. No such person shall be employed in such an area and capacity in a manufacturing plant.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- b) When suspicion arises as to the possibility of transmission of a disease from any person through a product, the Director or his representative is authorized to require any or all of the following measures:
 - 1) The immediate exclusion of that person from any product handling activity;
 - 2) The immediate exclusion of the product in question from distribution and use; and
 - 3) The adequate medical and bacteriological examination of the person, of his/her associates and his/her and/or their body discharges.

Section 738.920 Cleanliness

- a) **Hand Washing.** All employees shall thoroughly wash their hands and arms with soap and warm water before starting work and shall wash hands during work hours as often as may be required to remove soil and contamination, as well as after visiting the toilet room. The hands of all employees shall be kept clean while engaged in handling products, ingredients and contact surfaces. Employees shall also keep their fingernails clean and neatly trimmed.
- b) **Outer Garments.** The outer garments of all employees working in the preparation and packaging rooms shall be other than street clothes and shall be kept reasonably clean. Soiled clothing shall be placed in nonabsorbent containers or laundry bags. Hair nets or caps shall be worn by employees in the above mentioned areas of the plant.
- c) **Tobacco.** Employees shall not use tobacco in any form while engaged in product processing or while in equipment and utensil washing or processing areas.
- d) **Eating.** Employees shall not consume food in the plant except in designated areas which shall be located outside the processing and utensil washing and storage areas.
- e) **Other Practices.** Employees shall maintain a high degree of personal cleanliness and shall conform to all other good hygienic practices during all work periods.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

Section 738.930 Education and Training

Personnel responsible for quality control in the plant shall have a sufficient background of education, experience or combination thereof, to provide a level of competency necessary for the production of a clean and safe finished product. All employees shall have received proper indoctrination in handling techniques as to be aware of the dangers of poor personal hygiene and insanitary conditions.

Section 738.940 Supervision

There shall be an assigned chain of command designating areas of responsibility to competent supervisory personnel to provide for compliance with this Part.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Soft Drink Manufacturers
- 2) Code Citation: 77 Ill. Adm. Code 740
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
740.10	Repealed
740.20	Repealed
740.30	Repealed
740.40	Repealed
740.50	Repealed
740.60	Repealed
740.70	Repealed
740.80	Repealed
- 4) Statutory Authority: Implementing and authorized by the Illinois Food, Drug and Cosmetic Act [410 ILCS 620]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being repealed because all relevant content is contained in 21 CFR 120 Hazard Analysis and Critical Control Point Systems and 21 CFR 146 Canned Fruit Juices, which are being incorporated by reference into the Manufacturing, Processing, Packing or Holding of Food Code (77 Ill. Adm. Code 730).

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

The Department anticipates adoption of this repealer approximately six to nine months after publication of the Notice in the *Illinois Register*.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand any State mandates on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written or e-mail comments may be submitted within 45 days after this issue of the *Illinois Register* to:

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

217/782-2043
e-mail: dph.rules@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2016

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER m: FOOD, DRUGS AND COSMETICSPART 740
SOFT DRINK MANUFACTURERS (REPEALED)

Section

740.10	Definitions
740.20	Scope
740.30	Plant and Grounds
740.40	Equipment and Utensils
740.50	Sanitary Facilities and Controls
740.60	Sanitary Operations
740.70	Processes and Controls
740.80	Personnel

AUTHORITY: Implementing and authorized by the Illinois Food, Drug and Cosmetic Act (Ill. Rev. Stat. 1981, ch. 56½, pars. 501 et seq.).

SOURCE: Filed September 19, 1972; codified at 8 Ill. Reg. 8924; repealed at 40 Ill. Reg. _____, effective _____.

Section 740.10 Definitions

For the purpose of this Part, 77 Ill. Adm. Code 730.10 (a), (b) and (c) of the General Rules for The Manufacturing, Processing, Packing or Holding of Food apply as well as the following definitions:

A "Carbonated Beverage" shall be any beverage containing one or more volume of carbon dioxide. These beverages may also be known as soda water, soda pop, pop, and tonic.

"Closed" shall mean fitted together snugly leaving no openings large enough to permit the entrance of vermin.

"Closing Machine" shall mean the machine that places the crown cap on a glass container.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

"Closure" shall mean a metal seal lined with cork or other suitable non-toxic material whose edges are crimped over the mouth of or rolled on glass container.

A "Finished Product" shall be a beverage that has been bottled, canned or packaged.

"Liquid Sugar Storage Tanks" shall mean a storage tank used to store liquid sucrose or other liquid carbohydrate sweetener and does not include storage tanks used for flavored syrups.

"Return Bottles" are bottles designed to be sanitized and reused as containers for soft drinks.

"Sealed" shall mean free of cracks or other openings which permit the entry or passage of moisture.

"Seamer" shall mean the machine used to put the lid on metal containers.

A "Soft Drink" shall be any nonalcoholic beverage, carbonated, or noncarbonated, having synthetic or natural flavoring, but does not include coffee, tea or milk drinks. Any drink purporting to be a standardized product shall comply with the applicable standard in 21 CFR Chapter 1 – Food and Drugs.

Section 740.20 Scope

This Part is intended to explain how the General Regulations for Food Manufacturing, Processing, Packing or Holding of Food may be satisfactorily complied with by manufacturers of soft drinks. These are not intended to be all inclusive and it may be possible to satisfactorily comply by using other means. If other means are used, they must be approved by the Illinois Department of Public Health prior to their use. Proof of such approval shall be maintained by the firm for presentation to a representative of the Illinois Department of Public Health during an inspection of the establishment.

Section 740.30 Plant and Grounds

- a) Grounds
 - 1) The area surrounding the manufacturing plant shall be free of discarded truck bodies, discarded equipment, litter, uncut weeds and uncut grass and

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

any other condition that may constitute an attractant, breeding place or harborage for rodents, insects and other pests.

- 2) Roads and parking lots shall be constructed or surfaced in such a manner as to minimize dust and dirt. All adjacent yards which constitute part of the property shall be sodded or surfaced so as to prevent an excess of dirt and dust.
- 3) The premises shall be drained to prevent a pooling or an accumulation of liquids and shall be graded so that drainage is away from the bottling plant so as to prevent surface water from seeping or draining into the plant.

b) Plant Construction and Design

- 1) The manufacturing plant shall be large enough to provide adequate working and storage space. The floors of rooms where ingredients are stored, compounded, mixed, or processed or where containers or equipment are washed shall be constructed of an impervious, smooth, easily cleaned material. They shall be kept in good repair and graded to drain properly to trapped drains. The interior walls and structural features of these rooms shall be smooth, washable, impervious to moisture, and light-colored. They shall be clean and in good repair. Above the splash height, the walls and ceiling may be constructed of suitable sound reducing material. Ceiling in the syrup and container filling rooms should be of hard, sound materials with smooth, easily cleanable surfaces and maintained in good order.
- 2)
 - A) The syrup room and bottle washing and filling room shall not open directly into any living quarters or toilet room.
 - B) Facilities shall be provided for the orderly storage of employees' clothing and personal belongings. This area shall be separate from the syrup or filling rooms and shall include containers for storage of soiled clothing prior to laundering.
- 3)
 - A) All working surfaces shall be illuminated to a minimum of 50 foot-candles of light except that at least 100 foot-candles of light be

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

available at the inspecting stations. Toilet facilities shall have a minimum of 20 foot-candles of light. All other areas shall have a minimum of 5 foot-candles of light at a distance of 30 inches above the floor.

- B) All artificial lights in the syrup room and bottle washing and filling room shall be equipped with protective shielding or of the safety type to prevent contamination by breakage.
- 4)
- A) All rooms shall be adequately ventilated to prevent development of objectionable odors, excessive condensation, and mold growth. Where mechanical ventilation equipment is used, it shall be so located and controlled as to prevent contamination of equipment, raw materials, in process product or finished product. Provisions shall be made for intake or make-up air in such a fashion as to prevent contamination of equipment and products.
 - B) Toilet rooms shall be ventilated to the outside air by a window, louver or a mechanical ventilating system. These and all other vents shall be screened or have self-closing louvers and all exhaust outlets shall be properly located so as to prevent creating a nuisance.
 - C) Equipment such as space heaters, water heaters, etc., which is fired by gas, oil, kerosene or some other fuel which may give off noxious odors, fumes or vapors shall be vented to the outside.

Section 740.40 Equipment and Utensils

- a) Suitable for intended use. All equipment and utensils being used shall be of the type designed and manufactured for use in a food processing or beverage manufacturing plant.
- b) Cleanable
 - 1) Design
 - A) All equipment and utensils shall be so designed and of such

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

material and workmanship as to be smooth, easily cleanable, and durable, and shall be in good repair; food-contact surfaces of such equipment and utensils shall, in addition, be easily accessible for cleaning, nontoxic, corrosion resistant and relatively nonabsorbent. Bottle washers shall be properly designed to fulfill the washing procedure outlined in Section 740.70(f) and shall be equipped with accurately functioning indicating thermometers. In all new installations the thermometer determining the temperature of the alkali washing solution shall be of the recording type or shall be of the dial-type with temperatures being recorded on quality control records at least every two hours while the bottle washer is in operation. All bottling plants shall record the temperature of the main tank of the bottle washer on the quality control records at least every two hours during operation of the bottle washer. This record shall also include the start-up time and close-down time of the bottle washer.

- B) All apparatus used in syrup making or storage of liquid sugar and finished syrups shall be free from recesses, self-draining, covered and equipped with a mechanical means of mixing the syrup where mixing is required.
 - C) Equipment shall be so designed that ingredient contact surface shall be free of difficult to clean internal corners and crevices and all pipe threads which contact beverages or ingredients shall be of a sanitary design. All piping, fittings and connections carrying finished syrup and beverage shall be designed to permit easy cleaning and shall be free of breaks or corrosion. All interior surfaces of demountable piping, including valves, fittings, and connections shall be designed, constructed and installed to permit visual inspection.
- 2) Equipment Designed for In-place Cleaning
- A) Piping and other equipment intended for in-place cleaning shall be so designed, constructed and installed that cleaning and sanitizing solutions can be circulated throughout a fixed system, so that cleaning and sanitizing solutions will contact all interior surfaces and the cleaning and sanitizing procedure results in a thoroughly

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

cleaned and sanitized piece of equipment or piping.

- B) Where necessary, each cleaning circuit shall have access points such as valves, removable sections, fittings, etc., that are adequate for inspection of the interior of the line in addition to the entrances and exits. These access points shall be located at sufficient intervals to determine the general condition of the interior surface of the piping and shall be so constructed as to not create a nuisance or reduce the effectiveness of the in-place cleaning.
- C) Cleaned in-place beverage pipelines and return solution lines (if used) shall be rigid, self-draining, and supported in a manner as to maintain uniform slope and alignment. Return solution lines shall be constructed of sanitary piping as designated in Section 740.40(b)(3).
- D) All gaskets shall be of a material approved for use as a beverage ingredient contact surface and shall form a smooth, flush interior surface. Interior surfaces of welded joints in pipelines shall be smooth and free from pits, cracks, or inclusions.

3) Food Contact Surfaces

- A) All beverage or beverage ingredient contact surfaces of equipment, containers, utensils and sanitary piping shall be smooth, free of breaks, cracks, chips, pits, open seams or other imperfections and shall be constructed of stainless steel of the American Iron and Steel Institute 300 series, equally corrosion-resistant metal which is non-toxic and non-absorbent, heat resistant glass or plastic materials which are relatively inert, resistant to scratching, scouring, decomposition, cracking, chipping and distortion under normal use and which are non-toxic, non-absorbent, and do not impart flavor or odor to the product.
- B) Tanks used for holding water prior to treatment to prepare the water for use in the filling operation may be of construction other than that listed above, provided that they are constructed of materials which will not contaminate the water.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- C) Carbonated water, finished syrups, and finished products shall not be conveyed in pipelines of galvanized iron, lead, zinc, copper or other deleterious materials.
- 4) Non-food Contact Surfaces. Surface of equipment not intended for contact with beverages or beverage ingredients, but which are exposed to splash, debris or otherwise require frequent cleaning, shall be reasonably smooth; washable; free of unnecessary ledges; projections, or crevices; readily accessible for cleaning; and of such material as to be readily maintained in a clean and sanitary condition.
- c) Maintenance. All equipment and utensils shall be maintained in good repair and shall be clean to sight and touch. Beverage and beverage ingredient contact surfaces not designed for in-place cleaning shall be accessible for manual cleaning and inspection without being disassembled, by disassembling without the use of tools or by easy disassembling with the use of simple tools kept available near the equipment.
- d) Prevents Contamination.
 - 1) Lubricated Bearings and Gears. Lubricated bearings and gears of equipment shall be so constructed and installed that lubricants cannot get into the product or onto beverage or beverage ingredient contact surfaces.
 - 2) Solder. Soft solder, when used as a beverage or beverage ingredient contact surface, shall be limited to joining metal or closing seams between abutting metal surfaces; shall be non-toxic under use conditions; containing a minimum of 50 percent tin; no more lead than necessary under good manufacturing procedures; and free of cadmium, antimony, bismuth, and other toxic materials. Hard solder (silver solder), when used as a beverage or beverage ingredient contact surface, shall be of such formulation as to be non-toxic under use conditions; shall be corrosion resistant; and shall, consistent with good industrial practice in the refining of its constituent elements, be free of cadmium, antimony, bismuth and other toxic materials.
 - 3) Other Contaminants
 - A) When liquid sugar storage tanks are of the type which contain

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

vents, they shall be equipped with air filter-type vents in order to reduce the possibility of surface growth of mold or air contamination within these tanks. Air vents shall be designed in such a manner that all parts are readily accessible and easily removable for cleaning.

- B) Compressed air utilized for air cleaning of cans or other single-service containers prior to filling or used for any other purpose where it contacts a beverage or beverage ingredient contact surface or which is introduced into the product, shall be filtered. Where piston-type compressors are used, the air lines shall be equipped with oil and moisture traps.

e) Installation

- 1) Floor-mounted Equipment. All floor mounted equipment that is not readily movable shall be installed on raised platforms of concrete or equivalent in such a manner as to prevent liquids or debris from seeping or settling underneath, between or behind such equipment in spaces which are not fully open for cleaning and inspection; or shall be elevated at least six inches above the floor. The space between adjoining units, and between a unit and the adjacent wall, shall be closed unless exposed to seepage, in which case it shall be sealed; or sufficient space shall be provided to facilitate easy cleaning between, behind and beside all such equipment.
- 2) Aisles and Working Spaces. Aisles and working spaces between equipment and walls, and between pieces of equipment, shall be unobstructed and of sufficient width to permit employees to perform readily their duties without contamination of food or food products, or food contact surfaces by clothing or through personal contact.
- 3) Equipment Drain Lines. Drain lines from equipment shall not discharge waste water in such a manner as will permit the flooding of floors or the flowing of water across working or walking areas or into difficult-to-clean areas, or otherwise create a nuisance.
- 4) Bottle Washing, Filling and Closing Devices. These units shall be arranged so as to prevent human contact with the necks or tops of the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

bottles from the time of washing until they have been crowned.

Section 740.50 Sanitary Facilities and Controls

- a) Water Supply
 - 1) General. The water supply shall be adequate, of a safe, sanitary quality, and from an approved public or private water-supply system which is constructed, protected, operated, and maintained in conformance with applicable state and local laws, ordinances, and regulations; provided, that a nonpotable water-supply system may be permitted within the bottling plant for purposes such as air conditioning and fire protection, only if such system complies fully with Section 740.50(c), and the nonpotable water supply is not used in such a manner as to bring it into contact, directly or indirectly, with the beverages or beverage ingredients, equipment or utensils.
 - 2) Hot and Cold Running Water. Hot and cold running water under adequate pressure shall be conveniently accessible in the syrup room, filling room, toilet room (or directly adjacent to the toilet room) and any other area where the washing of equipment, utensils or personnel may be required. The hot water system must deliver water of a minimum of 140° F at the point of use during all periods of operations.
- b) Sewage Disposal. All sewage and liquid wastes from a beverage plant shall be disposed of in a public sewerage system when one is available. When a public sewerage system is not available, all sewage and liquid wastes shall be disposed of in an approved sewage disposal system which is constructed and operated in conformance with applicable state and local laws, ordinances and regulations.
- c) Plumbing
 - 1) General. All plumbing shall be sized, installed, and maintained in accordance with applicable provisions of the Illinois Plumbing Code (77 Ill. Adm. Code 890).
 - 2) Prevent Backsiphonage and Contamination of Product
 - A) The potable water system shall be installed in such a manner so as

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

to preclude the possibility of backsiphonage or cross connections. Potable water supply piping shall not be directly connected with any nonpotable water supply nor connected to equipment or have outlets in the beverage preparation area. All piping conveying nonpotable water shall be adequately and durably identified as by a distinctive yellow-colored paint.

- B) Flexible water distribution lines to tanks shall be protected by a vacuum breaker or air gap, shall be elevated at all times, and shall be protected so as to prevent contact with the floor or extension into the contents of the tank or other receptacle.
- C) No overhead drainlines or piping shall be located over syrup tanks, beverage ingredients, stored or raw materials or where contamination may be introduced. All overhead drainlines and piping shall be so located or protected that leakage and/or condensation therefrom will not drip onto the floors in the working areas.

3) Drains

- A) In manufacturing plants hereafter constructed, drainage lines shall be separate from toilet sewer lines to a point outside the building, and shall be joined in such a manner as to preclude the possibility of sewage backing up into the plant.
- B) The bottle washer and any piece of equipment with a waste discharge line shall not be directly connected to the drainage system. Each waste pipe from such equipment shall discharge into an open, accessible, individual waste sink, floor drain or other suitable fixture which is properly trapped and vented. The discharge from this and other equipment shall not cause flooding of the floors or flow across working or walking areas, into difficult-to-clean areas, or other wise create a nuisance.

d) Toilet Facilities

- 1) Adequacy, Location and Accessibility. All bottling plants shall be provided with toilet facilities that are adequate, conveniently located, and

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

accessible to employees at all times the plant is in operation.

- 2) Installation. Facilities shall be installed in accordance with the provisions of the Illinois State Plumbing Code or local regulations if they exceed the standards of the aforementioned Code.
 - 3) Sanitary Design. Water closets and urinals shall be of a sanitary design.
 - 4) Construction. Toilet rooms shall be completely enclosed, equipped with tight fitting, self-closing doors, and shall be ventilated to the outside. Doors shall not be left open except during cleaning and maintenance and shall not open directly into syrup or filling rooms. If vestibules are provided, they shall be kept clean and in good repair and shall not be used as a storage area.
 - 5) Maintenance. All toilet facilities shall be kept clean and in good repair and free of objectionable odors. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials; these receptacles in toilet rooms for women shall be covered. All receptacles shall be emptied at least once a day and more frequently when necessary to prevent excessive accumulation of waste material.
- e) Hand-Washing Facilities
- 1) General. All bottling plants shall be provided with adequate, conveniently located handwashing facilities for its employees, including a lavatory or lavatories equipped with hot and cold or tempered running water, hand cleansing soap or detergent, and approved sanitary towels or other approved hand-drying devices. These facilities shall be kept clean and in good repair.
 - 2) Location and Size. Hand-washing lavatories shall be located within or immediately adjacent to all toilet rooms or vestibules. The lavatories shall be adequate in size and number and so located that employees can conveniently wash their hands before beginning work and after each interruption.
 - 3) Where separate hot and cold running water is provided, a mixing valve or

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

combination faucet is recommended. Steam mixing valves are prohibited.

- 4) New Installation. Lavatories which are newly installed, due to remodeling or new construction, shall have tempered water or hot and cold water supplied through a mixing valve or combination faucet.
 - 5) Signs. Signs reminding employees to wash hands before returning to work shall be posted in toilet rooms and near lavatories.
- f) Waste Disposal
- 1) Containers
 - A) All garbage and refuse containing food wastes shall be kept in containers of durable metal or other approved types of material which do not leak and do not absorb liquids; which are provided with tight fitting lids and shall, unless kept in a special vermin proofed room or enclosure or in a waste refrigerator, be kept covered when stored or not in continuous use.
 - B) Each manufacturing plant shall have a sufficient number of these containers to hold all of this type waste which accumulates between periods of removal from the premises. After being emptied, each container shall be thoroughly cleaned on the inside and outside in a manner so as not to contaminate ingredients, beverages, equipment, utensils or the processing area. Waste water from such cleaning procedures shall be considered sewage.
 - 2) Storage
 - A) Garbage and refuse containing food waste shall be stored so as to be inaccessible to vermin. All other rubbish shall be stored in a manner approved by the health officer. Storage facilities shall be adequate for the proper storage of all garbage and refuse. Storage areas shall be clean and not constitute a nuisance. Storage rooms or enclosures shall be constructed of easily cleanable, washable materials with floors and walls of relatively smooth, nonabsorbent materials (at least up to the splash and spray level); and shall be vermin proofed. Garbage containers outside the plant shall be

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

stored either on a concrete or equally impervious slab, or on a rack which is at least 12 inches above the ground for a single bank of containers, or 18 inches above the ground for a multiple bank of containers.

- B) After garbage or other wastes are once removed from syrup and filling rooms, storage area or sale rooms, they shall not be returned to or transported through such rooms. Wastes shall not be handled or routed within such rooms in any manner which may cause contamination of the beverage products.
- 3) Disposal. All garbage and rubbish shall be disposed of daily or of such other frequencies as may be approved by the health authority, and in such a manner as to prevent a nuisance. Where garbage or combustible rubbish is burned on the premises, an approved incinerator shall be provided and shall be operated in such a manner as to comply with state and local regulations and so that it does not create a nuisance. Areas around such incinerators shall be kept in a clean and orderly condition.
- 4) Solid Waste in Liquid. Liquid wastes which contain solid materials which might clog the drainage system shall be passed through a separator or indirect-waste receptor which effectively prevents solids from being discharged into the drainage systems. The solid waste thus removed shall be stored and disposed of as discussed above.

Section 740.60 Sanitary Operations

- a) General Maintenance
 - 1) Physical Facilities. All buildings, fixtures and other physical facilities are kept neat, clean, free of litter and rubbish, and in good repair. All manufacturing plants shall have a definite cleaning schedule set up for all areas of the plant to guarantee the preceding sentence.
 - 2) Toxic Materials
 - A) Only those poisonous and toxic materials required to maintain a beverage manufacturing plant in a sanitary condition, and for sanitization of equipment and utensils, shall be present in any area

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

used in connection with food processing operations. All containers of poisonous and toxic materials shall be marked and labeled, and when not in use shall be stored in cabinets which are used for no other purpose. These storage cabinets shall not be located in the syrup, bottle washing and filling, or ingredient storage rooms. Bactericides and cleaning compounds shall not be stored in the same cabinet or room area with poisonous and/or toxic materials.

- B) Bactericides, cleaning compounds or similar materials for use on beverage or beverage ingredient contact surfaces shall not be used in a manner or concentration so as to leave a toxic residue on such surfaces, nor constitute a health hazard to employees or consumers. Poisonous polishing materials shall not be used on equipment or utensils or be stored in a beverage manufacturing plant.
- C) Poisonous materials shall not be used in any way so as to contaminate beverages, beverage ingredients, bottles or other containers, closures, equipment or utensils nor to constitute any hazard to employees or customers.

b) Animal and Vermin Control

- 1) The beverage manufacturing plant shall be free of rodents, rodent harborages, insects and insect-breeding places. Effective measures shall be used to control and eliminate insects, rodents, other vermin, dogs, cats and all other animals from the plant at all times.
- 2) Insecticides and rodenticides shall be used in a manner which precludes the possibility of contaminating beverages, beverage ingredients, containers, closures and equipment. In the case of rodenticides this shall mean the use of an enclosed bait station of sufficient strength and so fastened to prevent its being crushed or tipped over, thereby allowing the rodenticide to become scattered outside of the bait station.

c) Sanitation of Equipment and Utensils

Equipment and Utensil Sanitation

- 1) General. Multiple-service gallon jugs, premix and post-mix tanks,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

equipment, and utensils used in the handling, processing, storing, or transporting of beverages or beverage ingredients shall be thoroughly cleaned after use. They shall be subjected effectively to an approved sanitizing process prior to each use. The methods shall be such that soft drinks and their ingredients shall not be contaminated or adulterated. Chemicals used for cleaning and bactericidal treatments shall have labels which identify the contents. Fillers shall be cleaned and sanitized at the end of each day's operation and flushed with potable water before beginning operations. Since accepted industry practice permits syrup to remain in the syrup tanks and lines between periods of processing operations, the syrup tanks and lines will be cleaned and sanitized when emptied, as scheduled by the plant. After scheduled cleaning and sanitizing, the syrup tanks and lines shall be flushed with potable water before beginning operations.

