

2003

# ILLINOIS

## REGISTER

RULES  
OF GOVERNMENTAL  
AGENCIES



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**Editor’s Notes:** The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are (End of March, June, Sept, Dec) as follows:

Issue 15 - April	11, 2003: Data through	March	31, 2003 (1 <sup>st</sup> Quarter)
Issue 28 - July	11, 2003: Data through	June	30, 2003 (2nd Quarter)
Issue 41 - October	10, 2003: Data through	September	29, 2003 (3rd Quarter)
Issue 2 - January	9, 2004: Data through	December	29, 2003 (Annual)

**EDITOR'S NOTE:**

In **Volume 27 Issue 1**, the Office of the Secretary of State Index Department published the Administrative Code Division’s notification and timetable for the recodification of the Illinois Administrative Code In Accordance With (I.A.W.) (1 Ill. Admn. Code 100). Upon review of the Department's information system's compatibility with the Illinois Legislative Information Service information's systems