2) Single Service Articles

- A) Single service articles including bottles, cans, or other containers, closures and gaskets shall be stored in sanitary boxes, cartons, tubes or otherwise protected. Such articles shall be dispensed in such a manner as to prevent contamination.
- B) No single service article shall be used more than once.

d) Storage and Handling of Cleaned Portable Equipment and Utensils

- 1) Cleaned, and sanitized, portable equipment, equipment parts, and utensils shall be stored above the floor in a clean, dry location in suitable area in the manufacturing facility to protect contact surfaces from splash, dust and other contamination. Contact surfaces of fixed equipment shall also be protected from splash, dust and other contamination. Equipment parts may be reassembled after air drying provided that the assembled equipment is protected from contamination and rinsed with a sanitizing solution followed by a potable water rinse prior to being used.
- 2) Whenever practicable, equipment and utensils shall be stored, inverted or covered. In all cases the equipment and utensils shall be air dried.

Section 740.70 Processes and Controls

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- a) Raw Material Inspection, Storage and Preparation
- 1) Source and Inspection. All ingredients used in the preparation of syrups and beverages shall be in compliance with the Illinois Food, Drug and Cosmetic Act and its regulations, and shall have been protected from contamination and spoilage during subsequent handling, packaging and storage and while in transit. The operator must maintain a quality assurance program acceptable to the Department of Public Health.
 - 2) Storage. All ingredients and raw materials shall be stored in such a manner as to protect them from contamination by dust, flies, rodents, and other vermin, unclean equipment, unnecessary handling, employees, or any other source of contamination. This shall include, but not be limited to, the storage on pallets or other devices to keep the materials off the floor and to permit cleaning. Ingredients and finished product must be segregated from toxic materials, animals feed, and any other items that are not human food or required in the manufacturing operation of the firm.
 - 3) Preparation. Syrups shall be prepared in a sanitary manner and shall be protected from contamination throughout the preparation procedures. This shall include, but not be limited to, the use of equipment designed and constructed in accordance with Section 740.40(b).
- b) Raw Material Carrier Inspection. All carriers delivering raw materials and/or ingredients in mixed lots shall be visually inspected prior to acceptance of the materials to check for the presence of insects and rodents or toxic contaminants which may be caused by the carrier and render the materials unfit for human consumption or for their intended use.
- c) Potable Ice. If ice is used for any purpose in a beverage manufacturing plant, it shall be manufactured from an approved water supply in an ice-making machine which is located, installed, operated and maintained so as to prevent contamination of the ice; or shall be obtained from an approved source. The ice shall be handled, transported, and stored in such a manner as to be protected against contamination. Block ice must have all outer surfaces thoroughly flushed with potable water before being used. Any ice crusher used shall be maintained in a clean condition and shall be covered when not in use. Ice handling utensils and equipment shall comply with Section 740.40(b).

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- d) **Multiple Use Equipment.** None of the equipment used for handling beverages, beverage ingredients, bottles or single service articles shall be used for non-food products. No area of the plant shall be used to process or store non-food products unless it is so isolated and on a separate ventilation system so that there is no possibility of cross-contamination.
- e) **Equipment Cleaning.** All product contact surface of equipment and utensils used in handling, processing, storing, or transporting of beverages or beverage ingredients within the plant shall be thoroughly cleaned after use. They shall be subjected effectively to an approved bactericidal process prior to each usage. The methods used shall be such that soft drinks and their ingredients shall not be contaminated or adulterated. Chemicals used for cleaning and bactericidal treatments shall have labels which identify the contents. All syrup pipelines, apparatus, and containers used in the manufacturing processes shall be thoroughly sanitized at adequate intervals. Apparatus shall be washed and rinsed before sanitization. Tanks and lines containing syrup between periods of processing operations shall be cleaned and sanitized when they are emptied, as scheduled by the plant. A schedule and record of cleaning and sanitizing of syrup tanks and lines must be maintained. After scheduled cleaning and sanitation, the syrup tanks and lines shall be flushed with potable water before beginning processing operations. Chlorine or equally effective bactericidal agents are permissible for sanitization.
- f) **Proper Processing**
- 1) **Methods.** Manufacturing plant operations shall be performed in such a manner as to prevent contamination, adulteration or deterioration of the product or its ingredients. This shall include, but not be limited to, the prevention of the operator or his clothing from coming in contact with beverages, beverage ingredients or sanitized product contact surfaces.
 - 2) **Bottle Washing**
 - A) All reusable glass containers shall be thoroughly cleaned and sanitized, immediately before filling, by means of a suitable automatic mechanical washing machine. No bottles shall be washed by hand except as a preliminary to mechanical washing. Mechanical washing machines shall be in compliance with Section

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

740.40 (b)(1) and where recording thermometers are used the recording charts shall be kept on file for two years. The pre-rinse section shall be cleaned on a daily basis.

- B) Proper mechanical washing of reusable glass containers means the exposure of returned containers to a 3% alkali solution of which not less than 60% is caustic (sodium hydroxide) at a temperature of at least 130°F for at least 5 minutes, or to an equivalent cleansing and sanitizing process, followed by the removal of the washing solution by rinsing with potable water.
 - C) Single service containers may be cleaned by air or water rinsing machines or sanitized by a method approved by the Illinois Department of Public Health so as to assure clean containers.
 - D) All returnable bottles shall be inspected immediately before filling to remove all improperly cleaned and/or defective containers. If manual inspection is being done, the persons inspecting shall have no other duties while they are inspecting on the line. Manual inspectors shall be changed at least once every half hour with other employees who have not been inspecting during that time. If electric equipment is being used for the inspection, it shall be checked at least once every hour to determine that it is functioning properly. Containers having different degrees of contamination in them shall be used in making this test. Records should be kept to show the time and initials of the persons conducting these tests on the mechanical inspection schedule and change of inspectors. These records, if kept, shall be available to the Department representative at the time he makes an inspection or any other request for the records.
- 3) Distilled or Purified Water. All processes shall be properly set up and operated to obtain a distilled or purified water and to prevent contamination of the product. Distillation equipment and deionizing beds shall be cleaned and backwashed at intervals which are frequent enough to guarantee their functioning properly.
- g) Testing Procedures

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 1) **Washing Solution.** All manufacturing plants using returned bottles shall have the necessary testing equipment to determine the strength of the alkali solution, and shall check the solution at least twice a day when in operation. The results of these tests shall be kept as a quality control record for a period of at least two years and shall be made available to a representative of the Department upon his request. These records shall show at least the strength of the solution determined and the person making the determination as well as the time and date of the test.
 - 2) **Standardized Beverages.** Standardized beverages shall comply with the standard designated in the Code of Federal Regulations for that product.
- h) **Packaging.** Containers shall be filled and sealed by means of automatic machinery and neither the operator nor his clothes shall come in contact with any part of the bottle or machinery that might result in contamination of the product. Removal of the closure of imperfectly closed bottles and resealing shall not be permitted. Closures which have been touched on the inner side by the operator, as may occur while adjusting the closing machine shall be discarded. Imperfectly sealed containers shall be discarded.
- i) **Products Coded and Records Retained**
- 1) **Container Code.** All containers shall be coded with a meaningful code to designate a production period. The production period, preferably should be daily but shall be limited to not more than two weeks with the same code. The code must be such as to enable positive identification of a lot or of individual bottles of a lot as necessary to effect recalls to protect the public health.
 - 2) **Records Retained.** Code records shall be retained for a period of time exceeding the shelf life of the product or for one year which is considered to be a normal shelf life.
- j) **Product Storage and Carriers**
- 1) **Storage.** Storage of the finished product shall comply with the requirements of raw material storage as designated in Section 740.70(a)(2).

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 2) Delivery Vehicles. Finished product carriers shall not carry any toxic materials and shall be maintained in a clean condition. The vehicles shall be inspected prior to their loading to determine compliance.

Section 740.80 Personnel

a) Disease Control

- 1) No person while affected with a disease in a communicable form or while a carrier of such disease, or while affected with boils, infected wounds, or acute respiratory infection, shall work in a manufacturing plant in an area and capacity in which there is a likelihood of that person contaminating the beverages, beverage ingredients or contact surface with pathogenic organisms or of transmitting disease to other individuals. No such person shall be employed in such an area and capacity in a manufacturing plant.
- 2) When suspicion arises as to the possibility of transmission of a disease from any person through a beverage, the Director or his representative is authorized to require any or all of the following measures:
 - A) The immediate exclusion of that person from any beverage handling activity;
 - B) The immediate exclusion of the beverage in question from distribution and use; and
 - C) The adequate medical and bacteriological examination of the person, of his associates and his and/or their body discharges.

b) Cleanliness

- 1) Hand Washing. All employees shall thoroughly wash their hands and arms with soap and warm water before starting work, and shall wash hands during work hours as often as may be required to remove soil and contamination, as well as after visiting the toilet room. The hands of all employees shall be kept clean while engaged in handling beverages, beverage ingredients and contact surfaces. Employees shall also keep their fingernails clean and neatly trimmed.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 2) Outer Garments. The outer garments of all employees working in the syrup room and bottle washing and filling rooms shall be other than street clothes and shall be kept reasonably clean. Soiled clothing shall be placed in non-absorbent containers or laundry bags. Hair nets or caps shall be worn by employees in the above mentioned areas of the plant.
 - 3) Tobacco. Employees shall not use tobacco in any form while engaged in the beverage processing or while in equipment and utensil washing or processing areas.
 - 4) Eating. Employees shall not consume food in the plant except in designated areas which shall be located outside the processing and utensil washing and storage areas.
 - 5) Other Practices. Employees shall maintain a high degree of personal cleanliness and shall conform to all other good hygienic practices during all work periods.
- c) Education and Training. Personnel responsible for quality control in the bottling plant shall have a sufficient background of education, experience or combination thereof, to provide a level of competency necessary for the production of a clean and safe finished product. All employees shall have received proper indoctrination in handling techniques as to be aware of the dangers of poor personal hygiene and insanitary conditions.
 - d) Supervision. There shall be an assigned chain of command designating areas of responsibility to competent supervisory personnel to provide for compliance with this Part.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Sanitary Vending of Food and Beverages
- 2) Code Citation: 77 Ill. Adm. Code 743
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
743.10	Repealed
743.20	Repealed
743.30	Repealed
743.40	Repealed
743.50	Repealed
743.60	Repealed
743.70	Repealed
743.80	Repealed
743.90	Repealed
- 4) Statutory Authority: Sanitary Food Preparation Act [410 ILCS 650]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being repealed because all relevant items are addressed in the Illinois Food Service Sanitation Code (77 Ill. Adm. Code 750).

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

The Department anticipates adoption of this repealer approximately six to nine months after publication of the Notice in the *Illinois Register*.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand any State mandates on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written or e-mail comments may be submitted within 45 days after this issue of the *Illinois Register* to:

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

217/782-2043
e-mail: dph.rules@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2016

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER m: FOOD, DRUGS AND COSMETICSPART 743
SANITARY VENDING OF FOOD AND BEVERAGES (REPEALED)

Section

743.10	Definitions
743.20	Food, Consumer Containers, Equipment Maintenance and Operations
743.30	Machine Location
743.40	Exterior Construction and Maintenance
743.50	Interior Construction and Maintenance
743.60	Water Supply
743.70	Waste Disposal
743.80	Delivery of Food, Equipment, and Supplies to Machine Location
743.90	Personal Cleanliness, Health and Disease Control

AUTHORITY: Sanitary Food Preparation Act [410 ILCS 650].

SOURCE: Filed October 17, 1968, effective November 4, 1968; codified at 8 Ill. Reg. 8925; repealed at 40 Ill. Reg. _____, effective _____.

Section 743.10 Definitions

"Adulterated or Misbranded." The terms "adulterated" or misbranded" shall have the meanings as provided in Section 10 and Section 11 of the Illinois Food, Drug and Cosmetic Act. (Ill. Rev. Stat. 1967, ch. 56½, pars. 501 et seq.)

"Approved." The term "closed" shall mean acceptable to the health authority based on his determination as to conformance with appropriate standards and good public health practice.

"Closed." The term "closed" shall mean fitted together snugly leaving no openings large enough to permit the entrance of vermin.

"Commissary." the term "commissary" shall mean catering establishment, restaurant, or any other place in which food, containers or supplies are kept, handled, prepared, packaged, or stored, and directly from which vending

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

machines are served.

"Corrosion-Resistant Material." The term "corrosion-resistant material" shall mean a material which maintains its original surface characteristics under prolonged influence of the food, cleaning compounds and sanitizing solutions which may contact it.

"Easily Cleanable." The term "easily cleanable" shall mean readily accessible and of such material and finish, and so fabricated that residue may be completely removed by normal cleaning methods.

"Employee." The term "employee" shall mean any operator or any person employed by him who handles any food to be dispensed through vending machines, or who comes into contact with food-contact surfaces of containers, equipment, utensils, or packaging materials, used in connection with vending machine operations, or who otherwise services or maintains one or more such machines.

"Food." The term "food" shall mean any raw, cooked, or processed edible substance, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

"Food-Contact Surfaces." The term "food-contact surfaces" shall mean those surfaces of equipment and utensils with which food normally comes in direct contact, and those surfaces with which food may come in contact and drain back onto surfaces normally in contact with food.

"Health Officer." The term "health officer" shall mean the Director of the Illinois Department of Public Health or his duly authorized representative.

"Machine Location." The term "machine location" shall mean the room, enclosure, space or area where one or more vending machines are installed and operated.

"Operator." The term "operator" shall mean any person, who by contract, agreement, or ownership, takes responsibility for furnishing, installing, servicing, operating or maintaining one or more vending machines.

"Perishable Food." The term "perishable food" shall mean any food of such type

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

or in such condition as may spoil.

"Person." The term "person" shall mean an individual, or a firm, partnership, company, corporation, trustee, association, or any public or private entity.

"Potentially Hazardous Food." The term "potentially hazardous food" shall mean any perishable food which consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, or other ingredients capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.

"Safe Temperature." The term "safe temperature" as applied to potentially hazardous food, shall mean temperatures of 45°F or below, or 140°F or above.

"Sanitize." The term "sanitize" shall mean effective bactericidal treatment of clean surfaces of equipment and utensils by a process which has been approved by the health authority as being effective in destroying microorganisms, including pathogens.

"Single Service Articles." The term "single service articles" shall mean cups, containers, lids or closures, plates, knives, forks, spoons, stirrers, paddles, straws, place mats, napkins, doilies, wrapping materials; and all similar articles which are constructed wholly or in part from paper, paperboard, molded pulp, foil, wood, plastic, synthetic, or other readily destructible materials, and which are intended for one usage only, then to be discarded.

"Vending Machines." The term "vending machines" shall mean any self-service device which, upon insertion of a coin, coins or tokens, or by other similar means, dispenses unit servings of food, either in bulk or in packages without the necessity of replenishing the device between each vending operation.

"Wholesome." The term "wholesome" shall mean in sound condition, clean, free from adulteration and otherwise suitable for use as human food.

Section 743.20 Food, Consumer Containers, Equipment Maintenance and Operations

- a) Food Sources. All food offered for sale through vending machines shall be manufactured, processed and prepared in commissaries or establishments which comply with all applicable State laws and rules.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- b) Food Packaging. All food shall be stored or packaged in clean protective containers, and shall be handled, transported and vended in a sanitary manner.
- c) Condiments. Condiments provided for service in conjunction with food dispensed by a vending machine, shall be packaged in individual portions in single service containers or shall be dispensed from approved sanitary dispensers which are washed, sanitized and filled at the commissary.
- d) Fresh Fruits. Fresh fruits which may be eaten raw without peeling, may be dispensed unpackaged but must have been thoroughly washed in potable water at the original packing plant or immediately before being placed in the vending machine.
- e) Wet Storage. Storage of cartoned, bottled, canned or packaged food by placing or submerging it in a liquid is prohibited. Submerging such containers of food in ice is prohibited.
- f) Potentially Hazardous Food Dispensing. Potentially hazardous food offered for sale through vending machines shall be dispensed to the consumer in the individual original container or wrapper into which it was placed at the commissary or at the manufacturer's or processor's plant, or such products shall be dispensed into single-service containers from bulk containers which were filled at the commissary or at the manufacturer's or processor's plant. In those vending machines which dispense potentially hazardous food from bulk, the bulk supplies of such food shall be transferred only bulk vending machine containers and appurtenances which have been cleaned and sanitized.
- g) Potentially Hazardous Food Temperatures.
 - 1) Potentially hazardous food within the vending machine shall be maintained at a temperature at 45°F. or below, or 140°F. or above, whichever is applicable: Provided, that exceptions may be made for
 - A) the actual time required to load or otherwise service the machine and for maximum recovery period of 30 minutes, following completion of loading or servicing operation; and
 - B) in the case of hot food vending machines, a maximum of 120 minutes to heat food through the 45°F. to 140°F. temperature zone.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 2) In hot food vending machines which are not equipped with refrigerated storage, there shall be no time delay to preclude heat from being applied to potentially hazardous food immediately after it is loaded or placed in the machine. Potentially hazardous food once heated to, or held at, a temperature of 140°F. or above, shall be maintained at such temperature until served or discarded.
- h) Vending Machine Controls.
- 1) Vending machines dispensing potentially hazardous food shall be provided with adequate refrigerating or heating units, or both, and thermostatic controls which insure the maintenance of applicable temperatures at all times. Such vending machines shall also have controls which prevent the machine from vending potentially hazardous food until serviced by the operator, in the event of power failure or other condition which results in noncompliance with temperature requirements in the food storage compartment.
 - 2) Hot food vending machines designed to heat food through the 45°F. to 140°F. temperature range, shall also be equipped with automatic controls which render the machine incapable of vending potentially hazardous food until serviced by the operator in the event that heating through this temperature range is not accomplished in 120 minutes or less.
- i) Thermometers. Vending machines dispensing potentially hazardous food shall be provided with one or more thermometers which, to any accuracy of $\pm 2^{\circ}\text{F.}$, indicated the air temperature of the warmest part of the refrigerated food storage compartment, or the coldest part of the heated food storage compartment, whichever is applicable.
- j) Vending of Mild & Fluid Milk Products. Mild and fluid milk products offered for sale through vending machines shall be pasteurized and shall be dispensed only in individual, original containers or from bulk containers into which such product was placed at the milk plant: Provided, that such products may be reconstituted automatically within the vending machine when
- 1) the powder or concentrate is made from a pasteurized milk or mild product and is from an approved source;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 2) the mixing chambers or bowls and any food-contact surface downstream from such mixing units are maintained at safe temperatures; and
 - 3) the product is reconstituted for immediate dispensing in individual unit servings.
- k) **Cleaning & Sanitizing of Canisters.** Vending machine canisters and appurtenances used for the transfer of milk products shall be effectively cleaned and sanitized at approved, fixed facilities at the commissary by methods approved by the health authority. After sanitization, the canister and appurtenances shall be fully wrapped in a single-service bag or cover which shall not be opened until the canister unit is installed in the refrigerated compartment of the vending machine. Canisters and appurtenances shall be so designed and constructed that the handling of product contact surfaces at the machine location is unnecessary; and, such surfaces shall not be handled during canister installation, tube insertion, or product transfer.
- l) **Cleaning & Sanitizing Bulk Milk Vending Machines.** All parts of any bulk milk vending machine which come into direct contact with the milk or milk product shall be effectively cleaned and sanitized at the milk plant. Provided, that single-service dispensing tubes which receive sanitizing treatment at the fabricating plant and which are individually packaged in such manner as to preclude contamination, may be exempted from this provision. The can or other bulk milk container shall be filled only at the milk plant and shall be sealed in such manner as to make it impractical to withdraw any part of its contents or to introduce any substance without breaking the seal or seals. The delivery tube and any milk-contact parts of the dispensing device shall be attached at the milk plant, and shall be protected by a moisture-proof covering, or housed in a compartment with a moisture-tight closure which shall not be removed until after the container is placed in the refrigerated compartment of the vending machine.
- m) **Cleaning & Sanitizing of Multiuse Containers and Potentially Hazardous Food Contact Surfaces.** With the exception of food-contact surfaces of bulk milk vending machines for which separate provisions for cleaning and sanitizing are specified in subsection (l) above, all multiuse containers or parts of vending machines which come into direct contact with potentially hazardous food shall be removed from the machine daily and shall be thoroughly cleaned and effectively sanitized at the commissary or other approved facility: Provided, that the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

requirement for daily cleaning and sanitizing may be waived from those food-contact surfaces which are maintained at all times at a temperature of 45°F. or below, or 140°F. or above, whichever is applicable, and an approved cleaning frequency is followed. Such parts shall, after sanitizing, be protected from contamination.

- n) **Cleaning Nonpotentially Hazardous Food Contact Surfaces.** All parts of vending machines which come into direct contact with other than potentially hazardous food shall be thoroughly cleaned by approved methods. The frequency of such cleaning shall be established by the health authority based upon the type of product being dispensed. A record of such cleaning operations shall be maintained by the operator in each machine or shall be made available at the time of inspection and shall be current for at least the past 30 days.
- o) **Care & Handling of Single Service Articles.** All single-service articles shall be purchased in sanitary cartons or packages which protect the articles from contamination, shall be stored in a clean, dry place until used, and shall be handled in a sanitary manner. Such articles shall be stored in the original carton or package in which they were placed at the point of manufacture until introduced into the magazine or dispenser of the vending machine. Single-service articles stored with-in the vending machine shall be protected form manual contact, dust, insects, rodents and other contamination.

Section 743.30 Machine Location

- a) **Location.** Each vending machine shall be located in a room, area, or space which can be maintained in a clean condition and which is protected from overhead leakage or condensation from water, waste or sewer piping. The immediate area in which the machine is located shall be well lighted. Even vending machine shall be so located that the space around and under the machine can be easily cleaned and maintained, and so that insect and rodent harborage is not created.
- b) **Floor Area.** The floor area where vending machines are located shall be reasonably smooth, of cleanable construction, and be capable of withstanding repeated washing and scrubbing. This space and the immediate surroundings of each vending machine shall be maintained in a clean condition.
- c) **Handwashing Facilities.** Adequate handwashing facilities, including hot and cold or tempered running water, soap and individual towels, shall be convenient to the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

machine location and shall be available for use by employees servicing or loading bulk food machines.

Section 743.40 Exterior Construction and Maintenance

- a) Construction. The vending machine shall be of sturdy construction and the exterior shall be so designed, fabricated, finished, and maintained so as to facilitate its being kept clean, and to minimize the entrance of insects and rodents. The exterior of the machine shall be kept clean.
- b) Door and Panel Access Openings. Door and panel access openings to the food and container storage spaces of the machine shall be tight-fitting, and if necessary, gasketed, so as to prevent the entrance of dust, moisture, insects and rodents.
- c) Louvers or Openings. All ventilation louvers or openings into vending machines shall be effectively screened. Screening material for openings into food and container storage spaces of the machines shall be not less than 16 mesh to the inch or equivalent. Screening material for openings into condenser units are separated from food and container storage spaces shall be no less than 8 mesh to the inch or equivalent.
- d) Condenser Unit. In all vending machines in which the condenser unit is an integral part of the machine, such unit when located below the food and container storage space shall be separated from the space by a dustproof barrier, and when located above, shall be sealed from such space.
- e) Machine Base.
 - 1) Unless the vending machines is sealed to the floor or counter so as to prevent seepage underneath, or can be manually moved with ease, one or more of the following provisions shall be utilized to facilitate cleaning operations:
 - A) the machine shall be designed and installed with legs or side panels which provide an unobstructed clearance of 6" between machine base and floor; provided that counter-type machines may use 4-inch legs; or
 - B) the machine shall be mounted on casters or rollers; or

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- C) the machine shall be mounted on gliders which permit it to be easily moved.
- 2) Judgment on the method use shall be upon the ability of the operator to maintain the floor around and under machine in a sanitary condition.
- f) Service Connections. All service connections through an exterior wall of the machine, including water, gas, electrical, and refrigeration connections, shall be grommets or closed to prevent the entrance of insects and rodents. All service connections to machines vending potentially hazardous food or food in bulk shall be such as to discourage their unauthorized or unintentional disconnection.

Section 743.50 Interior Construction and Maintenance

- a) Non-Food-Contact Surfaces. The non-food-contact surfaces of the interior of vending machines shall be so designed and constructed as to permit easy cleaning, and to facilitate maintenance operation. Inaccessible surfaces or areas shall be minimized.
- b) Food-Contact Surfaces. All food-contact surfaces of vending machines shall be smooth, in good repair, and free of breaks, corrosion, open seams, cracks, and chipped places. The design of such surfaces shall be such as to preclude routine contact between food and V-type threaded surfaces. All joints and welds in food-contact shall be smooth; and all internal angles and corners of such surfaces shall be rounded to facilitate cleaning.
- c) Food-Contact Surfaces, Materials & Design.
 - 1) All food-contact surfaces of vending machines, including containers, pipes, valves, and fittings, shall be constructed of non-toxic, corrosion-resistant, and relatively nonabsorbent materials, and shall be kept clean. In all vending machines in which carbon dioxide is used to propel water, food or other ingredients, all food-contact surfaces in the system shall be of such material as to preclude the production of toxic substances which might result from interaction between the carbon dioxide and food-contact surfaces. All food-contact surfaces, unless designed for in-place cleaning, shall be accessible for manual cleaning and inspection:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- A) without being disassembled;
 - B) by the use of only simple tools such as a screw-driver or an open-end wrench.
- 2) In machines of such design that food-contact surfaces are not readily removable, in-place cleaning of such surfaces may be permitted. Provided, that
- A) they are so arranged that cleaning and sanitizing solutions can be circulated throughout the fixed system;
 - B) such solutions will contact all food-contact surfaces,
 - C) the system is self-draining or otherwise completely evacuated; and
 - D) the procedures utilized result in thorough cleaning of the equipment.
- d) **Openings, Non-Pressurized Containers.** The openings into all nonpressurized containers used for the storage of vendable food, including water, shall be provided with covers which prevent contamination from reaching the interior of the containers. Such covers shall be designed to provide a flange which overlaps the opening, and shall be sloped to provide drainage from the cover wherever the collection of condensation, moisture, or splash occurs. Concave covers or cover areas are prohibited. Any port opening through the cover shall be flanged upward at least three-sixteenths inch, and shall be provided with an overlapping cover flanged downward. Condensation, drip, or dust deflecting aprons shall be provided on all piping, thermometers, equipment, rotary shafts, and other functional parts extending into the food container, unless a water-tight joint is provided. Such aprons shall be considered as satisfactory covers for those openings which are in continuous use. Gaskets, if used, shall be of a material which is nontoxic, relatively stable, and relatively nonabsorbent, and shall have a smooth surface. All gasket retaining grooves shall be easily cleanable.
- e) **Delivery Tube or Chute and Orifice.** The delivery tube or chute and orifice of all bulk food and bulk beverage vending machines shall be protected from normal manual contact, dust, insects, rodents and other contamination. The design shall be such as to divert condensation or other moisture from the normal filing

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

position of the container receiving the food or beverage. The vending stage of such machines shall be provided with a tight-fitting, self-closing door or cover which is kept shut, except when food is being removed.

- f) Food Storage Compartment. The food storage compartment within vending machines dispensing packaged liquid food shall be so constructed as to be self-draining, or shall be provided with a drain outlet which permits complete draining of the compartment. All such drains shall be easily cleanable.
- g) Opening Devices. Opening devices which come into contact with the food or the food-contact surface of the containers shall be constructed of smooth, nontoxic, corrosion-resistant, and relatively nonabsorbent materials. Unless the opening device is of a single-service type, it shall be readily removable for cleaning, and shall be kept clean. Parts of multiuse opening devices which come into contact with the food or food-contact surface of containers shall be reasonably protected from manual contact, dust, insects, rodents, and other contamination; and such parts shall be readily removable for cleaning.

Section 743.60 Water Supply

- a) Water quality, piping, containers & cleaning. All water used in vending machines shall be of a safe and sanitary quality and from an approved source. Water used as a food ingredient shall be piped to the vending machine under pressure or brought to the vending machine in portable containers or urns which have been filled in a sanitary manner directly from an approved water supply outlet at the commissary or other approved location. Ingredient water shall not be transferred from one container to another at the machine location. Containers for the storage of ingredient water or ice, which are not a part of this closed water system, shall be designed and maintained as food-contact surfaces. Water containers or urns shall be cleaned and sanitized at the commissary or other approved facility after each use. Such portable containers shall be continuously protected against contamination from the time of sanitizing until placed in the vending machine. Protection shall be effected which will prevent unauthorized persons from tampering with or refilling the water container. All plumbing connections and fittings shall be installed in accordance with State and local plumbing regulations.
- b) Water filters or other water conditioning devices. If used, water filters or other water conditioning devices shall be of a type which may be disassembled for periodic cleaning or replacement of the active element. Replacement elements

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

shall be handled in a sanitary manner.

- c) Backsiphonage protection. All vending machines which dispense carbonated beverages, and which are connected to a water supply system, shall be equipped with two (or a double) check valves; or an air gap; or a device to vent carbon dioxide to the atmosphere; or other approved device, which will provide positive protection against the entrance or carbon dioxide or carbonated water into the water supply system.
- d) Check valve screens. Where check valves are used for the protection of the water supply system, a screen of not less than 100 mesh to the inch shall be installed in the water line immediately upstream from the check valves.
- e) Water-Contact Surfaces. In all vending machines which dispense carbonated beverages and which are connected to a water supply system, the ingredient water-contact surfaces from the check valves or other protective device downstream, including the device itself, shall be of such material as to preclude the production of toxic substances which might result from interaction with carbon dioxide or carbonated water.

Section 743.70 Waste Disposal

- a) Trash and waste material. All trash and other waste material shall be removed from the machine location as frequently as may be necessary to prevent nuisance and unsightliness, and shall be disposed of in an approved manner.
- b) External waste containers. Self-closing, leak-proof, easily cleanable, plainly labeled and designated waste container or containers shall be provided in the vicinity of each machine or machines to receive used cups, cartons, wrappers, straws, closures, and other single-service items. After being emptied, each waste container shall be thoroughly cleaned. Such waste containers shall not be located within the vending machine: Provided, that an exception may be made for those machines dispensing only packaged food with crown closures; in which case, the closure receptacle may be located within the machine. Suitable racks or cases shall be provided for multiuse containers or bottles.
- c) Internal waste containers. Containers shall be provided within all machines dispensing liquid food in bulk for the collection of drip, spillage, overflow, or other internal wastes. An automatic shutoff device shall be provided which will

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

place the vending machine out of operation before such container overflows. Containers or surfaces on which such wastes may accumulate shall be readily removable for cleaning, shall be easily cleanable, and shall be corrosion resistant. If liquid wastes from drip, spillage, or overflow, which originate with the machine are discharged into a sewage system, the connection to the sewer shall be through an air gap.

Section 743.80 Delivery of Food, Equipment, and Supplies to Machine Location

- a) Protection of food and supplies in transit. Food, while in transit to vending machine locations, shall be protected from the elements, dirt, dust, insects, rodents, and other contamination. Similar protection shall be provided for single-service containers, and for the food-contact surfaces of equipment, containers, and devices in transit to machine locations.
- b) Food temperature in transit. Potentially hazardous food, prior to being loaded in the delivery vehicle, shall be maintained at a temperature of 45°F or below, or 140°F or above, whichever is applicable. Such food shall also comply with the applicable temperature requirements while in transit to machine locations. If potentially hazardous food is stored at machine locations, the applicable safe temperature shall be maintained during storage.

Section 743.90 Personal Cleanliness, Health and Disease Control

- a) Handwashing. Employees shall wash their hands immediately prior to engaging in any vending machine servicing operation which may bring them into contact with food, or with food-contact surfaces of utensils, containers, or equipment.
- b) Clothing and Tobacco. While engaged in such servicing operations, employees shall wear clean outer garments, shall conform to hygienic practices, and shall not use tobacco in any form.
- c) Disease control.
 - 1) No person while affected with a disease in a communicable form, or while a carrier of such disease, or while afflicted with boils, infected wounds, or an acute respiratory infection, shall work in any area of a commissary or vending operation in any capacity in which there is a likelihood of transmission of disease to patrons or to fellow employees, either through

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

direct contact or through the contamination of food or food-contact surfaces with pathogenic organisms.

- 2) When suspicion arises of the possibility of transmission of a disease from any person through an item of food, the Director of the Department of Public Health or his representative is authorized to require any or all of the following measures:
 - A) The immediate exclusion of that person from any food handling activities.
 - B) The immediate exclusion of food in question from distribution and use.
 - C) The adequate medical and bacteriological examination of the person, of his associates, and his and their body discharges.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Illinois Health and Hazardous Substances Registry Code
- 2) Code Citation: 77 Ill. Adm. Code 840
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
840.10	Amendment
840.20	Amendment
840.110	Amendment
840.115	Amendment
840.200	Amendment
840.210	Amendment
- 4) Statutory Authority: Illinois Health and Hazardous Substances Registry Act [410 ILCS 525], Section 2310-365 of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-365], the Developmental Disability Prevention Act [410 ILCS 250], and the Lead Poisoning Prevention Act [410 ILCS 45]
- 5) Effective Date of Rules: September 12, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 1625; January 22, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No changes were made as result of public comments or at the request of JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Rulemaking: The amendments for Subpart B pertaining to the Illinois State Cancer Registry (ISCR) are to remove the manual report form method of reporting, update codes for case finding to include ICD-10-CM Diagnosis or Procedure Codes and to update the North American Association of Central Cancer Registries data standards versions. The amendments for Subpart C pertaining to the Adverse Pregnancy Outcomes Reporting System (APORS) are to modify Sections describing which infants should be reported, the fields to be reported, and remove the requirement that hospitals distribute copies to local health agencies. Amendments also update the list of reportable diseases to reflect the addition of ICD-10-CM Diagnosis or Procedure codes.
- 16) Information and questions regarding these adopted rules shall be directed to:

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

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

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER p: HAZARDOUS AND POISONOUS SUBSTANCES

PART 840
HEALTH AND HAZARDOUS SUBSTANCES REGISTRY CODE

SUBPART A: GENERAL REGISTRY PROVISIONS

Section	
840.5	Purpose
840.10	Definitions
840.20	Incorporated and Referenced Materials
840.30	Availability of Registry Information
840.40	Administrative Hearings
840.50	Quality Control
840.60	Fee Assessment

SUBPART B: ILLINOIS STATE CANCER REGISTRY

840.100	Entities Required to Submit Information
840.110	Information Required to be Reported
840.115	Methods of Reporting Cancer Registry Information
840.120	Quality Control (Repealed)

SUBPART C: ADVERSE PREGNANCY OUTCOMES REPORTING SYSTEM

840.200	Adverse Pregnancy Outcome
840.210	Newborn Infant Case Reporting
840.215	Methods of Reporting APORS Information (Repealed)
840.220	Birth Defect Surveillance of Young Children
840.230	Referral of APORS Cases

SUBPART D: OCCUPATIONAL DISEASE REGISTRY

840.300	Entities Required to Submit Information
840.305	Information Required to be Reported
840.310	Methods of Reporting Occupational Disease

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 840.APPENDIX A ISCR Incidence Report Form (Repealed)
- 840.APPENDIX B Instructions for APORS Reporting (Repealed)
- 840.EXHIBIT A Instructions for Completing Infant Discharge Record (Repealed)
- 840.ILLUSTRATION A Infant Discharge Record (Repealed)
- 840.EXHIBIT B Instructions for Completing Maternal Supplement (Repealed)
- 840.ILLUSTRATION B Maternal Supplement Abstract (Repealed)
- 840.APPENDIX C Forms and Instructions for Occupational Disease Registry (Repealed)
- 840.EXHIBIT A Instructions for completing The Laboratory Based Report of Adult Blood Lead Analysis (Repealed)
- 840.EXHIBIT B Instructions for completing the Health Department Follow-Up Report of Adult Blood Lead Level Analysis For Results of 25 mcg/dl and Above (Local Health Authorities will use this form) (Repealed)
- 840.ILLUSTRATION A Health Department Laboratory Report of Adult Elevated Blood Lead Analysis 25 mcg/dl and Above (Repealed)
- 840.ILLUSTRATION B Health Department Follow-up Report of Adult Blood Lead Level Analysis For Results of 25 mcg/dl and Above (Repealed)
- 840.ILLUSTRATION C Occupational Disease Registry Abstract Information from the Illinois Health Care Cost Containment Council (Repealed)

AUTHORITY: Implemented and authorized by the Illinois Health and Hazardous Substances Registry Act [410 ILCS 525], Section 2310-365 of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-365], the Developmental Disability Prevention Act [410 ILCS 250], and the Lead Poisoning Prevention Act [410 ILCS 45].

SOURCE: Adopted at 10 Ill. Reg. 7842, effective May 19, 1986; amended at 12 Ill. Reg. 13173, effective August 1, 1988; amended at 14 Ill. Reg. 5495, effective April 1, 1990; amended at 17 Ill. Reg. 2319, effective February 10, 1993; amended at 24 Ill. Reg. 3685, effective February 16, 2000; amended at 31 Ill. Reg. 12207, effective August 2, 2007; amended at 36 Ill. Reg. 8379, effective May 18, 2012; amended at 40 Ill. Reg. 13397, effective September 12, 2016.

SUBPART A: GENERAL REGISTRY PROVISIONS

Section 840.10 Definitions

"Act" means the Illinois Health and Hazardous Substances Registry Act [410 ILCS 525].

"Adverse pregnancy outcomes" includes but is not limited to birth defects, fetal

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

loss, infant mortality, low birth weight, selected life-threatening conditions, and other developmental disabilities as defined in Section 840.200 of this Part.
(Section 3(1) of the Act)

"Adverse Pregnancy Outcomes Reporting System" or "APORS" means the Illinois Department of Public Health program established to compile a registry of adverse pregnancy outcomes.

"Ambulatory Surgical Treatment Center" means any facility subject to licensure pursuant to the Ambulatory Surgical Treatment Center Act [210 ILCS 5].

"Birth center" means a facility as defined under the Alternative Health Care Delivery Act and licensed by the Department under the Birth Center Demonstration Program Code (77 Ill. Adm. Code 265) to provide birth services.

"Birth defect" means a condition of abnormal development related to body structure, body function, body metabolism, or an error of body chemistry that typically is identified at birth but can be diagnosed during pregnancy or following birth. Birth defects can originate in a number of ways, including having a genetic or metabolic origin.

"Cancer" means all malignant neoplasms, regardless of the tissue of origin, including malignant lymphoma and leukemia. (Section 3(e) of the Act)

"Cancer-confirming report" means the simple biopsy, excision biopsy or surgical pathology report that confirms the morphologic (histologic) type of cancer, primary site, and the stage or extent of disease.

"Cancer incidence" means a medical diagnosis of cancer, consisting of a record of cases of cancer and specified cases of tumorous or precancerous diseases which occur in Illinois, and such other information concerning these cases as the Department deems necessary or appropriate in order to conduct thorough and complete epidemiological surveys of cancer and cancer-related diseases in Illinois. (Section 3(f) of the Act) Other information concerning cancer incidence may include, but is not limited to, diagnosis, staging, treatment, follow-up and survival information.

"Cancer surveillance" means the ongoing and systematic collection and analysis of information on new cancer cases, cancer deaths, extent of disease at diagnosis,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

treatment, clinical management, and survival.

"Clinical laboratory" means any clinical laboratory as defined in the Illinois Clinical Laboratory and Blood Bank Act [210 ILCS 25].

"Company profile" includes but is not limited to the name of any company operating in the State of Illinois which generates, uses, disposes of or transports hazardous substances, identification of the types of permits issued in such company's name relating to transactions involving hazardous substances, inventory of hazardous substances handled by the company, and the manner in which the hazardous substances are used, disposed of, or transported by the company. (Section 3(j) of the Act)

"Confidential data" means Health and Hazardous Substances Registry data containing identifiers or variables that, alone or in combination, can lead to identification of individuals, physicians, or facilities (see Section 840.30(h)).

"Congenital" means present at birth, referring to certain mental or physical traits, anomalies, malformations, diseases, etc., that may be either hereditary or caused by an influence occurring during fetal development or pregnancy, up to the moment of birth.

"Council" means the Health and Hazardous Substances Coordinating Council created by the Act. (Section 3(c) of the Act)

"Current Procedural Terminology" or "CPT" or "Coding Index Version 2007" means the coding index developed by the American Medical Association (see Section 840.115).

"Death certificate clearance" means the process by which incident cases are added to the database through review of the cause of death on death certificates and subsequent follow-up with medical providers.

"Department" means the Illinois Department of Public Health. (Section 3(a) of the Act)

"Director" means the Director of the Illinois Department of Public Health. (Section 3(b) of the Act)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"Elevated blood lead level" means a concentration of lead in whole blood equal to or in excess of 10 micrograms per deciliter.

"Ethnicity" means the group of human kind to which an individual belongs, either Hispanic (Latino) or not Hispanic (not Latino).

"Facility" means a hospital, clinical laboratory, ambulatory surgical treatment center, independent radiation therapy center, independent pathology laboratory, reference pathology laboratory, nursing home, physician's office and/or any other diagnostic or treatment center or other entity that is required by this Part to make reports to the Department. "Facility" also includes any other institution, place or building devoted primarily to the performance of medical care or surgical procedures that is maintained by the State or local government bodies.

"Facility-identifying information" means any information, collection or grouping of data from which the identity of the facility to which it relates may be discerned, e.g., name, address or Department-assigned facility identification number.

"Fetal death" means the demise of a fetus at gestation greater than 20 weeks; the death is indicated if the fetus does not breathe or show any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles at delivery.

"Follow-up" means the reporting of or Registry-initiated obtainment of patient's survival information after the first diagnosis of the medical conditions defined by the Registry.

"Follow-up services" means medical, educational, social and family support services provided to infants and children with adverse pregnancy outcomes.

"Hazardous nuclear material" means:

any source or special nuclear material intended for use or used as an energy source in a production or utilization facility as defined in Sec. 11.v. or 11.cc. of the Federal Atomic Energy Act of 1954 as amended;

any fuel which has been discharged from such a facility following irradiation, the constituent elements of which have not been separated by reprocessing; or

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

any by-product material resulting from operation of such a facility.
(Section 3(k) of the Act)

"Hazardous substances" means a hazardous substance as defined in Section 3.215 of the Environmental Protection Act [415 ILCS 5]. (Section 3(h) of the Act)

"Hazardous substances incident" includes but is not limited to spill, fire or accident involving hazardous substances, illegal disposal, transportation, or use of hazardous substances, and complaints or permit violations involving hazardous substances. (Section 3(i) of the Act)

"Hospital" means any facility subject to licensure pursuant to the Hospital Licensing Act [210 ILCS 85].

"Hospital Cancer Registry" means a data collection system that monitors all types of cancer diagnosed or treated at that facility by collecting case identification, a description of the patient and the cancer, treatment and follow-up data.

~~"Infant discharge record" means documentation of one or more identified adverse pregnancy outcomes reported by a facility to the Department.~~

"Institutional review board" or "IRB" means a specially constituted review body established or designated by an institution to protect the welfare of human subjects participating in research.

"Lead hazard" means a lead-bearing substance that, because of its accessibility, poses a health hazard to humans.

"Local health authority" means the full-time official health department or board of health, as recognized by the Department, that has jurisdiction over a particular geographical area.

"mcg/dl" means micrograms per deciliter.

"Morphology" means a concise diagnostic description of a tumor that includes the kind of tumor, the behavior of the tumor (e.g., benign, in-situ, malignant, or malignant uncertain, whether primary or metastatic), and the grade or degree of

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

differentiation of the cells.

"National Birth Defects Prevention Network" means a national organization dedicated to improving the quality of birth defect surveillance and providing technical assistance for the development of uniform methods of data collection.

"Neonatal" means related to the period immediately succeeding birth and continuing through the first 28 days of life.

"Neonate" means an infant less than 28 days of age.

"Newly diagnosed" means a condition or disease first discovered or diagnosed by a licensed physician or dentist in a resident of the State of Illinois or a non-resident receiving medical diagnosis or treatment in the State of Illinois.

"North American Association of Central Cancer Registries" or "NAACCR" means the organization that sets standards that measure a central registry's data completeness, quality and timeliness.

"Occupational disease" includes but is not limited to all occupational diseases covered by the Workers' Occupational Diseases Act [820 ILCS 310]. (Section 3 (g) of the Act)

"Other facility" means any person, organization, institution, corporation, partnership or other entity not required to be licensed as a health care facility by the State of Illinois, which maintains and operates facilities for the performance of diagnostic, laboratory or therapeutic services for the identification and treatment of cancer.

"Patient contact" means contacting patients based on collected Registry data.

"Patient-identifying information" means any information or collection or grouping of data from which the identity of the person to whom it relates may be discerned, e.g., name, address and social security number.

"Perinatal" means the period of time between the conception of an infant and the end of the first month of life. (Section 2(a) of the Developmental Disability Prevention Act)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"Perinatal center" means a referral facility intended to care for the high risk patient before, during or after labor and delivery and characterized by sophistication and availability of personnel, equipment, laboratory, transportation techniques, consultation and other support services. (Section 2(e) of the Developmental Disability Prevention Act)

"Prenatal" means preceding birth.

"Primary site" means the anatomic location in a cancer patient that identifies the site of origin of a tumor (i.e., where the cancer first began).

"Public health surveillance" means the ongoing systematic collection, analysis and interpretation of health data for purposes of improving health and safety.

"Race" means the major group of human kind to which an individual belongs, having distinct physical characteristics. These groups include, but are not limited to: American Indian or Alaska Native; Asian; Black or African American; Native Hawaiian or Other Pacific Islander; and White.

"Rapid case ascertainment" means special case-finding procedures that require early or preliminary reporting of certain types of cancer cases. The procedure may include the review of patient medical records, pathology report forms, radiology reports, laboratory reports and other diagnostic tests.

"Record uniqueness" means the quantification of the risk of a breach of confidentiality of electronic health databases, including the identifiability of cases through triangulation of information or linkage with other electronic databases.

"Regional Perinatal Network" means any number and combination of hospitals providing maternity and newborn services at a designated level of perinatal care.

"Registry" means the Illinois Health and Hazardous Substances Registry established by the Department of Public Health under Section 6 of the Act. (Section 3(d) of the Act)

"Work" means duties, activities or tasks that produce a product or result; that are done in exchange for money, goods, services, profit, benefit or as a volunteer; and that are legal activities in the United States.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"Work-related injury or illness" means an event or exposure in the work environment that caused or contributed to the condition or significantly aggravated a preexisting condition. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the workplace.

"Workplace fatality" means a fatality that occurs to an employee (working for pay, compensation, or profit) or volunteer (exposed to the same work hazards and performing the same duties or functions as paid employees) while engaged in a legal work activity, or present at the site of the incident as a requirement of his or her job. A work relationship exists if an event or exposure results in a fatal injury to a person on or off the employer's premises and the person was there to work; or if the event or exposure was related to the person's work or status as an employee.

"Workplace nonfatal injury or illness" means an occupational injury resulting from a work-related event or from exposure in the work environment. Injuries or illnesses are reported if they result in lost work time; if they require medical treatment (other than first aid); or if the worker experiences loss of consciousness, restriction of work activities or motion, or is transferred to another job.

(Source: Amended at 40 Ill. Reg. 13397, effective September 12, 2016)

Section 840.20 Incorporated and Referenced Materials

- a) The following materials are referenced in this Part:
 - 1) State of Illinois Statutes
 - A) Illinois Health and Hazardous Substances Registry Act [410 ILCS 525]
 - B) Developmental Disability Prevention Act [410 ILCS 250]
 - C) Section 2310-365 of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-365]
 - D) Lead Poisoning Prevention Act [410 ILCS 45]
 - E) Ambulatory Surgical Treatment Center Act [210 ILCS 5]

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- F) Illinois Clinical Laboratory and Blood Bank Act [210 ILCS 25]
 - G) Hospital Licensing Act [210 ILCS 85]
 - H) Freedom of Information Act [5 ILCS 140]
 - I) Part 21 of Article 8 of the Code of Civil Procedure, commonly known as the Medical Studies Act [735 ILCS 5/Art. 8, Part 21]
 - J) State Records Act [5 ILCS 160]
 - K) Vital Records Act [410 ILCS 535]
 - L) Environmental Protection Act [415 ILCS 5]
 - M) Workers' Occupational Diseases Act [820 ILCS 310]
 - N) Alternative Health Care Delivery Act [210 ILCS 3]
- 2) State of Illinois Rules:
- A) Freedom of Information Code (2 Ill. Adm. Code 1126)
 - B) Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
 - C) Hospital Licensing Requirements (77 Ill. Adm. Code 250)
 - D) Regionalized Perinatal Health Care Code (77 Ill. Adm. Code 640)
 - E) Birth Center Demonstration Program Code (77 Ill. Adm. Code 265)
- 3) Federal Statutes
- A) Occupational Safety and Health Act of 1970 [29 USC 15]
 - B) The Birth Defects Prevention Act of 1998 [42 USC 201]

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- C) Public Health Service Act [42 USC 247b-4]
 - D) Federal Atomic Energy Act of 1954 [42 USC 2011]
- b) The following materials are incorporated by reference in this Part:
- 1) Federal Regulations
 - A) Protection of Identity – Research Subjects, 42 CFR 2a.4(a) through –(j), 2a.6(a) and –(b) and 2a.7(a) through –(b)(1) (October 1, 2009)
 - B) Occupational Safety and Health Standards, 29 CFR 1910.1025 (July 1, 2009)
 - 2) Other Guidelines and Materials
 - A) International Classification of Diseases, 9th Revision Clinical Modification (1986), World Health Organization, Avenue Appia 20, 1211 Geneva ZT, Geneva, Switzerland
 - B) International Classification of Diseases for Oncology (ICD-O), Third Edition (2000), World Health Organization, Avenue Appia 20, 1211 Geneva ZT, Geneva, Switzerland
 - C) International Classification of Diseases, 10th Revision (1992), World Health Organization, Avenue Appia 20, 1211 Geneva ZT, Geneva, Switzerland
 - D) NAACCR Standards for Cancer Registries, Volume II, Data Standards and Data Dictionary, 19th11th Edition, October 2014April 2006 (effective January 20152007), North American Association for Central Cancer Registries, 2050 W. Iles Ave., Suite A2121 W. White Oaks Dr., Suite C, Springfield IL 62704
 - E) NAACCR Standards for Cancer Registries, Volume III, Standards for Completeness, Quality, Analysis, and Management, Security, and Confidentiality of Data, August 2008October 2004, North American Association of Central Cancer Registries, 2050 W. Iles

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

~~Ave., Suite A2121 W. White Oaks Dr., Suite C~~, Springfield IL 62704

- F) NAACCR Standards for Cancer Registries, Volume V, Pathology Laboratory Electronic Reporting, Version ~~4.02-0~~, April 2011~~November 2005~~, North American Association of Central Cancer Registries, ~~2050 W. Iles Ave., Suite A2121 W. White Oaks Dr., Suite C~~, Springfield IL 62704
- G) Current Procedural Terminology (CPT) Coding Index, 2007 Version, American Medical Association, P.O. Box 930876, Atlanta GA 31193
- H) National Birth Defects Prevention Network (NBDPN), Guidelines for Conducting Birth Defects Surveillance, June 2004, Sever, LE, ed., 1600 Clifton Rd., Atlanta GA 30333
- I) NAACCR/NPCR Disk 7 of Fundamentals of Registry Operations: Data Collection and Coding: Race and Ethnicity Procedures for Central Registries, May 2005, North American Association of Central Cancer Registries, ~~2050 W. Iles Ave., Suite A, 2121 W. White Oaks Dr., Suite C~~ Springfield IL 62704
- J) NAACCR Record Uniqueness Analysis Software Version 1.5, May 2004, North American Association of Central Cancer Registries, ~~2050 W. Iles Ave., Suite A2121 W. White Oaks Dr., Suite C~~, Springfield IL 62704
- K) Public Health Reporting and National Notification for Elevated Blood Lead Levels, Position Statement 09-OH-02, June 2009, Council of State and Territorial Epidemiologists, 2872 Woodcock Blvd., Atlanta GA 30341
- L) ~~ICD-10-CM 2015: The Complete Official Codebook, American Medical Association, P.O. Box 930876, Atlanta GA 31193.~~
- c) 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 later amendments or editions.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 40 Ill. Reg. 13397, effective September 12, 2016)

SUBPART B: ILLINOIS STATE CANCER REGISTRY

Section 840.110 Information Required to be Reported

- a) A facility required to submit information shall report each cancer incidence and other tumorous and precancerous disease, as specified in this Section, to the Department.
- b) This information to be reported shall be provided in a format as designated by the Department ~~and may be in either~~ electronic ~~or paper~~ form. The electronic form must comply with the required standard. ~~The paper form will be supplied by the Department.~~ The facility tumor registrar or other person designated by the facility shall abstract information from the cancer patient's record. The information to be reported is divided into seven subject areas, each containing a particular set of information. The seven subject areas of the incidence report shall include the following:
 - 1) Reporting Information – type of report being submitted, abstracter identification code and the date the abstract was submitted.
 - 2) Patient Data and Resident Address – patient's full name (including maiden name, when applicable and available), Social Security number, telephone number, and residential address, including street address, city, county, state, and postal code.
 - 3) Personal Data – patient's birthdate, age, sex, race, ethnicity, marital status, birthplace, history of tobacco and alcohol usage, history of occupation and industry, health insurance status and socio-economic status including, but not limited to, education and income.
 - 4) Diagnosis Data – initial diagnosis date; diagnostic information; method of diagnosis; primary site; laterality; histology and behavior code; grade; stage of disease, including clinical and pathological extent of disease information; existence of other reportable primary diseases and date of diagnosis; first course cancer-directed therapy; and supporting text information for all diagnostic procedures, histology, primary site, staging

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

and treatment.

- 5) Facility Data – facility identification number provided by the Department of Public Health, the medical record number, date of admission, type of reporting source, accession number (if available), case identification type, discharge date and status, class of case, and name and Illinois medical license number of attending physician.
 - 6) Follow-Up Data – date of last follow-up or death, follow-up status, type of follow-up, names of follow-up physicians, cause of death, whether patient information is incomplete, and names and Illinois medical license numbers of managing and treating physicians.
 - 7) Text Documentation – description of the primary site, histology, diagnostic test results, staging, pathology results and treatment information.
- c) Each patient's cancer report form shall be sent within six months after the date of diagnosis or within four months after the date of discharge from the reporting facility, whichever is sooner. Reporting facilities shall report by letter to the Department, each year by July 1, the status of the completeness of reporting of cancer incidence cases diagnosed through December of the preceding year.
 - d) Every hospital, clinical laboratory, ambulatory surgical treatment center, independent radiation therapy center, independent pathology laboratory, reference pathology laboratory, nursing home, physician's office and other diagnostic or treatment facility shall provide the Department or entities authorized to represent the Department with access to information from all medical, pathological, and other pertinent records and logs related to cancer diagnosis, treatment and follow-up for the purpose of quality control, rapid case ascertainment, patient follow-up and death certificate clearance. (See Section 10 of the Act.)
 - e) Every hospital, ambulatory surgical treatment center, clinical laboratory, independent radiation therapy center, independent pathology laboratory, reference pathology laboratory, nursing home, physician's office and other diagnostic or treatment facility shall provide access to information from all medical, pathological, and other pertinent records and logs related to cancer diagnosis and treatment for the purpose of patient record review specified for research studies or for rapid case ascertainment related to cancer prevention and control conducted

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

by the Department and that have been approved after appropriate review by the Department for assuring protection of human subjects. (See 42 CFR 2a.4(a)-(j), 2a.6(a)-(b), 2a.7(a)-(b)(1).)

(Source: Amended at 40 Ill. Reg. 13397, effective September 12, 2016)

Section 840.115 Methods of Reporting Cancer Registry Information

- a) All patients identified at a reporting facility, whether as an inpatient or outpatient, who meet one of the three following criteria are reportable to the Registry:
 - 1) Patients with a newly diagnosed cancer who have, within six months after diagnosis, received cancer-directed treatment or refused treatment.
 - 2) Patient with cancer diagnosed through autopsy.
 - 3) Patient diagnosed and receiving all first course treatment elsewhere and now receiving cancer-directed treatment at the reporting facility.
- b) A patient is considered to have a malignant neoplasm when a licensed physician or dentist indicates that he/she does. Otherwise, the following terminology, when applied to a malignancy, shall be interpreted as indicating involvement by a cancerous tumor:
 - 1) apparent,
 - 2) appears to,
 - 3) comparable with,
 - 4) compatible with,
 - 5) consistent with,
 - 6) favors,
 - 7) malignant appearing,
 - 8) most likely,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 9) presumed,
 - 10) probable,
 - 11) suspected,
 - 12) suspicious for, and
 - 13) typical of.
- c) The following terminology, when applied to a malignancy without additional information, shall be interpreted as indicating non-involvement by a cancerous tumor:
- 1) cannot be ruled out,
 - 2) equivocal,
 - 3) possible,
 - 4) potentially malignant,
 - 5) questionable,
 - 6) rule out,
 - 7) suggests, and
 - 8) worrisome.
- d) Determination of whether or not a given primary tumor is reportable shall be made by reference to the morphology codes (M-codes) of the International Classification of Diseases for Oncology (ICD-O).
- e) The specified cases of tumorous or precancerous diseases that shall be reported to the Registry are:
- 1) benign intracranial tumors, and

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 2) other conditions that the facility wishes to report.
- f) Cases of basal or squamous cell neoplasms of the skin shall be reported only when located in the following areas: penis, scrotum, anus, eyelid, and mucocutaneous junctions of the lips, labia and vulva.
 - g) Facilities shall electronically submit the report in the NAACCR data exchange format, using the version specified by the Registry (see Section 840.20). Supporting text documentation that is sufficient to support the diagnosis, stage and treatment should be included for each case submitted.~~There are two mechanisms by which a reporting facility can report cancer cases.~~
 - 1) ~~Option #1. Electronic Reporting: Facilities that submit electronically shall submit the report in the North American Association of Central Cancer Registries (NAACCR) data exchange format, using the version specified by the Registry (see Section 840.20). Supporting text documentation that is sufficient to support the diagnosis, stage, and treatment should be included for each case submitted.~~
 - 2) ~~Option #2. Manual Reporting: Facilities that submit in manual format should use the forms provided by the Registry. These facilities shall code all fields on the manual report form. Supporting text documentation that is sufficient to support the diagnosis, stage, and treatment should be included for each case submitted.~~
 - h) All reporting facilities are responsible for complete casefinding, which means identifying all first time reported cancer patients and completing an incidence report form for the Registry. To achieve complete case ascertainment, the following sources should be reviewed as they apply: Medical Record Disease Index (ICD-CM) or CPT Coding Index; pathology reports; cytology reports; autopsy reports; surgery and/or outpatient logs; radiation therapy and/or oncology clinic logs and appointment books; and diagnostic X-rays, nuclear medicine reports, and/or other imaging techniques.
 - 1) Any patient's clinical record identified with any of the following ICD-9-CM Diagnosis, ICD-10-CM Diagnosis, or Procedure Codes by the Medical Record Department shall be reviewed for reportability to the Registry:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Diagnosis Codes	Diagnosis (in preferred ICD-O-3 terminology)
A) 042	AIDS with malignancy
B) 140.0-208.9	Malignant neoplasms
C) 203.1	Plasma cell leukemia (9733/3)
D) 205.1	Chronic neutrophilic leukemia (9963/3)
E) 225.0-225.4 225.8-225.9 227.3-227.4	Benign intracranial and CNS neoplasms
F) 230.0-234.9	Carcinoma in situ
G) 237.0-237.1 237.5-237.6 237.7, 237.9	Borderline intracranial and CNS neoplasms
H) 238.4	Polycythemia vera (9950/3)
I) 238.6	Solitary plasmacytoma (9731/3)
J) 238.6	Extramedullary plasmacytoma (9734/3)
K) 238.7	Chronic Myeloproliferative disease (9960/3)
L) 238.7	Myelosclerosis with myeloid metaplasia (9961.3)
M) 238.7	Essential thrombocythemia (9962/3)
N) 238.7	Refractory cytopenia with multilineage dysplasia (9985/3)
O) 238.7	Myelodysplastic syndrome with 5q-

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

		syndrome (9986/3)
P)	238.7	Therapy related myelodysplastic syndrome (9987/3)
Q)	239.0-239.9	Neoplasms of unspecified behavior
R)	273.2	Gamma heavy chain disease; Franklin's disease
S)	273.3	Waldenstrom's macroglobulinemia
T)	273.9	Unspecified disorder of plasma protein metabolism (screen for potential 273.3 miscodes)
U)	284.9	Refractory anemia (9980/3)
V)	285.0	Refractory anemia with ringed sideroblasts (9982/3)
W)	285.0	Refractory anemia with excess blasts (9983/3)
X)	285.0	Refractory anemia with excess blasts in transformation (9984/3)
Y)	288.3	Hypereosinophilic syndrome (9964/3)
Z)	289.8	Acute myelofibrosis (9932/3)
AA)	V07.8	Other prophylactic chemotherapy (screen carefully for miscoded malignancies)
BB)	V07.8	Other specified prophylactic measures
CC)	V10.0-V10.9	Personal history of malignant neoplasm (review these for recurrences, subsequent primaries and/or subsequent treatment)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

DD)	V58.0	Admission for radiotherapy
EE)	V58.1	Admission for chemotherapy
FF)	V66.1	Convalescence following radiotherapy
GG)	V66.2	Convalescence following chemotherapy
HH)	V67.1	Radiation therapy follow-up
II)	V67.2	Chemotherapy follow-up
JJ)	V71.1	Observation for suspected malignant neoplasm
KK)	V76-V76.9	Special screening for malignant neoplasm
LL)	92.21-92.29	Therapeutic radiology and nuclear medicine
MM)	92.21-92.29	Injection or infusion of cancer chemotherapeutic substance
<u>NN)</u>	<u>C00-C43, C45-C96</u>	<u>Malignant neoplasms (excluding category C44), stated or presumed to be primary (of specified site) and certain specified histologies. (Note: Pilocytic/juvenile astrocytoma (M-9421) is reported with the behavior coded /3 (i.e., 9421/3 not 9421/1).)</u>
<u>OO)</u>	<u>D00-D09</u>	<u>In-situ neoplasms (Note: Carcinoma in situ of the cervix (CIN III-8077/2) and Prostatic Intraepithelial Carcinoma (PIN III-8148/2) are not reportable.)</u>
<u>PP)</u>	<u>D18.02</u>	<u>Hemangioma of intracranial structures and any site</u>

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

<u>QQ)</u>	<u>D18.1</u>	<u>Lymphangioma, any site (Note: Includes Lymphangiomas of Brain, Other parts of nervous system and endocrine glands, which are reportable.)</u>
<u>RR)</u>	<u>D32</u>	<u>Benign neoplasm of meninges (cerebral, spinal and unspecified)</u>
<u>SS)</u>	<u>D33</u>	<u>Benign neoplasm of brain and other parts of central nervous system (CNS)</u>
<u>TT)</u>	<u>D35.2-D35.4</u>	<u>Benign neoplasm of pituitary gland, craniopharyngeal duct and pineal gland</u>
<u>UU)</u>	<u>D42-D43</u>	<u>Neoplasm of uncertain or unknown behavior of meninges, brain, CNS</u>
<u>VV)</u>	<u>D44.3-D44.5</u>	<u>Neoplasm of uncertain or unknown behavior of pituitary gland, craniopharyngeal duct and pineal gland</u>
<u>WW)</u>	<u>D45</u>	<u>Polycythemia vera (9950/3)</u>
<u>XX)</u>	<u>D46</u>	<u>Myelodysplastic syndromes</u>
<u>YY)</u>	<u>D47.1</u>	<u>Chronic myeloproliferative disease</u>
<u>ZZ)</u>	<u>D47.3</u>	<u>Essential (hemorrhagic) thrombocythemia (9962/3))</u>
<u>AAA)</u>	<u>D47.4</u>	<u>Osteomyelofibrosis (9961/3)</u>
<u>BBB)</u>	<u>D47.7</u>	<u>Other specified neoplasms of uncertain/unknown behavior of lymphoid, hematopoietic</u>
<u>CCC)</u>	<u>D47.Z</u>	<u>Other neoplasms of uncertain behavior of lymphoid, hematopoietic and related tissue</u>

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

<u>DDD)</u>	<u>D47.9</u>	<u>Neoplasm of uncertain behavior of lymphoid, hematopoietic and related tissue unspecified</u>
<u>EEE)</u>	<u>D49.6, D49.7</u>	<u>Neoplasm of unspecified behavior of brain, endocrine glands and other CNS</u>
<u>FFF)</u>	<u>J91.0</u>	<u>Malignant pleural effusion</u>
<u>GGG)</u>	<u>R18.0</u>	<u>Malignant ascites</u>
<u>HHH)</u>	<u>Z08</u>	<u>Encounter for follow-up examination after completed treatment for malignant neoplasm</u>
<u>III)</u>	<u>Z12</u>	<u>Encounter for screening for malignant neoplasms</u>
<u>JJJ)</u>	<u>Z51.0</u>	<u>Encounter for antineoplastic radiation therapy</u>
<u>KKK)</u>	<u>Z51.1</u>	<u>Encounter for antineoplastic chemotherapy and immunotherapy</u>
<u>LLL)</u>	<u>Z85</u>	<u>Personal history of malignant neoplasm</u>
<u>MMM)</u>	<u>Z86.0, Z86.01, Z86.03</u>	<u>Personal history of in situ and benign neoplasms and neoplasms of uncertain behavior</u>
<u>NNN)</u>	<u>Z92.21, Z92.23, Z92.25, Z92.3</u>	<u>Personal history of antineoplastic chemotherapy, estrogen therapy, immunosuppression therapy or irradiation (radiation)</u>
<u>OOO)</u>	<u>R85.614</u>	<u>Cytologic evidence of malignancy on smear of anus</u>

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

PPP) R87.614

Cytologic evidence of malignancy on smear of cervix

QQQ) R87.624

Cytologic evidence of malignancy on smear of vagina

- 2) All pathology and cytology reports from the facility with a positive morphologic diagnosis of cancer shall be reviewed for reportable neoplasms, including reports on inpatient and outpatient surgical resections and biopsy specimens, bone marrow biopsies, cytology specimens and autopsies.
 - 3) Any conflict of interpretation of cancer incidence shall defer to the clinician's determination.
- i) All reporting facilities shall submit the report forms on a monthly basis.

(Source: Amended at 40 Ill. Reg. 13397, effective September 12, 2016)

SUBPART C: ADVERSE PREGNANCY OUTCOMES REPORTING SYSTEM

Section 840.200 Adverse Pregnancy Outcome

An adverse pregnancy outcome for an infant consists of one or more of the following case criterion:

- a) A diagnosis of a birth defect, made prenatally or by two years of age;.
- b) A gestational age of less than 31 completed weeks (ICD-10-CM P07.21-P07.33)~~A birth weight of less than 1500 grams;~~
- c) A diagnosis of fetal alcohol syndrome (ICD-9-CM 760.71 and ICD-10-CM Q86.0);
- d) A fetal or neonatal death; or
- e) A diagnosis of one of the following conditions made prior to discharge from the newborn hospitalization:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Positive toxicology for any controlled substance ([except cannabis or drugs administered during labor and delivery](#)); a maternal admission to illicit drug use ([except cannabis](#)) during the pregnancy that led to the delivery of [this infant](#); or a diagnosis of signs of drug toxicity or withdrawal;
- 2) Serious infections:
 - A) Prenatal exposure to syphilis ([ICD-9-CM V01.6 and ICD-10-CM Z20.2](#)) or a diagnosis of congenital syphilis (ICD-9-CM 090.0-090.9 [and ICD-10-CM A50.01-A53.9](#));
 - B) Prenatal exposure to hepatitis B (ICD-9-CM V01.7 [and ICD-10-CM Z20.2](#)) or a diagnosis of hepatitis B (ICD-10-CM P35.3);
 - C) Prenatal exposure to chlamydia ([ICD-9-CM V01.8 and ICD-10-CM Z20.2](#)) or a diagnosis of a chlamydial infection (ICD-9-CM 079.88 or 079.98 [and ICD-10-CM A74.89, A74.9, or P23.1](#));
 - D) Prenatal exposure to herpes ([ICD-9-CM V01.8 and ICD-10-CM Z20.2](#)) or a diagnosis of congenital herpes (ICD-9-CM 771.2 [and ICD-10-CM P35.2](#));
 - E) Group B streptococcus (ICD-9-CM 041.02 [and ICD-10-CM J15.3 or P36.0](#));
 - F) Gonococcal conjunctivitis (neonatorum) (ICD-9-CM 098.40 [and ICD-10-CM P39.1](#));
 - G) Congenital listeriosis (ICD-9-CM 771.2 [and ICD-10-CM P37.2](#));
 - H) Congenital rubella (ICD-9-CM 771.0 [and ICD-10-CM P35.0](#));
 - I) Congenital cytomegalovirus (ICD-9-CM 771.1 [and ICD-10-CM P35.1](#));
 - J) Tetanus neonatorum (ICD-9-CM 771.3 [and ICD-10-CM A33](#));
 - K) Septicemia of the newborn (ICD-9-CM 771.81 [and ICD-10-CM P36.0-P36.9](#)); or

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- L) Other congenital infections (ICD-9-CM 771.0-771.81 and ICD-10-CM P35.8, P35.9 or P37.0-P37.9).
- 3) Endocrine, metabolic or immune disorder:
- A) Hypothyroidism (ICD-9-CM 243 and ICD-10-CM E03.0-E03.9);
 - B) Adrenogenital syndrome (ICD-9-CM 255.2 and ICD-10-CM E25.0-E25.9);
 - C) Inborn errors of metabolism (ICD-9-CM 270-273, or 275-276 and ICD-10-CM E70.0-E79.9);
 - D) Cystic fibrosis (ICD-9-CM 277.0 and ICD-10-CM E84.0-E84.9);
or
 - E) Immune deficiency disorder (ICD-9-CM 279 and ICD-10-CM D80.0-D81.9).
- 4) Blood disorder:
- A) Leukemia (ICD-9-CM 204-208 and ICD-10-CM C91.0-C95.92);
 - B) Hereditary hemolytic anemias (ICD-9-CM 282 and ICD-10-CM D58.0-D58.9);
 - C) Constitutional aplastic anemia (ICD-9-CM 284 and ICD-10-CM D61.0-D61.09); or
 - D) Coagulation defects (ICD-9-CM 286 and ICD-10-CM D65-D68.9).
- 5) Other conditions:
- A) Neurofibromatosis (ICD-9-CM 237.7 and ICD-10-CM Q85.0-Q85.9);
 - B) Cerebral lipidoses (ICD-9-CM 330.1 and ICD-10-CM E75.4);

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- C) Retinopathy of prematurity (ICD-9-CM 362.21 [and ICD-10-CM H35.1-H35.17](#));
- D) Chorioretinitis (ICD-9-CM 363.2 [and ICD-10-CM H30.00-H30.93](#));
- E) Strabismus (ICD-9-CM 378 [and ICD-10-CM H50.00-H50.9](#));
- F) Endocardial fibroelastosis (ICD-9-CM 425.3 [and ICD-10-CM I42.4](#));
- G) Occlusion of cerebral arteries (ICD-9-CM 434 [and ICD-10-CM I63.30-I63.59 or I66.0-I66.9](#));
- H) Bronchopulmonary dysplasia (ICD-9-CM 770.7 [and ICD-10-CM P27.1](#));
- I) Intrauterine growth retardation (ICD-9-CM 764.9 [and ICD-10-CM P05.0-P05.9](#));
- J) Intraventricular hemorrhage grade III (ICD-9-CM 772.13 [and ICD-10-CM P52.21](#));
- K) Intraventricular hemorrhage grade IV (ICD-9-CM 772.14 [and ICD-10-CM P52.22](#));
- L) Seizures (ICD-9-CM 779.0 [and ICD-10-CM P90](#)); ~~or~~
- M) Other conditions leading to more than ~~7248~~ hours on a ventilator (ICD-9-CM V46.1 [and ICD-10-CM Z99.11](#));
- N) [Conditions leading to extracorporeal membrane oxygenation \(ECMO\) \(ICD-10-CM Z92.81\)](#)
- O) [Erb's Palsy \(ICD-10-CM P14.0\)](#)
- P) [Hypoxic ischemic encephalopathy leading to cooling treatment \(ICD-10-CM P91.63\)](#)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

AGENCY NOTE: The products of induced abortions shall not be reported to APORS. ICD-9-CM codes will be supplanted with ICD-10 codes when the latter is adopted by the U.S. Department of Health and Human Services.

(Source: Amended at 40 Ill. Reg. 13397, effective September 12, 2016)

Section 840.210 Newborn Infant Case Reporting

- a) Entities required to report newborn infant cases:
 - 1) The Department requires all hospitals and birth centers licensed by the State of Illinois to report adverse pregnancy outcome information for cases identified during newborn infant hospitalization or care.
 - 2) The Department requests, but does not require, hospitals outside Illinois and hospitals maintained by the federal government or other governmental agencies of the United States to report adverse pregnancy outcome information identified during the newborn hospital stay of infants whose mothers were Illinois residents at the time of delivery.
 - 3) The Department requires clinical laboratories licensed by the State of Illinois to report newborn infants who have positive toxicology for controlled substances.
 - 4) The Department requires all hospitals and birth centers that are members of an Illinois Perinatal Network to report adverse pregnancy outcome information for cases identified during newborn infant hospitalization or care.
- b) Reporting newborn infant cases by hospitals:
 - 1) Every hospital shall develop procedures and policies for identifying newborn infants who meet an APORS case criterion (see Section 840.200) and shall report these newborn infants to APORS.
 - 2) When a newborn infant meets a case criterion (see Section 840.200) and is transferred to another hospital for a higher level of care, the hospital providing the highest level of care shall report the case.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 3) Hospitals are required to report newborn infant cases in the format provided by the Department.
- A) The Department will provide the hospitals with written instructions for completing an APORS report.
- BA) Hospitals shall use the Department's format for APORS reports and shall report the following information:
- i) Reporting hospital four-digit facility identification number, name and city and state if not Illinois;
 - ii) Delivery hospital four-digit facility identification number, name and city and state if not Illinois; for births that do not occur in a hospital, the location should be provided by address or by description;
 - iii) Infant's patient identification number;
 - iv) Date the infant was admitted to the reporting hospital;
 - v) Infant's date of birth;
 - vi) Infant's discharge date from the reporting hospital;
 - vii) Infant's ~~four-digit facility identification number and first,~~ middle and last namesname;
 - viii) Other names by which the infant may be known;
 - ix) Infant's sex;
 - x) Infant's race;
 - xi) Infant's ethnicity;
 - xii) Whether the infant was admitted to the Intensive Care Unit;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- xiii) Whether the infant was exposed to drugs (except cannabis or drugs administered during labor and delivery) prenatally and, if applicable, what type;
- xiv) Birth mother's hepatitis B status;
- xv) Dates and times infant's hepatitis B immunizations were provided, and type of vaccine given, if applicable;
- xvi) Infant's gestational age at delivery in ~~whole~~-weeks and days;
- xvii) Infant's birth weight in grams;
- xviii) Infant's birth order;
- xix) Pregnancy plurality;
- xx) Infant's diagnoses made prior to the newborn discharge;
- xxi) Birth mother's first, middle and last namesname;
- xxii) Birth mother's maiden name;
- xxiii) Birth mother's address at delivery, including number, direction, street name, type of street, apartment number, city, state and ZIP code;
- xxiv) Birth mother's county of residence at delivery;
- xxv) Birth mother's medical record number;
- xxvi) Birth mother's social security number;
- xxvii) Birth mother's date of birth;
- xxviii) Birth mother's telephone number, including the area code;
- xxix) Father's first, middle and last namesname;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- xxx) Number of the birth mother's pregnancies, including the pregnancy resulting in this infant;
- xxxi) Number of pregnancies that produced: full-term infants, premature infants, abortions (spontaneous and induced), currently living children;
- xxxii) Infant's status on discharge: deceased, going home with parents or other family member, transferring to another hospital, transferring to a long-term care facility, being adopted, going to foster care, or in Department of Children and Family Services (DCFS) custody;
- xxxiii) Name, city and four-digit facility identification number of facility to which child was discharged, if applicable;
- xxxiv) Name and address of the person to whom the infant was discharged if the infant did not go home with the birth mother;
- xxxv) Delivery type, either vaginal or caesarean section;
- xxxvi) Feeding type, either breast, bottle or tube;
- xxxvii) If applicable, formula type, frequency and amount;
- xxxviii) Infant's discharge weight in grams;
- xxxix) Infant's head circumference, in centimeters, at the time of birth;
 - xl) Infant's length, in centimeters, from crown to heel at the time of birth;
 - xli) Treatments prescribed for the infant at discharge;
 - xlii) Medication name, dosage and route of administration prescribed for the infant at discharge;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- xliii) Other health, social and developmental concerns;
 - xliv) Name and telephone number (including area code) of registered nurse who can be contacted by the public health nurse making home visits to the infant;
 - xliv) Name, address and telephone number (including area code) of a relative, friend or other person who would know how to contact the infant's parents and the relationship of that person to the birth parents;
 - xlvi) Whether the infant's family has been informed that a local public health nurse will contact them to offer follow-up services in their home after the infant is discharged from the hospital;
 - xlvii) Name and the four-digit identification code of the local health agency that serves families in the county or city where the infant will be located;
 - xlviii) Indication of whether the infant or the infant's family is receiving services from a community social service agency, Division of Specialized Care For Children (DSCC), DCFS, or other agency;
 - xliv) Name of the infant's primary care physician;
 - l) Name and title of the person providing the information;
 - li) Date the report is completed.
- B) ~~The Department will provide the hospitals with written instructions for completing an APORS report.~~
- 4) Hospitals are required to fully complete all sections of the report and to send the report to the Department within seven days after the newborn infant's discharge or death.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 5) When hospital-submitted reports are incomplete, the Department will contact the hospital within 30 days after receiving the report. The hospital shall supply the missing information to the Department within 30 days after receiving the request.
 - 6) When a newborn infant is discharged, the hospital shall notify the infant's parents or legal guardian that the infant was reported to the Department and that the infant will be referred to health agencies for services.
 - 7) Hospitals shall provide the parents or legal guardian with materials provided by DHS that explain the follow-up services that will be offered to the family.
 - 8) Hospitals shall provide copies of the report submitted to the Department to the parents or legal guardian if requested. All other requests for copies shall be denied.
 - 9) Hospitals shall distribute the original report and ~~two~~three copies in the following manner:
 - A) The original report shall be sent to the Department's Division of Epidemiologic Studies, 535 West Jefferson, 3rd Floor, Springfield, Illinois 62761;
 - B) ~~One copy shall be sent to the local health department or health agency in the county where the infant resides so that the infant's family can be offered follow-up public health services~~
 - ~~Ⓔ~~ One copy shall be sent to the infant's primary care physician; and
 - ~~Ⓒ~~) One copy shall be retained by the reporting hospital.
- c) Reporting newborn infant cases by clinical laboratories:
- 1) Clinical laboratories are required to develop procedures and policies to report newborn infant cases of positive toxicology for controlled substances. Negative results are not reported to the Department.
 - 2) Clinical laboratories are required to submit:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- A) Infant's name (first, middle and last);
 - B) Infant's date of birth;
 - C) Residential address, including street address, city, county, state and ZIP code;
 - D) Unique identification number assigned by the submitting facility;
 - E) Name of the facility submitting the test;
 - F) Address of the facility submitting the test;
 - G) Test results, including the type of controlled substance found; and
 - H) Date of the test.
- 3) The clinical laboratory shall send the test results to the Department within seven days after the laboratory completes testing.

(Source: Amended at 40 Ill. Reg. 13397, effective September 12, 2016)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Number: 100.5020 Adopted Action: Amendment
- 4) Statutory Authority: [35 ILCS 5/505]
- 5) Effective Date of Rule: September 7, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 6676; April 22, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citation:</u>
100.8010	Amendment	40 Ill. Reg. 5174, March 25, 2016
100.9400	Amendment	40 Ill. Reg. 5174, March 25, 2016
100.5060	Amendment	40 Ill. Reg. 6540; April 15, 2016
100.5100	Amendment	40 Ill. Reg. 6540; April 15, 2016
100.5130	Amendment	40 Ill. Reg. 6540; April 15, 2016

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

100.7035	Amendment	40 Ill. Reg. 6540; April 15, 2016
100.5215	Amendment	40 Ill. Reg. 7297; May 13, 2016
100.2465	New Section	40 Ill. Reg. 7522; May 20, 2016

- 15) Summary and Purpose of Rulemaking: This rulemaking amends 86 Ill. Adm. Code Section 100.5020, which deals with extensions of time for filing income tax returns, to accommodate changes in the federal income tax due dates for corporate returns, which automatically apply to Illinois corporate income tax returns, and potential amendments to the IITA to match the federal income tax changes for partnership returns.
- 16) Information and questions regarding this adopted rule shall be directed to:

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

217/782-2844

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

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

SUBPART A: TAX IMPOSED

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

SUBPART B: CREDITS

Section	
100.2100	Replacement Tax Investment Credit Prior to January 1, 1994 (IITA Section 201(e))
100.2101	Replacement Tax Investment Credit (IITA 201(e))
100.2110	Investment Credit; Enterprise Zone and River Edge Redevelopment Zone (IITA Section 201(f))
100.2120	Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone and River Edge Redevelopment Zone (IITA Section 201(g))
100.2130	Investment Credit; High Impact Business (IITA 201(h))
100.2140	Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150	Training Expense Credit (IITA 201(j))
100.2160	Research and Development Credit (IITA Section 201(k))
100.2163	Environmental Remediation Credit (IITA 201(l))
100.2165	Education Expense Credit (IITA 201(m))
100.2170	Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2171	Angel Investment Credit (IITA 220)
100.2180	Credit for Residential Real Property Taxes (IITA 208)
100.2185	Film Production Services Credit (IITA Section 213)
100.2190	Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2193	Student-Assistance Contributions Credit (IITA 218)
100.2195	Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196	Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
100.2197	Foreign Tax Credit (IITA Section 601(b)(3))

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

- 100.2198 Economic Development for a Growing Economy Credit (IITA 211)
100.2199 Illinois Earned Income Tax Credit (IITA Section 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS
OCCURRING PRIOR TO DECEMBER 31, 1986

Section

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

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

Section

- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

- After December 31, 1986
- 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
- 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

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

- Section
- 100.2405 Gross Income, Adjusted Gross Income, Taxable Income and Base Income Defined; Double Deductions Prohibited; Legislative Intention (IITA Section 203(e), (g) and (h))
- 100.2410 Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)
- 100.2430 Addition and Subtraction Modifications for Transactions with 80-20 and Noncombination Rule Companies
- 100.2435 Addition Modification for Student-Assistance Contribution Credit (IITA Sections 203(a)(2)(D-23), (b)(2)(E-16), (c)(2)(G-15), (d)(2)(D-10))
- 100.2450 IIT Refunds (IITA Section 203(a)(2)(H), (b)(2)(F), (c)(2)(J) and (d)(2)(F))
- 100.2455 Subtraction Modification: Federally Disallowed Deductions (IITA Sections 203(a)(2)(M), 203(b)(2)(I), 203(c)(2)(L) and 203(d)(2)(J))
- 100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
- 100.2480 Enterprise Zone and River Edge Redevelopment Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
- 100.2490 Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

SUBPART F: BASE INCOME OF INDIVIDUALS

- Section
- 100.2510 Subtraction for Contributions to Illinois Qualified Tuition Programs (Section 529 Plans) (IITA Section 203(a)(2)(Y))
- 100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART H: BASE INCOME OF TRUSTS AND ESTATES

Section

100.2655 Subtraction Modification for Enterprise Zone and River Edge Redevelopment Zone Interest (IITA Section 203(b)(2)(M))

100.2657 Subtraction Modification for High Impact Business Interest (IITA Section 203(b)(2)(M-1))

100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

SUBPART J: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF BASE INCOME

Section

100.3000 Terms Used in Article 3 (IITA Section 301)

100.3010 Business and Nonbusiness Income (IITA Section 301)

100.3015 Business Income Election (IITA Section 1501)

100.3020 Resident (IITA Section 301)

SUBPART K: COMPENSATION

Section

100.3100 Compensation (IITA Section 302)

100.3110 State (IITA Section 302)

100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART L: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

100.3200 Taxability in Other State (IITA Section 303)

100.3210 Commercial Domicile (IITA Section 303)

100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other Than Residents (IITA Section 303)

SUBPART M: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

Section

100.3300	Allocation and Apportionment of Base Income (IITA Section 304)
100.3310	Business Income of Persons Other Than Residents (IITA Section 304) – In General
100.3320	Business Income of Persons Other Than Residents (IITA Section 304) – Apportionment (Repealed)
100.3330	Business Income of Persons Other Than Residents (IITA Section 304) – Allocation
100.3340	Business Income of Persons Other Than Residents (IITA Section 304)
100.3350	Property Factor (IITA Section 304)
100.3360	Payroll Factor (IITA Section 304)
100.3370	Sales Factor (IITA Section 304)
100.3371	Sales Factor for Telecommunications Services
100.3373	Sales Factor for Publishing
100.3380	Special Rules (IITA Section 304)
100.3390	Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
100.3400	Apportionment of Business Income of Financial Organizations for Taxable Years Ending Prior to December 31, 2008 (IITA Section 304(c))
100.3405	Apportionment of Business Income of Financial Organizations for Taxable Years Ending on or after December 31, 2008 (IITA Section 304(c))
100.3420	Apportionment of Business Income of Insurance Companies (IITA Section 304(b))
100.3450	Apportionment of Business Income of Transportation Companies (IITA Section 304(d))
100.3500	Allocation and Apportionment of Base Income by Nonresident Partners

SUBPART N: ACCOUNTING

Section

100.4500	Carryovers of Tax Attributes (IITA Section 405)
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SUBPART O: TIME AND PLACE FOR FILING RETURNS

Section

100.5000	Time for Filing Returns (IITA Section 505)
100.5010	Place for Filing Returns: All Taxpayers (IITA Section 505)
100.5020	Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
100.5030	Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

(IITA Section 506)

100.5040	Innocent Spouses
100.5050	Frivolous Returns
100.5060	Reportable Transactions
100.5070	List of Investors in Potentially Abusive Tax Shelters and Reportable Transactions
100.5080	Registration of Tax Shelters (IITA Section 1405.5)

SUBPART P: COMPOSITE RETURNS

Section

100.5100	Composite Returns: Eligibility
100.5110	Composite Returns: Responsibilities of Authorized Agent
100.5120	Composite Returns: Individual Liability
100.5130	Composite Returns: Required forms and computation of Income
100.5140	Composite Returns: Estimated Payments
100.5150	Composite Returns: Tax, Penalties and Interest
100.5160	Composite Returns: Credits on Separate Returns
100.5170	Composite Returns: Definition of a "Lloyd's Plan of Operation"
100.5180	Composite Returns: Overpayments and Underpayments

SUBPART Q: COMBINED RETURNS

Section

100.5200	Filing of Combined Returns
100.5201	Definitions and Miscellaneous Provisions Relating to Combined Returns
100.5205	Election to File a Combined Return
100.5210	Procedures for Elective and Mandatory Filing of Combined Returns
100.5215	Filing of Separate Unitary Returns
100.5220	Designated Agent for the Members
100.5230	Combined Estimated Tax Payments
100.5240	Claims for Credit of Overpayments
100.5250	Liability for Combined Tax, Penalty and Interest
100.5260	Combined Amended Returns
100.5265	Common Taxable Year
100.5270	Computation of Combined Net Income and Tax
100.5280	Combined Return Issues Related to Audits

SUBPART R: PAYMENTS

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

Section
100.6000 Payment on Due Date of Return (IITA Section 601)

SUBPART S: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section
100.7000 Requirement of Withholding (IITA Section 701)
100.7010 Compensation Paid in this State (IITA Section 701)
100.7020 Transacting Business Within this State (IITA Section 701)
100.7030 Payments to Residents (IITA Section 701)
100.7035 Nonresident Partners, Subchapter S Corporation Shareholders, and Trust
Beneficiaries (IITA Section 709.5)
100.7040 Employer Registration (IITA Section 701)
100.7050 Computation of Amount Withheld (IITA Section 702)
100.7060 Additional Withholding (IITA Section 701)
100.7070 Voluntary Withholding (IITA Section 701)
100.7080 Correction of Underwithholding or Overwithholding (IITA Section 701)
100.7090 Reciprocal Agreement (IITA Section 701)
100.7095 Cross References

SUBPART T: AMOUNT EXEMPT FROM WITHHOLDING

Section
100.7100 Withholding Exemption (IITA Section 702)
100.7110 Withholding Exemption Certificate (IITA Section 702)
100.7120 Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

SUBPART U: INFORMATION STATEMENT

Section
100.7200 Reports for Employee (IITA Section 703)

SUBPART V: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section
100.7300 Returns and Payments of Income Tax Withheld from Wages (IITA Sections 704
and 704A)
100.7310 Returns Filed and Payments Made on Annual Basis (IITA Sections 704 and
704A)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

- 100.7320 Time for Filing Returns and Making Payments for Taxes Required to Be Withheld Prior to January 1, 2008 (IITA Section 704)
- 100.7325 Time for Filing Returns and Making Payments for Taxes Required to Be Withheld On or After January 1, 2008 (IITA Section 704A)
- 100.7330 Payment of Tax Required to be Shown Due on a Return (IITA Sections 704 and 704A)
- 100.7340 Correction of Underwithholding or Overwithholding (IITA Section 704)
- 100.7350 Domestic Service Employment (IITA Sections 704 and 704A)
- 100.7360 Definitions and Special Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)
- 100.7370 Penalty and Interest Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)
- 100.7380 Economic Development for a Growing Economy (EDGE) and Small Business Job Creation Credit (IITA Section 704A(g) and (h))

SUBPART W: ESTIMATED TAX PAYMENTS

Section

- 100.8000 Payment of Estimated Tax (IITA Section 803)
- 100.8010 Failure to Pay Estimated Tax (IITA Sections 804 and 806)

SUBPART X: COLLECTION AUTHORITY

Section

- 100.9000 General Income Tax Procedures (IITA Section 901)
- 100.9010 Collection Authority (IITA Section 901)
- 100.9020 Child Support Collection (IITA Section 901)

SUBPART Y: NOTICE AND DEMAND

Section

- 100.9100 Notice and Demand (IITA Section 902)

SUBPART Z: ASSESSMENT

Section

- 100.9200 Assessment (IITA Section 903)
- 100.9210 Waiver of Restrictions on Assessment (IITA Section 907)

SUBPART AA: DEFICIENCIES AND OVERPAYMENTS

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

Section

- 100.9300 Deficiencies and Overpayments (IITA Section 904)
- 100.9310 Application of Tax Payments Within Unitary Business Groups (IITA Section 603)
- 100.9320 Limitations on Notices of Deficiency (IITA Section 905)
- 100.9330 Further Notices of Deficiency Restricted (IITA Section 906)

SUBPART BB: CREDITS AND REFUNDS

Section

- 100.9400 Credits and Refunds (IITA Section 909)
- 100.9410 Limitations on Claims for Refund (IITA Section 911)
- 100.9420 Recovery of Erroneous Refund (IITA Section 912)

SUBPART CC: INVESTIGATIONS AND HEARINGS

Section

- 100.9500 Access to Books and Records (IITA Section 913)
- 100.9505 Access to Books and Records – 60-Day Letters (IITA Section 913) (Repealed)
- 100.9510 Taxpayer Representation and Practice Requirements
- 100.9520 Conduct of Investigations and Hearings (IITA Section 914)
- 100.9530 Books and Records

SUBPART DD: JUDICIAL REVIEW

Section

- 100.9600 Administrative Review Law (IITA Section 1201)

SUBPART EE: DEFINITIONS

Section

- 100.9700 Unitary Business Group Defined (IITA Section 1501)
- 100.9710 Financial Organizations (IITA Section 1501)
- 100.9720 Nexus
- 100.9730 Investment Partnerships (IITA Section 1501(a)(11.5))
- 100.9750 Corporation, Subchapter S Corporation, Partnership and Trust Defined (IITA Section 1501)

SUBPART FF: LETTER RULING PROCEDURES

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

Section
100.9800 Letter Ruling Procedures

SUBPART GG: MISCELLANEOUS

Section
100.9900 Tax Shelter Voluntary Compliance Program

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

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

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days;

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 17, 2008; amended at 32 Ill. Reg. 3400, effective

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. 10170, effective June 30, 2008; amended at 32 Ill. Reg. 13223, effective July 24, 2008; amended at 32 Ill. Reg. 17492, effective October 24, 2008; amended at 33 Ill. Reg. 1195, effective December 31, 2008; amended at 33 Ill. Reg. 2306, effective January 23, 2009; amended at 33 Ill. Reg. 14168, effective September 28, 2009; amended at 33 Ill. Reg. 15044, effective October 26, 2009; amended at 34 Ill. Reg. 550, effective December 22, 2009; amended at 34 Ill. Reg. 3886, effective March 12, 2010; amended at 34 Ill. Reg. 12891, effective August 19, 2010; amended at 35 Ill. Reg. 4223, effective February 25, 2011; amended at 35 Ill. Reg. 15092, effective August 24, 2011; amended at 36 Ill. Reg. 2363, effective January 25, 2012; amended at 36 Ill. Reg. 9247, effective June 5, 2012; amended at 37 Ill. Reg. 5823, effective April 19, 2013; amended at 37 Ill. Reg. 20751, effective December 13, 2013; recodified at 38 Ill. Reg. 4527; amended at 38 Ill. Reg. 9550, effective April 21, 2014; amended at 38 Ill. Reg. 13941, effective June 19, 2014; amended at 38 Ill. Reg. 15994, effective July 9, 2014; amended at 38 Ill. Reg. 17043, effective July 23, 2014; amended at 38 Ill. Reg. 18568, effective August 20, 2014; amended at 38 Ill. Reg. 23158, effective November 21, 2014; emergency amendment at 39 Ill. Reg. 483, effective December 23, 2014, for a maximum of 150 days; amended at 39 Ill. Reg. 1768, effective January 7, 2015; amended at 39 Ill. Reg. 5057, effective March 17, 2015; amended at 39 Ill. Reg. 6884, effective April 29, 2015; amended at 39 Ill. Reg. 15594, effective November 18, 2015; amended at 40 Ill. Reg. 1848, effective January 5, 2016; adopted at 40 Ill. Reg. 10925, effective July 29, 2016; amended at 40 Ill. Reg. 13432, effective September 7, 2016.

SUBPART O: TIME AND PLACE FOR FILING RETURNS

Section 100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)

- a) Tentative Payments. An extension of time to file a return permitted under this Section is not to be construed as an extension by the Department of the time for payment of tax due on that return.
- b) Automatic Illinois Extensions. The Department will grant an automatic extension of 6 months to taxpayers whose returns are due on the fifteenth day of the fourth month after the end of the taxable year and ~~(7 months for all other taxpayerseorporations)~~ to file any Illinois income tax return except returns due under Article 7 of the IITA. No application form need be filed by a taxpayer to obtain this extension. If a balance of tentative tax is due, the taxpayer should transmit the payment with the appropriate form by the original filing due date in order to avoid the penalty for underpayment of tax (IITA Section 1005) and statutory interest (IITA Section 1003).

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

- c) Additional Extensions Beyond the Automatic Extension Period. The Department will approve an additional extension ~~of more than 6 months (7 months for corporations)~~ if an extension ~~of more than 6 months~~ is granted by the Internal Revenue Service beyond the date of the automatic extension in subsection (b). For corporations, the additional Illinois extension will be one month beyond any approved federal extension ~~of longer than 6 months~~. For all other taxpayers, the additional extension will be for the length of time approved by the Internal Revenue Service. All taxpayers must attach a copy of the approved federal extension to their return when it is filed.
- d) Penalty and Interest on Underpayment of Tax
- 1) IITA Section 1005 Penalty
A penalty of 6% per annum on any tax underpayment shall be assessed if the amount of tax required to be shown on a return is not paid on or before the date required for filing the return (determined without regard to any extension of time to file) for returns due prior to January 1, 1994. For returns due on and after January 1, 1994, without regard to extensions, the penalty shall be determined in the manner and at the rate prescribed by the UPIA.
 - 2) IITA Section 1003 Interest
Interest at the rate of 9% per annum (or at the adjusted rate established under IRC section 6621(b)) will be assessed for the period from the due date of the return to the date of payment for any amount of tax not paid on or before the due date (determined without regard to any extension) for returns due before January 1, 1994. For returns due on and after January 1, 1994, without regard to extensions, the penalty shall be determined in the manner and at the rate prescribed by the UPIA.
- e) Late Filing Penalty
- 1) The Department will not assess an IITA Section 1001 late filing penalty for the period of any extension provided by the IITA and this Section.
 - 2) For returns due prior to January 1, 1994, *in case of failure to file any tax return required under this Act on the date prescribed therefor (determined with regard to any extensions of time for filing), unless it is shown that such failure is due to reasonable cause (as defined in IRC section 6651)*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

there shall be added as a penalty to the amount required to be shown as tax on such return 7.5% of the amount of such tax if the failure is not for more than one month, with an additional 7.5% for each additional month or fraction thereof during which such failure continues, not exceeding 37.5% in the aggregate. (Section 1001 of the IITA, effective until January 1, 1994)

- 3) For returns due on and after January 1, 1994, without regard to extensions, *in case of failure to file any tax return required under the IITA on the date prescribed therefor, (determined with regard to any extensions of time for filing) there shall be added as a penalty the amount prescribed by Section 3-3 of the UPIA. (Section 1001 of the IITA, effective January 1, 1994)*
- 4) No penalty is imposed if there was reasonable cause for the taxpayer's failure to timely file the return. (See IITA Section 1001 (as in effect prior to January 1, 1994) and UPIA Section 3-8.) If the due date for filing of any federal income tax return is extended for any reason (for example, as the result of another state's holiday, such as the Emancipation Day holiday observed in Washington, D.C., or because of natural disaster under IRC Section 7508A), a taxpayer who files his or her Illinois return after it is due under the IITA, but on or before the extended due date of the equivalent federal return, is deemed to have reasonable cause for the late filing.

(Source: Amended at 40 Ill. Reg. 13432, effective September 7, 2016)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Section Number: 130.330 Adopted Action: Amendment
- 4) Statutory Authority: 35 ILCS 120/2-5(14)
- 5) Effective Date of Rule: September 9, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 5853; April 8, 2016.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The only changes made were the ones agreed upon with JCAR. Only grammatical and technical changes were made. No substantive changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? Yes

<u>Section Number</u> :	<u>Proposed Action</u> :	<u>Illinois Register Citation</u> :
130.340	Amendment	40 Ill. Reg. 10083; July 29, 2016
- 15) Summary and Purpose of Rulemaking: This rulemaking amends Section 130.330 to implement changes to the manufacturing machinery and equipment exemption which the Illinois Appellate Court, Fifth District made in *Nokomis Quarry Co. v. Department of*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

Revenue, 295 Ill. App. 3d 264, 692 N.E.2d 855 (5th Dist. 1998). Nokomis held that extractive activities such as blasting may constitute manufacturing in some cases. When blasting is deliberately and systematically performed with specific, desired results, and the process results in a new article of tangible personal property with a different form, with new qualities or combinations, the manufacturing machinery and equipment exemption may apply. Nokomis invalidated a portion of 130.330(b)(4). The rule currently states that the extractive process of quarrying does not constitute manufacturing. This rulemaking removes that provision from the rule and relays the court's holding that the extractive process of quarrying may constitute manufacturing in some cases. This rulemaking also amends Section 130.330 to reflect changes to the law made by PA 98-583. PA 98-583 states that the manufacturing machinery and equipment exemption does not include equipment used to generate electricity or to generate or treat natural or artificial gas or water for sale that is delivered to customers through pipes, pipelines, or mains. Though electricity is considered tangible personal property, this rulemaking reflects the Department's policy that it is not taxable under the sales tax laws, and that the machinery and equipment used to generate electricity does not qualify for the manufacturing machinery and equipment exemption.

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

Cara Bishop
Associate Counsel
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

217/782-2844

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 130
RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

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

SUBPART B: SALE AT RETAIL

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

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

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

SUBPART D: GROSS RECEIPTS

Section

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

SUBPART E: RETURNS

Section

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

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

SUBPART F: INTERSTATE COMMERCE

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

SUBPART G: CERTIFICATE OF REGISTRATION

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

SUBPART H: BOOKS AND RECORDS

Section	
130.801	General Requirements
130.805	What Records Constitute Minimum Requirement
130.810	Records Required to Support Deductions
130.815	Preservation and Retention of Records

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

- 130.820 Preservation of Books During Pendency of Assessment Proceedings
130.825 Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

SUBPART I: PENALTIES AND INTEREST

- Section
130.901 Civil Penalties
130.905 Interest
130.910 Criminal Penalties

SUBPART J: BINDING OPINIONS

- Section
130.1001 When Opinions from the Department are Binding

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

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

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

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

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

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

SUBPART N: SALES FOR RESALE

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

Section

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

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section

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

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

Section

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

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section

- 130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

Section

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

SUBPART S: SPECIFIC APPLICATIONS

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

Section

- 130.1901 Addition Agents to Plating Baths
- 130.1905 Agricultural Producers
- 130.1910 Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
- 130.1915 Auctioneers and Agents
- 130.1920 Barbers and Beauty Shop Operators
- 130.1925 Blacksmiths
- 130.1930 Chiropodists, Osteopaths and Chiropractors
- 130.1934 Community Water Supply
- 130.1935 Computer Software
- 130.1940 Construction Contractors and Real Estate Developers
- 130.1945 Co-operative Associations
- 130.1946 Tangible Personal Property Used Or Consumed in Graphic Arts Production within Enterprise Zones Located in a County of more than 4,000 Persons and less than 45,000 Persons
- 130.1947 Tangible Personal Property Used or Consumed in the Process of Manufacturing and Assembly within Enterprise Zones or by High Impact Businesses
- 130.1948 Tangible Personal Property Used or Consumed in the Operation of Pollution Control Facilities Located within Enterprises Zones
- 130.1949 Sales of Building Materials Incorporated into the South Suburban Airport
- 130.1950 Sales of Building Materials Incorporated into the Illiana Expressway
- 130.1951 Sales of Building Materials Incorporated into Real Estate within Enterprise Zones
- 130.1952 Sales of Building Materials to a High Impact Business
- 130.1953 Sales of Building Materials to be Incorporated into a Redevelopment Project Area within an Intermodal Terminal Facility Area
- 130.1954 Sales of Building Materials Incorporated into Real Estate within River Edge Redevelopment Zones
- 130.1955 Farm Chemicals
- 130.1956 Dentists
- 130.1960 Finance Companies and Other Lending Agencies – Installment Contracts – Bad Debts
- 130.1965 Florists and Nurserymen
- 130.1970 Hatcheries
- 130.1971 Sellers of Pets and the Like
- 130.1975 Operators of Games of Chance and Their Suppliers
- 130.1980 Optometrists and Opticians
- 130.1985 Pawnbrokers

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

- 130.1990 Peddlers, Hawkers and Itinerant Vendors
- 130.1995 Personalizing Tangible Personal Property
- 130.2000 Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
- 130.2004 Sales to Nonprofit Arts or Cultural Organizations
- 130.2005 Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons
- 130.2006 Sales by Teacher-Sponsored Student Organizations
- 130.2007 Exemption Identification Numbers
- 130.2008 Sales by Nonprofit Service Enterprises
- 130.2009 Personal Property Purchased Through Certain Fundraising Events for the Benefit of Certain Schools
- 130.2010 Persons Who Rent or Lease the Use of Tangible Personal Property to Others
- 130.2011 Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals
- 130.2012 Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies
- 130.2013 Persons in the Business of Both Renting and Selling Tangible Personal Property – Tax Liabilities, Credit
- 130.2015 Persons Who Repair or Otherwise Service Tangible Personal Property
- 130.2020 Physicians and Surgeons
- 130.2025 Picture-Framers
- 130.2030 Public Amusement Places
- 130.2035 Registered Pharmacists and Druggists
- 130.2040 Retailers of Clothing
- 130.2045 Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like
- 130.2050 Sales and Gifts By Employers to Employees
- 130.2055 Sales by Governmental Bodies
- 130.2060 Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
- 130.2065 Sales of Automobiles for Use In Demonstration (Repealed)
- 130.2070 Sales of Containers, Wrapping and Packing Materials and Related Products
- 130.2075 Sales To Construction Contractors, Real Estate Developers and Speculative Builders
- 130.2076 Sales to Purchasers Performing Contracts with Governmental Bodies
- 130.2080 Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
- 130.2085 Sales to or by Banks, Savings and Loan Associations and Credit Unions
- 130.2090 Sales to Railroad Companies
- 130.2095 Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
- 130.2100 Sellers of Feeds and Breeding Livestock
- 130.2101 Sellers of Floor Coverings

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

- 130.2105 Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers; Transfer of Data Downloaded Electronically
- 130.2110 Sellers of Seeds and Fertilizer
- 130.2115 Sellers of Machinery, Tools and Special Order Items
- 130.2120 Suppliers of Persons Engaged in Service Occupations and Professions
- 130.2125 Discount Coupons, Gift Situations, Trading Stamps, Automobile Rebates and Dealer Incentives
- 130.2130 Undertakers and Funeral Directors
- 130.2135 Vending Machines
- 130.2140 Vendors of Curtains, Slip Covers and Other Similar Items Made to Order
- 130.2145 Vendors of Meals
- 130.2150 Vendors of Memorial Stones and Monuments
- 130.2155 Tax Liability of Sign Vendors
- 130.2156 Vendors of Steam
- 130.2160 Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
- 130.2165 Veterinarians
- 130.2170 Warehousemen

SUBPART T: DIRECT PAYMENT PROGRAM

Section

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

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874,

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15, 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196, effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003, for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26, 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621, effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007; amended at 31 Ill. Reg. 14091, effective September 21, 2007; amended at 32 Ill. Reg. 4226, effective March 6, 2008; emergency amendment at 32 Ill. Reg. 8785, effective May 29, 2008, for a maximum of 150 days; emergency expired October 25, 2008; amended at 32 Ill. Reg. 10207, effective June 24, 2008; amended at 32 Ill. Reg. 17228, effective October 15, 2008; amended at 32 Ill. Reg. 17519, effective October 24, 2008; amended at 32 Ill. Reg. 19128, effective December 1, 2008; amended at 33 Ill. Reg. 1762, effective January 13, 2009; amended at 33 Ill. Reg. 2345, effective January 23, 2009; amended at 33 Ill. Reg. 3999, effective February 23, 2009; amended at 33 Ill. Reg. 15781, effective October 27, 2009; amended at 33 Ill. Reg. 16711, effective November 20, 2009; amended at 34 Ill. Reg. 9405, effective June 23, 2010; amended at 34 Ill. Reg. 12935, effective August 19, 2010; amended at 35 Ill. Reg. 2169, effective January 24, 2011; amended at 36 Ill. Reg. 6662, effective April 12, 2012; amended at 38 Ill. Reg. 12909, effective June 9, 2014; amended at 38 Ill. Reg. 17060, effective July 25, 2014; amended at 38 Ill. Reg. 17421, effective July 31, 2014; amended at 38 Ill. Reg. 17756, effective August 6, 2014; amended at 38

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

Ill. Reg. 19998, effective October 1, 2014; amended at 39 Ill. Reg. 1793, effective January 12, 2015; amended at 39 Ill. Reg. 12597, effective August 26, 2015; amended at 39 Ill. Reg. 14616, effective October 22, 2015; amended at 40 Ill. Reg. 6130, effective April 1, 2016; amended at 40 Ill. Reg. 13448, effective September 9, 2016.

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

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 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 itself employ the machinery and equipment in an exempt manner.
- 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 that may be distinguished from manufacturing or assembling will not be an exempt use and the machinery and ~~equipment~~ ~~equipment~~ will be subject to tax.
 - 2) The manufacturing process is the production of any article of tangible personal property, whether the 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 that 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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

will be considered to determine if the process or operation is commonly regarded as manufacturing. Manufacturing includes such activities as processing, fabricating and refining.

- 4) Manufacturing generally does not include extractive industrial activities. ~~Logging, Mining, 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. ~~However, the~~The extractive ~~processes~~process of ~~mining or quarrying may~~does not constitute manufacturing. See Nokomis Quarry Co. v. Department of Revenue, 295 Ill. App. 3d 264, 692 N.E.2d 855, 860 (5th Dist. 1998) (holding that a calculated blasting method that is performed with specific desired results, which changes limestone deposits into materials with a different form, possessing new qualities or combinations, constitutes manufacturing). Blasting agents, high explosives, detonators, lead-in line and blasting machines are examples of exempt tangible personal property that is often used in the extractive process of quarrying. Equipment used primarily to drill and load holes to place blasting material that fractures aggregate qualifies as manufacturing machinery and equipment. Dredges that are used primarily in a sand and gravel mining operation to pick up and sort materials from a riverbed also qualify for the exemption. Equipment, such as crawler dozers, used primarily to move shot rock after blasting, and wheel loaders, used primarily to load the mined product into off-highway haulage trucks for transport to the crusher-sorter machine, will qualify for the exemption. In addition, wheel loaders used to transport the mined product to the crusher-sorter machine or onto a conveyor system will qualify for the exemption. Machinery and equipment used primarily in activities~~However, the activities subsequent to quarrying, such as crushing, washing, sizing and blending, will constitute manufacturing, and machinery and equipment used primarily for those purposes~~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, which possesses new qualities or combinations. Other types of mining and quarrying equipment may be exempt under this subsection (b)(4) if used in qualifying activities. (See subsections (c) and (d).)
- 5) The printing process is not commonly regarded as manufacturing and court decisions have found that printing is not manufacturing. Therefore,

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

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 that 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 that 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 that 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 and paper exposure positioning and holding devices, etc. Cameras and equipment used to take pictures or expose film are not eligible as the photoprocessing begins after the film is exposed. Retail/net price calculation equipment and chemical reclamation equipment are not considered to be manufacturing machinery and equipment.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

c) Machinery and Equipment

- 1) The law exempts only the purchase and use of "machinery" and "equipment" used in manufacturing or assembling. Accordingly, no other type or kind of tangible personal property will qualify for the exemption, even though it may be used primarily in the manufacturing or assembling of tangible personal property for sale or lease. ~~However, the manufacturing and assembling machinery and equipment exemption includes production related tangible personal property that is purchased on or after July 1, 2007 and on or before June 30, 2008, as provided in 86 Ill. Adm. Code 150.340. (Section 2-45 of the Act)~~
- 2) Machinery means major mechanical machines or major components of such machines contributing to a manufacturing or assembling process: *including, machinery and equipment used in the general maintenance or repair of such exempt machinery and equipment or for in-house manufacture of exempt machinery and equipment.*
- 3) *Equipment includes 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 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 any parts which require periodic replacement in the course of normal operation. Beginning August 23, 2001, equipment includes computers used primarily in a manufacturer's computer-assisted design, computer-assisted manufacturing (CAD/CAM) system. For example, beginning August 23, 2001, a computer used by a manufacturer 25% of the time in operating exempt machinery and equipment (computer assisted manufacturing – CAM) and 75% of the time in design (computer assisted design – CAD) will now qualify for the exemption. Prior to August 23, 2001, a computer used in the manner described in the preceding sentence would not have qualified for the exemption because it did not primarily (over 50% of the time) operate exempt machinery and equipment. 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,*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

goggles, coveralls, aprons, masks, mask air filters, belts, harnesses, or holsters), coal, fuel oil, electricity, natural gas, artificial gas, steam, refrigerants or water. (Section 2-45 of the Act)

- 4) The exemption includes the sale of materials to a purchaser who manufactures the materials into an exempted type of machinery or equipment or tools that the purchaser uses in the manufacturing of tangible personal property or leases to a manufacturer of tangible personal property. However, the purchaser must maintain adequate records clearly demonstrating the incorporation of these materials into exempt machinery and equipment.
- 5) Machinery and equipment does not include foundations for, or special purpose buildings to house or support, machinery and equipment.
- 6) *The exemption includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a product being manufactured or assembled for sale or lease. (Section 2-45 of the Act) The following examples are illustrative:*
 - A) Example 1. A chemical acid is used to etch copper off the surface of a printed circuit board during the manufacturing process. The acid causes a direct and immediate change upon the product. The acid qualifies for the exemption.
 - B) Example 2. An aluminum oxide catalyst is used in a catalytic cracking process to refine heavy gas oil into gasoline. In this process, large molecules of gas oil or feed are broken up into smaller molecules. After the catalyst is injected into the feed and used in the cracking process, it is drawn off and reused in subsequent manufacturing processes. The catalyst qualifies for the exemption.
- 7) *The exemption does not include machinery and equipment used in the generation of electricity for wholesale or retail sale; the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; or the treatment of water for wholesale or retail sale that is delivered to customers through*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

pipes, pipelines, or mains. [35 ILCS 120/2-45] (The provisions set forth in this subsection (c)(7) were established by Public Act 98-0583, which states that the provisions are declaratory of existing law as to the meaning and scope of this exemption.)

- d) Primary Use
- 1) The law requires that machinery and equipment be used primarily in manufacturing or assembling. Therefore, machinery that 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 machinery or equipment is used over 50 percent 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 manufacturing or assembling because its use is required by law or practical necessity does not, of itself, mean that machinery or equipment is used primarily in manufacturing or assembling.
 - 3) By way of illustration and not limitation, the following activities will generally be considered to constitute an exempt use:
 - A) The use of machinery or equipment to effect a direct and immediate physical change upon the tangible personal property to be sold;
 - B) The use of machinery or equipment to guide or measure a direct and immediate physical change upon the tangible personal property to be sold, provided this function is an integral and essential part of tuning, verifying, or aligning the component parts of such property;
 - C) The use of machinery or equipment to inspect, test or measure the tangible personal property to be sold where the function is an integral part of the production flow;
 - D) The use of machinery and equipment to convey, handle, or transport the tangible personal property to be sold within

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

production stations on the production line or directly between the 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 this property is normally sold when the machinery or equipment is used as a part of an integrated manufacturing process;
 - F) The production or processing of food, including the use of baking equipment such as ovens to bake bread or other bakery items, whether that baking is performed by a central bakery or a retail grocery store;
 - G) The use of machinery or equipment such as buffers, builders, or vulcanizing equipment to retread tires, whether or not the tire casing is provided by the purchaser.
- 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;

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

- 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 the machinery or equipment may be required by law;
 - 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 sale, i.e., restaurants, vending machines, food service establishments, etc.;
 - J) The use of machinery or equipment used in the last step of the retail sale. Examples are paint mixing equipment used by a hardware store, embroidery or monogramming machines used by tee-shirt retailers and a sewing machine used to hem garments sold by a clothing store.
- 5) An item of machinery or equipment that 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. The tax will be collected on the portion of the price of the machinery or equipment that 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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

sale or lease. Accordingly, a manufacturer or assembler who uses any significant portion of the output of its 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 of the property to use as sales samples or as the subjects of quality control testing that renders the articles unfit for sale, will nevertheless be deemed to be production for sale, provided this 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 itself or another, or to perform assembly or fabricating work for a customer who retains the manufacturer or assembler only for its services, will not be liable for tax on the machinery and equipment it uses as long as the goods produced either for itself or another are destined for sale or lease, rather than for use and consumption.
- f) Sales to Lessors of Manufacturers
- 1) For this exemption to apply, the purchaser need not itself 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-lessor will be exempt from tax. A supplier may exclude these sales from its taxable gross receipts provided the purchaser-lessor provides to the supplier a properly completed exemption certificate and this Section would support an exemption if the sale were made directly to the lessee-manufacturer.
 - 2) Should a purchaser-lessor subsequently lease the machinery or equipment to a lessee who does not use it in a manner that would qualify directly for

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

the exemption, the purchaser-lessor will become liable for the tax from which it was previously exempted.

- g) 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 its files, the completed exemption certificate. The exemption certificate shall be available to the Department for inspection or audit.
 - 3) 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 in this subsection (g). The [ST-587 Equipment Exemption Certificate](#) ~~Summary Schedule, RR-586,~~ must be submitted in lieu of taxes at the time the taxes are due.
 - 4) In the case of a vendor who makes sales of qualifying machinery or equipment to a contractor who will incorporate it into real estate so that he, the contractor, would be the taxable user (see Sections 130.1940 and 130.2075 of this Part), the purchasing contractor should provide the vendor with a certification that the machinery or equipment will be transferred to a manufacturer as manufacturing machinery or equipment in the performance of a construction contract for the manufacturer. The purchasing contractor should include the manufacturer's name and registration number on the certification when claiming the exemption.
- h) 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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

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 these letters will be deleted prior to release to public access files.

(Source: Amended at 40 Ill. Reg. 13448, effective September 9, 2016)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 150
- 3) Section Number: 150.201 Adopted Action:
Amendment
- 4) Statutory Authority: 35 ILCS 105/2(1.1)
- 5) Effective Date of Rule: September 12, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 5877; April 8, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Various changes made include those agreed upon with JCAR and grammatical and technical changes.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: A new click thru nexus provision was added by PA 98-1089. This new provision changed the earlier law, in part by adding a rebuttable presumption that nexus is created if the retailer engages in the statutorily specified activities. This rulemaking includes the rebuttable presumption for the click through nexus provision and details the process that the Department will require in order to rebut the presumption under the click thru nexus provision that a retailer is maintaining a place of business in Illinois.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

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

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

217/ 782-2844

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 150
USE TAX

SUBPART A: NATURE OF THE TAX

Section	
150.101	Description of the Tax
150.105	Rate and Base of Tax
150.110	How To Compute Depreciation
150.115	How To Determine Effective Date
150.120	Effective Date of New Taxes
150.125	Relation of Use Tax to Retailers' Occupation Tax
150.130	Accounting for the Tax
150.135	How to Avoid Paying Tax on Use Tax Collected From the Purchaser

SUBPART B: DEFINITIONS

Section	
150.201	General Definitions

SUBPART C: KINDS OF USES AND USERS NOT TAXED

Section	
150.301	Cross References
150.305	Effect of Limitation that Purchase Must be at Retail From a Retailer to be Taxable
150.306	Interim Use and Demonstration Exemptions
150.310	Exemptions to Avoid Multi-State Taxation
150.311	Commercial Distribution Fee Sales Tax Exemption
150.315	Non-resident Exemptions
150.320	Meaning of "Acquired Outside This State"
150.325	Charitable, Religious, Educational and Senior Citizens Recreational Organizations as Buyers
150.330	Governmental Bodies as Buyers
150.331	Persons Who Lease Tangible Personal Property to Exempt Hospitals
150.332	Persons Who Lease Tangible Personal Property to Governmental Bodies
150.335	Game or Game Birds Purchased at Game Breeding and Hunting Areas or Exotic

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

- Game Hunting Areas
- 150.336 Fuel Brought into Illinois in Locomotives
- 150.337 Food, Drugs, Medicines and Medical Appliances When Purchased for Use by a Person Receiving Medical Assistance under the Illinois Public Aid Code
- 150.340 Manufacturing Machinery and Equipment; Production Related Tangible Personal Property; Department Determination of Amount of Exemption

SUBPART D: COLLECTION OF THE USE TAX FROM USERS BY RETAILERS

- Section
- 150.401 Collection of the Tax by Retailers From Users
- 150.405 Tax Collection Brackets
- 150.410 Tax Collection Brackets for a 2¼% Rate of Tax (Repealed)
- 150.415 Tax Collection Brackets for a 2½% Rate of Tax (Repealed)
- 150.420 Tax Collection Brackets for a 2¾% Rate of Tax (Repealed)
- 150.425 Tax Collection Brackets for a 3% Rate of Tax (Repealed)
- 150.430 Tax Collection Brackets for a 3⅛% Rate of Tax (Repealed)
- 150.435 Tax Collection Brackets for a 3¼% Rate of Tax (Repealed)
- 150.440 Tax Collection Brackets for a 3½% Rate of Tax (Repealed)
- 150.445 Tax Collection Brackets for a 3¾% Rate of Tax (Repealed)
- 150.450 Tax Collection Brackets for a 4% Rate of Tax (Repealed)
- 150.455 Tax Collection Brackets for a 4⅛% Rate of Tax (Repealed)
- 150.460 Tax Collection Brackets for a 4¼% Rate of Tax (Repealed)
- 150.465 Tax Collection Brackets for a 4½% Rate of Tax (Repealed)
- 150.470 Tax Collection Brackets for a 4¾% Rate of Tax (Repealed)
- 150.475 Tax Collection Brackets for a 5% Rate of Tax (Repealed)
- 150.480 Tax Collection Brackets for a 5⅛% Rate of Tax (Repealed)
- 150.485 Tax Collection Brackets for a 5¼% Rate of Tax (Repealed)
- 150.490 Tax Collection Brackets for a 5½% Rate of Tax (Repealed)
- 150.495 Tax Collection Brackets for a 5¾% Rate of Tax (Repealed)
- 150.500 Tax Collection Brackets for a 6% Rate of Tax (Repealed)
- 150.505 Optional 1% Schedule (Repealed)
- 150.510 Exact Collection of Tax Required When Practicable
- 150.515 Prohibition Against Retailer's Representing That He Will Absorb The Tax
- 150.520 Display of Tax Collection Schedule (Repealed)
- 150.525 Methods for Calculating Tax on Sales of Items Subject to Differing Tax Rates

SUBPART E: RECEIPT FOR THE TAX

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

Section
150.601 Requirements

SUBPART F: SPECIAL INFORMATION FOR TAXABLE USERS

Section
150.701 When and Where to File a Return
150.705 Use Tax on Items that are Titled or Registered in Illinois
150.710 Procedure in Claiming Exemption from Use Tax
150.715 Receipt for Tax or Proof of Exemption Must Accompany Application for Title or
Registration
150.716 Display Certificates for House Trailers
150.720 Issuance of Title or Registration Where Retailer Fails or Refuses to Remit Tax
Collected by Retailer from User
150.725 Direct Payment of Tax by User to Department on Intrastate Purchase Under
Certain Circumstances
150.730 Direct Reporting of Use Tax to Department by Registered Retailers

SUBPART G: REGISTRATION OF OUT-OF-STATE RETAILERS

Section
150.801 When Out-of-State Retailers Must Register and Collect Use Tax
150.805 Voluntary Registration by Certain Out-of-State Retailers
150.810 Incorporation by Reference

SUBPART H: RETAILERS' RETURNS

Section
150.901 When and Where to File
150.905 Deduction for Collecting Tax
150.910 Incorporation by Reference
150.915 Itemization of Receipts from Sales and the Tax Among the Different States from
Which Sales are Made into Illinois

SUBPART I: PENALTIES, INTEREST, STATUTE OF LIMITATIONS
AND ADMINISTRATIVE PROCEDURES

Section
150.1001 General Information

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

SUBPART J: TRADED-IN PROPERTY

Section
150.1101 General Information

SUBPART K: INCORPORATION OF ILLINOIS
RETAILERS' OCCUPATION TAX REGULATIONS BY REFERENCE

Section
150.1201 General Information

SUBPART L: BOOKS AND RECORDS

Section
150.1301 Users' Records
150.1305 Retailers' Records
150.1310 Use of Signs to Prove Collection of Tax as a Separate Item
150.1315 Consequence of Not Complying with Requirement of Collecting Use Tax
Separately From the Selling Price
150.1320 Incorporation by Reference

SUBPART M: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section
150.1401 Claims for Credit – Limitations – Procedure
150.1405 Disposition of Credit Memoranda by Holders Thereof
150.1410 Refunds
150.1415 Interest

150.TABLE A Tax Collection Brackets

AUTHORITY: Implementing the Use Tax Act [35 ILCS 105] and authorized by Section 2505-90 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-90].

SOURCE: Adopted August 1, 1955; amended at 4 Ill. Reg. 24, p. 553, effective June 1, 1980; amended at 5 Ill. Reg. 5351, effective April 30, 1981; amended at 5 Ill. Reg. 11072, effective October 6, 1981; codified at 6 Ill. Reg. 9326; amended at 8 Ill. Reg. 3704, effective March 12, 1984; amended at 8 Ill. Reg. 7278, effective May 11, 1984; amended at 8 Ill. Reg. 8623,

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

effective June 5, 1984; amended at 11 Ill. Reg. 6275, effective March 20, 1987; amended at 14 Ill. Reg. 6835, effective April 19, 1990; amended at 15 Ill. Reg. 5861, effective April 5, 1991; emergency amendment at 16 Ill. Reg. 14889, effective September 9, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 1947, effective February 2, 1993; amended at 18 Ill. Reg. 1584, effective January 13, 1994; amended at 20 Ill. Reg. 7019, effective May 7, 1996; amended at 20 Ill. Reg. 16224, effective December 16, 1996; amended at 22 Ill. Reg. 21670, effective November 25, 1998; amended at 24 Ill. Reg. 10728, effective July 7, 2000; amended at 25 Ill. Reg. 953, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1821, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 5059, effective March 23, 2001; amended at 25 Ill. Reg. 6540, effective May 3, 2001; amended at 25 Ill. Reg. 10937, effective August 13, 2001; amended at 26 Ill. Reg. 971, effective January 15, 2002; amended at 26 Ill. Reg. 9902, effective June 24, 2002; amended at 27 Ill. Reg. 1607, effective January 15, 2003; emergency amendment at 27 Ill. Reg. 11209, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; emergency amendment at 28 Ill. Reg. 15266, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7079, effective April 26, 2005; emergency amendment at 32 Ill. Reg. 8806, effective May 29, 2008, for a maximum of 150 days; emergency expired October 25, 2008; amended at 32 Ill. Reg. 17554, effective October 24, 2008; amended at 32 Ill. Reg. 19149, effective December 1, 2008; amended at 38 Ill. Reg. 20022, effective October 1, 2014; amended at 39 Ill. Reg. 11085, effective July 21, 2015; amended at 40 Ill. Reg. 13471, effective September 12, 2016.

SUBPART B: DEFINITIONS

Section 150.201 General Definitions

["Act" means the Use Tax Act \[35 ILCS 105\].](#)

"Department" means the Department of Revenue.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, or a receiver, executor, trustee, conservator or other representative appointed by order of any court.

"Purchase at retail" means the acquisition of the ownership of, or title to, tangible personal property through a sale at retail.

"Purchaser" means anyone who, through a sale at retail, acquires the ownership of tangible personal property for a valuable consideration.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

"Retailer" means and includes every person engaged in the business of selling tangible personal property for use, and not for resale in any form. Effective October 1, 1974, a person who is the recipient of a grant or contract under Title VII of the Older Americans Act of 1965 (42 USC 3001 et seq.) and serves meals to participants in the Federal Nutrition Program for the Elderly in return for contributions established in amount by the individual participant pursuant to a schedule of suggested fees as provided for in the Federal Act is not a retailer under the Use Tax Act with respect to those transactions.

Nonprofit Sellers

A person whose activities are organized and conducted primarily as a not-for-profit service enterprise, and who engages in selling tangible personal property at retail (whether to the public or merely to members and their guests), shall be deemed to be a retailer with respect to those transactions, excepting only a person organized and operated exclusively for charitable, religious or educational purposes to the extent of sales by that person to its members, students, patients or inmates of tangible personal property to be used primarily for the purposes of that person, or to the extent of sales by that person of tangible personal property that is not sold or offered for sale by persons organized for profit.

Special Order Sales

A person who holds himself or herself out as being engaged (or who habitually engages) in selling tangible personal property at retail shall be deemed to be a retailer under this definition with respect to those sales (and not primarily in a service occupation), notwithstanding the fact that the person designs and produces that tangible personal property on special order for the purchaser and in such a way as to render the property of value only to that purchaser, if the tangible personal property so produced on special order serves substantially the same function as stock or standard items of tangible personal property that are sold at retail.

When Construction Contractor or Real Estate Developer is a Retailer

A construction contractor or real estate developer is a retailer under the Use Tax Act to the same extent to which he or she is a retailer under the Retailers' Occupation Tax Act, as described in 86 Ill. Adm. Code 130.1940.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

"Retailer maintaining a place of business in this State", or any like term, shall mean and include any retailer:

Having or maintaining within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether that place of business or agent or other representative is located here permanently or temporarily, or whether the retailer or subsidiary is licensed to do business in this State;

Beginning July 1, 2011, having a contract with a person located in this State under which:

the retailer sells the same or substantially similar line of products as the person located in this State and does so using an identical or substantially similar name, trade name, or trademark as the person located in this State; and

the retailer provides a commission or other consideration to the person located in this State based upon the sale of tangible personal property by the retailer.

The provisions of this paragraph shall apply only if the cumulative gross receipts from sales of tangible personal property by the retailer to customers in this State under all such contracts exceed \$10,000 during the preceding 4 quarterly periods ending on the last day of March, June, September, and December (Section 2 of the Act, definition of "retailer maintaining a place of business in this State", subparagraph 1.2);

Beginning January 1, 2015, having a contract with a person located in this State under which the person, for a commission or other consideration based upon the sale of tangible personal property by the retailer, directly or indirectly refers potential customers to the retailer by providing to the potential customers a promotional code or other mechanism that allows the retailer to track purchases referred by such persons. Examples of mechanisms that allow the retailer to track purchases referred by such persons include but are not limited to the use of a link on the person's

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

Internet website, promotional codes distributed through the person's hand-delivered or mailed material, and promotional codes distributed by the person through radio or other broadcast media. The provisions of this paragraph shall apply only if the cumulative gross receipts from sales of tangible personal property by the retailer to customers who are referred to the retailer by all persons in this State under such contracts exceed \$10,000 during the preceding 4 quarterly periods ending on the last day of March, June, September, and December. Although a retailer meeting the requirements set forth in Section 2 of the Act, definition of "retailer maintaining a place of business in this State", subparagraph 1.1, is presumed to be a retailer maintaining a place of business in Illinois, a retailer may rebut this presumption by maintaining in its records documentation that shows that persons with whom the retailer has agreements have not engaged in solicitation activities on behalf of the retailer in Illinois that are sufficient to meet the nexus standards of the United States Constitution during the preceding 4 quarterly periods. (Section 2 of the Act, definition of "retailer maintaining a place of business in this State", subparagraph 1.1) The following documentation is required in order to rebut this presumption:

Retailer Agreement. The retailer must have an agreement that prohibits persons operating under the agreement from engaging in any solicitation activities in Illinois that refer potential customers to the retailer, including, but not limited to, distributing flyers, coupons, newsletters and other printed promotional materials or electronic equivalents, verbal soliciting, initiating telephone calls, and sending e-mails or text messages. If the person in Illinois with whom the retailer has an agreement is an organization or corporation, such as a club or nonprofit group, the agreement must provide that the organization will maintain on its website information alerting its members to the prohibition against each of the solicitation activities described in this paragraph. The agreement must be maintained in the retailer's records and shall be made available to the Department for inspection or audit.

Annual Certification. The person or persons operating under the agreement in Illinois shall certify by January 1 of each year, under penalty of perjury, that they have not engaged in any prohibited solicitation activities in Illinois at any time during the previous

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

year. If the person in Illinois with whom the retailer has an agreement is an organization or corporation, the annual certification shall also include a statement from the organization or corporation, signed by an officer of the organization or corporation, certifying that its website includes information directed at its members alerting them to the prohibition against the solicitation activities described in this paragraph. The certification should be made on forms prescribed by the Department, must be completed and provided to the retailer, must be maintained in the retailer's records, and shall be made available to the Department for inspection or audit. If the retailer accepts a properly and timely completed certification in good faith and the retailer does not know or have reason to know that the certification is false or fraudulent, that certification will be conclusive proof that the person that provided the certification was in compliance with the agreement for the year covered by the certification. If the retailer fails to obtain the certifications from all persons operating under the agreements and fails to make those records available upon the Department's request, the presumption that the retailer is maintaining a place of business in Illinois will not be rebutted.

For the purposes of this definition, "advertisement" means a written, verbal, pictorial, or graphic announcement of goods or services for sale, employing leased or purchased space or time in print or electronic media, which is intended to communicate that information to the general public. Online advertising generated as a result of generic algorithmic functions that is anonymous and passive in nature (the advertisement is not directed to a specific person or intended to incite a person or persons to purchase tangible personal property from a specific retailer or retailers), such as ads tied to Internet search engines, banner ads, click-through ads, Cost Per Action ads, links to retailers' websites, and similar online advertising services, are advertisements and not solicitations.

For the purposes of this definition, "solicitation" means a direct or indirect communication to a specific person or persons, including emails or text messages, done in a manner that is intended and calculated to incite a person or persons to purchase tangible personal property from a specific retailer or retailers. Solicitation does not mean or include advertising.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

EXAMPLE 1: Corporation X is physically located in Illinois and maintains a website. Corporation X enters into agreements with one or more hiking gear and accessories retailers under which Corporation X maintains click-through advertisements or links to each retailer's website on Corporation X's website www.corporationx.com and Corporation X's webpage at www.socialnetwork.com/corporationx in return for commissions based upon the retailers' completed sales made to customers who click-through the ads or links on Corporation X's website and webpage. Corporation X also posts reviews at www.corporationx.com of the products sold through the click-through ads and links on its website and webpage. However, Corporation X does not engage in any solicitation activities in Illinois that refer potential customers to the retailer or retailers who have click-through ads or links on its website or webpage. Therefore, the retailer may successfully rebut the presumption that the retailer is maintaining a place of business in Illinois if all other qualifications in this definition are met.

EXAMPLE 2: Assume the same facts as Example 1, except that an individual representative of Corporation X or any other individual acting on behalf of Corporation X, including, but not limited to, an employee or independent contractor of Corporation X, engages in solicitation activities, such as soliciting customers in person, soliciting customers on the telephone, handing out flyers that are solicitations, or sending emails that are solicitations, while physically present in Illinois that refer potential Illinois customers to a retailer who has a link or other promotional code on Corporation X's website or webpage pursuant to Corporation X's agreement with that retailer. Therefore, the rebuttable presumption that the retailer is maintaining a place of business in Illinois applies to Corporation X's agreement if all other criteria are met, and the retailer will be required to collect tax.

Soliciting orders for tangible personal property by means of a telecommunication or television shopping system (which utilizes toll free numbers) which is intended by the retailer to be broadcast by cable television or other means of broadcasting, to consumers located in this State.

Pursuant to a contract with a broadcaster or publisher located in this State, soliciting orders for tangible personal property by means of

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

advertising which is disseminated primarily to consumers located in this State and only secondarily to bordering jurisdictions;

Soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this State or benefits from the location in this State of authorized installation, servicing, or repair facilities;

Being owned or controlled by the same interests which own or control any retailer engaging in business in the same or similar line of business in this State;

Having a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under this Section;

Pursuant to a contract with a cable television operator located in this State, soliciting orders for tangible personal property by means of advertising which is transmitted or distributed over a cable television system in this State; or

Engaging in activities in Illinois, which activities in the state in which the retail business engaging in such activities is located would constitute maintaining a place of business in that state. (Section 2 of the Use Tax Act) For the purpose of determining the state of domicile, the Department will look to the place at which the selling activity takes place.

It does not matter that an agent may engage in business on his or her own account in other transactions, nor that the agent may act as agent for other persons in other transactions, nor that the agent is not an employee but is an independent contractor acting as agent. The term "agent" is broader than the term "employee". "Agent" includes anyone acting under the principal's authority in an agency capacity.

"Sale at retail" means any transfer of the ownership of or title to tangible personal property to a purchaser, for the purpose of use, and not for the purpose of resale in any form as tangible personal property to the extent not first subjected to a use for

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

which it was purchased, for a valuable consideration; 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 by-product 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 by-product of manufacturing. "Sale at retail" includes any such transfer made for resale unless made in compliance with Section 2c of the Retailers' Occupation Tax Act [35 ILCS 120], as incorporated by reference into Section 12 of the Use Tax Act [35 ILCS 105]. Transactions whereby the possession of the property is transferred but the seller retains the title as security for payment of the selling price are sales.

"Selling price" means the consideration for a sale valued in money whether received in money or otherwise, including cash, credits, property other than as provided in this definition, and services, but not including the value of or credit given for traded-in tangible personal property when 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 interest or finance charges that appear as separate items on the bill of sale or sales contract nor 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 except as otherwise provided with respect to any cigarette tax imposed by a home rule unit, on account of the seller's tax liability under any local occupation tax administered by the Department, or, except as otherwise provided with respect to any cigarette tax imposed by a home rule unit on account of the seller's duty to collect from the purchasers, the tax that is imposed under any local use tax administered by the Department. "Selling price" shall include charges that are added to prices by sellers on account of the seller's liability under the Cigarette Tax Act on account of the seller's duty to collect, from the purchaser, the tax imposed under the Cigarette Use Tax Act and on account of the seller's duty to collect, from the purchaser, any cigarette tax imposed by a home rule unit. The phrase "like kind and character" shall be liberally construed (including but not limited to any form of motor vehicle for any form of motor vehicle, or any kind of farm or agricultural implement for any other kind of farm or agricultural implement), while not including a kind of item which, if sold at retail by that retailer, would be exempt from Retailers' Occupation Tax and Use Tax as an isolated or occasional sale.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

"Use" means the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, except that it does not include the sale of the property in any form as tangible personal property in the regular course of business to the extent that the property is not first subjected to a use for which it was purchased, and does not include the use of that property by its owner for demonstration purposes; 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 by-product of manufacturing. "Use" does not mean the interim use of tangible personal property by a retailer before he or she sells such tangible personal property and does not mean the physical incorporation of tangible personal property, to the extent not first subjected to a use for which it was purchased, as an ingredient or constituent, into other tangible personal property:

that is sold in the regular course of business; or

that the person incorporating the ingredient or constituent therein has undertaken at the time of purchase to cause to be transported in interstate commerce to destinations outside the State of Illinois; 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 by-product of manufacturing.

(Source: Amended at 40 Ill. Reg. 13471, effective September 12, 2016)

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENT

- 1) Heading of the Part: Meat and Poultry Inspection Act
- 2) Code Citation: 8 Ill. Adm. Code 125
- 3) Section Number: 125.190 Peremptory Action: Amendment
- 4) Reference to the specific State or Federal Court Order, Federal Rule or Statute that requires this Peremptory rulemaking: The Meat and Poultry Inspection Act [225 ILCS 650]; the Federal Meat Inspection Act (21 USC 661); and 81 FR 46570
- 5) Statutory Authority: The Meat and Poultry Inspection Act [225 ILCS 650]
- 6) Effective Date: September 16, 2016
- 7) A Complete Description of the Subjects and Issues Involved: In order to maintain an "equal to" status with the federal meat and poultry products inspection program as required by the Federal Meat Inspection Act and as required by Section 16 of the Meat and Poultry Inspection Act, the Department is adopting amendments from the federal meat inspection rules.

The Food Safety and Inspection Service (FSIS) is amending its regulations on ante-mortem inspection to remove a provision that permits establishments to set apart and hold for treatment veal calves that are unable to rise from a recumbent position and walk because they are tired or cold. FSIS is also amending its regulations to require all non-ambulatory disabled cattle to be promptly disposed of after they have been condemned. The provision that requires ante-mortem inspection to be conducted in pens is being removed. Thus, inspectors have the authority to conduct ante-mortem inspection and condemn non-ambulatory disabled veal calves the moment they arrive on the premises of the establishment.
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Date Filed with the Index Department: September 12, 2016
- 10) A copy of the peremptory rulemaking, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENT

- 11) Is this preemptory rulemaking in compliance with Section 5-50 of the Illinois Administrative Procedure Act. Yes
- 12) Are there any other rulemakings pending to this Part? No
- 13) Statement of Statewide Policy Objective: This preemptory amendment does not affect units of local government.
- 14) Information and questions regarding this preemptory rulemaking shall be directed to:

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

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

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

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENT

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER c: MEAT AND POULTRY INSPECTION ACTPART 125
MEAT AND POULTRY INSPECTION ACTSUBPART A: GENERAL PROVISIONS FOR BOTH
MEAT AND/OR POULTRY INSPECTION

Section	
125.10	Definitions
125.20	Incorporation by Reference of Federal Rules
125.30	Application for License; Approval
125.40	Official Number
125.50	Inspections; Suspension or Revocation of License
125.60	Administrative Hearings; Appeals (Repealed)
125.70	Assignment and Authority of Program Employees
125.80	Schedule of Operations; Overtime
125.90	Official Marks of Inspection, Devices and Certificates
125.100	Records and Reports
125.110	Exemptions
125.120	Disposal of Dead Animals and Poultry
125.130	Reportable Animal and Poultry Diseases
125.140	Detention; Seizure; Condemnation
125.141	Sanitation Standard Operating Procedures (SOP's)
125.142	Hazard Analysis and Critical Control Point (HACCP) Systems
125.143	Imported Products
125.144	Preparation and Processing Operations
125.145	Control of Listeria Monocytogenes in Ready-to-Eat Meat and Poultry Products
125.146	Consumer Protection Standards: Raw Products
125.147	Rules of Practice
125.148	Quantity of Contents Labeling and Procedures and Requirements for Accurate Weights
125.149	Label Approval

SUBPART B: MEAT INSPECTION

Section

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENT

125.150	Livestock and Meat Products Entering Official Establishments
125.160	Equine and Equine Products
125.170	Facilities for Inspection
125.180	Sanitation (Repealed)
125.190	Ante-Mortem Inspection
125.200	Post-Mortem Inspection
125.210	Disposal of Diseased or Otherwise Adulterated Carcasses and Parts
125.220	Humane Slaughter of Animals
125.230	Handling and Disposal of Condemned or Other Inedible Products at Official Establishment
125.240	Rendering or Other Disposal of Carcasses and Parts Passed for Cooking
125.250	Marking Products and Their Containers
125.260	Labeling, Marking and Containers
125.270	Entry into Official Establishment; Reinspection and Preparation of Product
125.280	Meat Definitions and Standards of Identity or Composition
125.290	Transportation
125.295	Imported Products (Repealed)
125.300	Special Services Relating to Meat and Other Products
125.305	Exotic Animal Inspection

SUBPART C: POULTRY INSPECTION

Section	
125.310	Application of Inspection
125.320	Facilities for Inspection
125.330	Sanitation
125.340	Operating Procedures
125.350	Ante-Mortem Inspection
125.360	Post-Mortem Inspection; Disposition of Carcasses and Parts
125.370	Handling and Disposal of Condemned or Inedible Products at Official Establishments
125.380	Labeling and Containers
125.390	Entry of Articles Into Official Establishments; Processing Inspection and Other Reinspections; Processing Requirements
125.400	Definitions and Standards of Identity or Composition
125.410	Transportation; Sale of Poultry or Poultry Products

AUTHORITY: Implementing and authorized by the Meat and Poultry Inspection Act [225 ILCS 650] and Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625].

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENT

SOURCE: Adopted at 9 Ill. Reg. 1782, effective January 24, 1985; preemptory amendment at 9 Ill. Reg. 2337, effective January 28, 1985; preemptory amendment at 9 Ill. Reg. 2980, effective February 20, 1985; preemptory amendment at 9 Ill. Reg. 4856, effective April 1, 1985; preemptory amendment at 9 Ill. Reg. 9240, effective June 5, 1985; preemptory amendment at 9 Ill. Reg. 10102, effective June 13, 1985; preemptory amendment at 9 Ill. Reg. 11673, effective July 17, 1985; preemptory amendment at 9 Ill. Reg. 13748, effective August 23, 1985; preemptory amendment at 9 Ill. Reg. 15575, effective October 2, 1985; preemptory amendment at 9 Ill. Reg. 19759, effective December 5, 1985; preemptory amendment at 10 Ill. Reg. 447, effective December 23, 1985; preemptory amendment at 10 Ill. Reg. 1307, effective January 7, 1986; preemptory amendment at 10 Ill. Reg. 3318, effective January 24, 1986; preemptory amendment at 10 Ill. Reg. 3880, effective February 7, 1986; preemptory amendment at 10 Ill. Reg. 11478, effective June 25, 1986; preemptory amendment at 10 Ill. Reg. 14858, effective August 22, 1986; preemptory amendment at 10 Ill. Reg. 15305, effective September 10, 1986; preemptory amendment at 10 Ill. Reg. 16743, effective September 19, 1986; preemptory amendment at 10 Ill. Reg. 18203, effective October 15, 1986; preemptory amendment at 10 Ill. Reg. 19818, effective November 12, 1986; preemptory amendment at 11 Ill. Reg. 1696, effective January 5, 1987; preemptory amendment at 11 Ill. Reg. 2930, effective January 23, 1987; preemptory amendment at 11 Ill. Reg. 9645, effective April 29, 1987; preemptory amendment at 11 Ill. Reg. 10321, effective May 15, 1987; preemptory amendment at 11 Ill. Reg. 11184, effective June 5, 1987; preemptory amendment at 11 Ill. Reg. 14830, effective August 25, 1987; preemptory amendment at 11 Ill. Reg. 18799, effective November 3, 1987; preemptory amendment at 11 Ill. Reg. 19805, effective November 19, 1987; preemptory amendment at 12 Ill. Reg. 2154, effective January 6, 1988; amended at 12 Ill. Reg. 3417, effective January 22, 1988; preemptory amendment at 12 Ill. Reg. 4879, effective February 25, 1988; preemptory amendment at 12 Ill. Reg. 6313, effective March 21, 1988; preemptory amendment at 12 Ill. Reg. 6819, effective March 29, 1988; preemptory amendment at 12 Ill. Reg. 13621, effective August 8, 1988; preemptory amendment at 12 Ill. Reg. 19116, effective November 1, 1988; preemptory amendment at 12 Ill. Reg. 20894, effective December 21, 1988; preemptory amendment at 13 Ill. Reg. 228, effective January 11, 1989; preemptory amendment at 13 Ill. Reg. 2160, effective February 13, 1989; amended at 13 Ill. Reg. 3696, effective March 13, 1989; preemptory amendment at 13 Ill. Reg. 15853, effective October 5, 1989; preemptory amendment at 13 Ill. Reg. 16838, effective October 11, 1989; preemptory amendment at 13 Ill. Reg. 17495, effective January 18, 1990; amended at 14 Ill. Reg. 3424, effective February 26, 1990; preemptory amendment at 14 Ill. Reg. 4953, effective March 23, 1990; preemptory amendment at 14 Ill. Reg. 11401, effective July 6, 1990; preemptory amendment at 14 Ill. Reg. 13355, effective August 20, 1990; preemptory amendment at 14 Ill. Reg. 16064, effective September 24, 1990; preemptory amendment at 14 Ill. Reg. 21060, effective May 29, 1991; preemptory amendment at 15 Ill. Reg. 620, effective January 2, 1991; preemptory amendment withdrawn at

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENT

15 Ill. Reg. 1574, effective January 2, 1991; preemptory amendment at 15 Ill. Reg. 3117, effective September 3, 1991; preemptory amendment at 15 Ill. Reg. 8714, effective May 29, 1991; amended at 15 Ill. Reg. 8801, effective June 7, 1991; preemptory amendment at 15 Ill. Reg. 13976, effective September 20, 1991; preemptory amendment at 16 Ill. Reg. 1899, effective March 2, 1992; amended at 16 Ill. Reg. 8349, effective May 26, 1992; preemptory amendment at 16 Ill. Reg. 11687, effective July 10, 1992; preemptory amendment at 16 Ill. Reg. 11963, effective July 22, 1992; preemptory amendment at 16 Ill. Reg. 12234, effective July 24, 1992; preemptory amendment at 16 Ill. Reg. 16337, effective October 19, 1992; preemptory amendment at 16 Ill. Reg. 17165, effective October 21, 1992; preemptory amendment at 17 Ill. Reg. 2063, effective February 12, 1993; preemptory amendment at 17 Ill. Reg. 15725, effective September 7, 1993; preemptory amendment at 17 Ill. Reg. 16238, effective September 8, 1993; preemptory amendment at 17 Ill. Reg. 18215, effective October 5, 1993; preemptory amendment at 18 Ill. Reg. 304, effective December 23, 1993; preemptory amendment at 18 Ill. Reg. 2164, effective January 24, 1994; amended at 18 Ill. Reg. 4622, effective March 14, 1994; preemptory amendment at 18 Ill. Reg. 6442, effective April 18, 1994; preemptory amendment at 18 Ill. Reg. 8493, effective May 27, 1994; amended at 18 Ill. Reg. 11489, effective July 7, 1994; preemptory amendment at 18 Ill. Reg. 12546, effective July 29, 1994; preemptory amendment at 18 Ill. Reg. 14475, effective September 7, 1994; amended at 18 Ill. Reg. 14924, effective September 26, 1994; preemptory amendment at 18 Ill. Reg. 15452, effective September 27, 1994; preemptory amendment at 19 Ill. Reg. 1342, effective January 27, 1995; preemptory amendment at 19 Ill. Reg. 4765, effective March 13, 1995; preemptory amendment at 19 Ill. Reg. 7067, effective May 8, 1995; preemptory amendment at 19 Ill. Reg. 14896, effective October 6, 1995; preemptory amendment at 19 Ill. Reg. 15766, effective November 10, 1995; preemptory amendment at 19 Ill. Reg. 16866, effective December 22, 1995; preemptory amendment at 20 Ill. Reg. 5091, effective March 19, 1996; preemptory amendment at 20 Ill. Reg. 10403, effective July 17, 1996; amended at 20 Ill. Reg. 11928, effective September 1, 1996; preemptory amendment at 20 Ill. Reg. 12634, effective September 5, 1996; preemptory amendment at 20 Ill. Reg. 15371, effective November 13, 1996; preemptory amendment at 21 Ill. Reg. 1221, effective January 14, 1997; preemptory amendment at 21 Ill. Reg. 1719, effective January 28, 1997; preemptory amendment at 21 Ill. Reg. 6609, effective May 20, 1997; amended at 21 Ill. Reg. 11494, effective August 1, 1997; preemptory amendment at 21 Ill. Reg. 11788, effective August 8, 1997; preemptory amendment at 21 Ill. Reg. 12686, effective August 28, 1997; preemptory amendment at 21 Ill. Reg. 14575, effective October 22, 1997; preemptory amendment at 22 Ill. Reg. 3602, effective February 2, 1998; preemptory amendment at 22 Ill. Reg. 5740, effective March 5, 1998; preemptory amendment at 22 Ill. Reg. 9384, effective May 15, 1998; preemptory amendment at 22 Ill. Reg. 20645, effective November 16, 1998; amended at 23 Ill. Reg. 450, effective January 1, 1999; preemptory amendment at 23 Ill. Reg. 3851, effective March 11, 1999; preemptory amendment at 23 Ill. Reg. 10880, effective August 19, 1999; preemptory amendment at 24 Ill. Reg. 3933, effective February 22, 2000; preemptory amendment at 24 Ill. Reg. 5699, effective

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENT

March 14, 2000; preemptory amendment at 24 Ill. Reg. 6734, effective April 14, 2000; amended at 24 Ill. Reg. 7197, effective April 27, 2000; preemptory amendment at 24 Ill. Reg. 14074, effective August 30, 2000; preemptory amendment at 24 Ill. Reg. 14451, effective September 15, 2000; preemptory amendment at 25 Ill. Reg. 7341, effective April 26, 2001; preemptory amendment at 25 Ill. Reg. 12434, effective September 13, 2001; preemptory amendment at 25 Ill. Reg. 15444, effective November 19, 2001; preemptory amendment at 26 Ill. Reg. 980, effective January 11, 2002; preemptory amendment at 26 Ill. Reg. 7750, effective May 10, 2002; amended at 27 Ill. Reg. 10205, effective July 1, 2003; preemptory amendment at 27 Ill. Reg. 13634, effective July 28, 2003; emergency amendment at 27 Ill. Reg. 14197, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; preemptory amendment at 27 Ill. Reg. 15172, effective September 15, 2003; preemptory amendment at 27 Ill. Reg. 17281, effective November 1, 2003; preemptory amendment at 27 Ill. Reg. 18270, effective November 14, 2003; amended at 28 Ill. Reg. 2131, effective February 1, 2004; preemptory amendment at 28 Ill. Reg. 3513, effective February 6, 2004; preemptory amendment at 28 Ill. Reg. 11934, effective August 5, 2004; preemptory amendment at 28 Ill. Reg. 15694, effective November 30, 2004; preemptory amendment at 28 Ill. Reg. 16368, effective December 6, 2004; preemptory amendment at 29 Ill. Reg. 2479, effective February 1, 2005; amended at 29 Ill. Reg. 5661, effective April 13, 2005; preemptory amendment at 29 Ill. Reg. 15645, effective October 7, 2005; amended at 29 Ill. Reg. 18432, effective October 28, 2005; preemptory amendment at 29 Ill. Reg. 20580, effective November 29, 2005; preemptory amendment at 29 Ill. Reg. 21058, effective December 21, 2005; preemptory amendment at 30 Ill. Reg. 2400, effective February 6, 2006; preemptory amendment at 30 Ill. Reg. 16081, effective September 25, 2006; preemptory amendment at 31 Ill. Reg. 5149, effective March 16, 2007; preemptory amendment at 31 Ill. Reg. 12624, effective August 20, 2007; preemptory amendment at 31 Ill. Reg. 16763, effective December 10, 2007; preemptory amendment at 32 Ill. Reg. 590, effective January 1, 2008; preemptory amendment at 32 Ill. Reg. 17831, effective October 30, 2008; preemptory amendment at 33 Ill. Reg. 1230, effective January 5, 2009; preemptory amendment at 33 Ill. Reg. 6338, effective April 17, 2009; preemptory amendment at 33 Ill. Reg. 12040, effective August 5, 2009; preemptory amendment at 35 Ill. Reg. 571, effective December 22, 2010; preemptory amendment at 35 Ill. Reg. 1802, effective January 14, 2011; preemptory amendment at 35 Ill. Reg. 19553, effective January 1, 2012; preemptory amendment at 36 Ill. Reg. 9264, effective June 6, 2012; amended at 36 Ill. Reg. 14664, effective October 1, 2012; preemptory amendment at 36 Ill. Reg. 17930, effective December 21, 2012; preemptory amendment at 37 Ill. Reg. 875, effective January 28, 2013; preemptory amendment at 37 Ill. Reg. 6870, effective May 6, 2013; preemptory amendment at 38 Ill. Reg. 4176, effective February 1, 2014; preemptory amendment at 38 Ill. Reg. 20825, effective October 20, 2014; preemptory amendment at 39 Ill. Reg. 502, effective December 22, 2014; amended at 40 Ill. Reg. 2739, effective January 22, 2016; amended at 40 Ill. Reg. 8696, effective June 17, 2016; preemptory amendment at 40 Ill. Reg. 13486, effective September 16, 2016.

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENT

SUBPART B: MEAT INSPECTION

Section 125.190 Ante-Mortem Inspection

- a) The Department incorporates by reference 9 CFR 309.1 through 309.4(a), 309.5 through 309.11, and 309.13 through 309.18 (2004; 69 FR 1862, effective January 12, 2004; 72 FR 38700, effective October 1, 2007; 74 FR 11463, effective April 17, 2009; [81 FR 46570, effective September 16, 2016](#)).
- b) In cases of emergency slaughter (see 9 CFR 311.27) and where the inspector cannot be contacted or is unable to return to the establishment, the owner of the animal shall obtain the services of a licensed veterinarian who shall perform an ante-mortem examination on the animal. If upon examination the animal shows no symptoms of disease or abnormal conditions that would prohibit its intended use as human food in accordance with the provisions of this Section, the veterinarian shall prepare a written statement to the effect that the animal is in compliance with ante-mortem requirements of this Section and can be slaughtered at the official establishment. The veterinarian's statement shall be kept on file by the official establishment in accordance with Section 125.100. The costs of the veterinary services shall be borne by the owner of the animal.
- c) The Department shall approve treatment programs for diseased animals providing the licensee provides the necessary holding pens where such animals can be kept apart from the other livestock awaiting slaughter and the owner of the animal(s) agrees to the treatment and assumes the cost of such treatment. Following treatment, the animal shall be released from slaughter at the request of the owner or of the official establishment and permitted to be transported from the establishment provided the animal was not infected with a reportable disease (see Section 125.130).
- d) An animal found in a comatose or semicomatose condition shall be set apart from the other livestock and held for further observation at the request of the owner or the official establishment.
- e) "Other responsible official supervision" shall mean under the supervision of a licensed veterinarian or a program employee of the U.S. Department of Agriculture.

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENT

- f) At the option of the owner of the animal, any animal identified as a suspect may be reinspected by a veterinarian as set forth in Section 9 of the Act or the animal shall be slaughtered and identified in accordance with the provisions of this Section.
- g) An animal will be withheld from slaughter to permit biological residues to be reduced in accordance with 9 CFR 309.16 when the owner informs the inspector that the animal was taking chemicals or biologics or there is evidence to suggest that the animal was taking chemicals or biologics (e.g., injection marks, chemical odor). The time period for holding such animal shall depend on the withdrawal period of the chemical or biologic that was administered the animal. The inspector shall permit the slaughter of such animal (see 9 CFR 309.16a) when requested by the official establishment or by the owner of the animal.
- h) The inspector shall approve the use by any establishment of any skin tattoo that contains a number identifying the animal or lot. The identifying number for the skin tattoo shall be assigned by the inspector.
- i) Reference to federal form FSIS 6150-1 shall mean Illinois form V-3. References in the incorporated language to 9 CFR 314 shall be interpreted to mean in accordance with Section 125.230.

(Source: Amended by preemptory rulemaking at 40 Ill. Reg. 13486, effective September 16, 2016)

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF EXPEDITED CORRECTION

- 1) Heading of the Part: General Procedures
- 2) Code Citation: 80 Ill. Adm. Code 1200
- 3) Section Number: 1200.5
- 4) Date Proposal published in *Illinois Register*: 40 Ill. Reg. 2414; February 5, 2016
- 5) Date Adoption published in *Illinois Register*: 40 Ill. Reg. 10892; August 12, 2016
- 6) Summary and Purpose of Expedited Correction: When adopted, the rulemaking listed an incorrect email address. The correct address is ILRB.filing@Illinois.gov.
- 7) Information and questions regarding this request shall be directed to:

Sarah Kerley
Deputy General Counsel
Administrative Law Judge
Illinois Labor Relations Board
One National Resources Way, 1st floor
Springfield IL 62702

217/785-4004
fax: 217/785-4146

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF EXPEDITED CORRECTION

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE C: LABOR RELATIONS
CHAPTER IV: ILLINOIS LABOR RELATIONS BOARDPART 1200
GENERAL PROCEDURES

Section	
1200.3	General Statement of Purpose
1200.5	Board Information and Business Hours
1200.7	Board Meetings
1200.10	Definitions
1200.20	Filing and Service of Documents
1200.30	Computation and Extensions of Time
1200.40	Authority of Administrative Law Judges
1200.45	Motions
1200.50	Recording of Hearings and Payment of Court Reporting Services
1200.60	Closing Arguments and Briefs Before An Administrative Law Judge
1200.70	Representation of Parties
1200.80	Ex Parte Communications
1200.90	Subpoenas
1200.100	Transfer of Jurisdiction
1200.105	Consolidation of Proceedings
1200.110	Amicus Curiae Briefs (Repealed)
1200.120	Voluntary Settlement or Adjustment of Disputes
1200.130	Rules of Evidence
1200.135	Appeals Procedures, Board Review and Court Review
1200.140	Briefs
1200.143	Declaratory Rulings
1200.145	Filing of Contracts
1200.150	Conflicts of Interest
1200.160	Variances and Suspensions of Rules
1200.170	Board Member Meeting Attendance by Means other than Physical Presence

AUTHORITY: Implementing and authorized by the Illinois Public Labor Relations Act [5 ILCS 315].

SOURCE: Emergency rule adopted at 8 Ill. Reg. 17314, effective September 11, 1984, for a maximum of 150 days; adopted at 9 Ill. Reg. 1846, effective January 25, 1985; amended at 11 Ill.

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF EXPEDITED CORRECTION

Reg. 6428, effective March 27, 1987; amended at 12 Ill. Reg. 20096, effective November 18, 1988; amended at 14 Ill. Reg. 19896, effective November 30, 1990; amended at 17 Ill. Reg. 15588, effective September 13, 1993; amended at 20 Ill. Reg. 7391, effective May 10, 1996; amended at 27 Ill. Reg. 7365, effective May 1, 2003; emergency amendment at 27 Ill. Reg. 15557, effective September 22, 2003, for a maximum of 150 days; emergency amendment expired February 18, 2004; amended at 28 Ill. Reg. 4166, effective February 19, 2004; emergency amendment at 28 Ill. Reg. 7540, effective May 12, 2004, for a maximum of 150 days; emergency expired October 8, 2004; amended at 28 Ill. Reg. 15154, effective November 1, 2004; emergency amendment at 37 Ill. Reg. 5897, effective April 22, 2013, for a maximum of 150 days; amended at 37 Ill. Reg. 14064, effective August 23, 2013; amended at 37 Ill. Reg. 20637, effective December 13, 2013; emergency amendment at 39 Ill. Reg. 10641, effective July 15, 2015, for a maximum of 150 days; amended at 39 Ill. Reg. 15803, effective November 25, 2015; amended at 40 Ill. Reg. 10892, effective August 1, 2016; expedited correction at 40 Ill. Reg. 13495, effective August 1, 2016.

Section 1200.5 Board Information and Business Hours

- a) The Springfield office of the Illinois Labor Relations Board is located at:
- One Natural Resources Way, First Floor
Springfield IL 62702
telephone: 217-785-3155
facsimile: 217-785-4146
- b) The Chicago office of the Board is located at:
- 160 N. LaSalle St., Suite S-400
Chicago IL 60601
telephone: 312-793-6400
facsimile: 312-793-6989
- c) The Board's website address is www.Illinois.gov/ilrb. The Board's designated email address for electronic filing purposes is ILRB.filing@Illinois.gov.
- d) The official business hours of the Board are 8:30 a.m. to 5:00 p.m., Monday through Friday.

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF EXPEDITED CORRECTION

(Source: Amended at 40 Ill. Reg. 10892, effective August 1, 2016; expedited correction at 40 Ill. Reg. 13495, effective August 1, 2016)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

Heading of the Part: Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment

Code Citation: 74 Ill. Adm. Code 900

Section Numbers: 900.60 900.70 900.100. 900.120 900.125

Date Originally Published in the *Illinois Register*: 5/6/16
40 Ill. Reg. 6891

At its meeting on September 6, 2016, the Joint Committee on Administrative Rules considered the above-referenced rulemaking and recommended that CMS and the Comptroller be more timely in reflecting new statutory requirements in their rules. The statute changing the interest payment threshold from 60 to 90 days took effect 6/30/11 and was applicable beginning 7/1/12.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

ILLINOIS COMMUNITY COLLEGE BOARD

Heading of the Part: Administration of the Illinois Public Community College Act

Code Citation: 23 Ill. Adm. Code 1501

Section Numbers: 1501.101 1501.507

Date Originally Published in the *Illinois Register*: 5/6/16
40 Ill. Reg. 6923

At its meeting on September 6, 2016, the Joint Committee on Administrative Rules considered the above-referenced rulemaking and recommended that ICCB be more timely in implementing new statute. PA 96-194, which is being implemented by this rulemaking, became effective 1/1/10.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

OFFICE OF THE COMPTROLLER

Heading of the Part: Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment

Code Citation: 74 Ill. Adm. Code 330

Date Originally Published in the *Illinois Register*: 5/20/16
40 Ill. Reg. 7519

At its meeting on September 6, 2016, the Joint Committee on Administrative Rules considered the above-referenced rulemaking and recommended that CMS and the Comptroller be more timely in reflecting new statutory requirements in their rules. The statute changing the interest payment threshold from 60 to 90 days took effect 6/30/11 and was applicable beginning 7/1/12.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 40, Issue 39 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

8 - 30	.....	13289
8 - 35	.....	13293
11 - 1800	.....	13299
77 - 730	.....	13309
77 - 735	.....	13315
77 - 738	.....	13336
77 - 740	.....	13358
77 - 743	.....	13381

ADOPTED RULES

77 - 840	9/12/2016	13397
86 - 100	9/7/2016	13432
86 - 130	9/9/2016	13448
86 - 150	9/12/2016	13471

PEREMPTORY RULES

8 - 125	9/16/2016	13486
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**REQUEST FOR EXPEDITED
CORRECTION**

80 - 1200	13495
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JCAR REVIEW OF EXISTING RULES

STATEMENT OF RECOMMENDATIONS

74 - 900	13499
23 - 1501	13500
74 - 330	13501

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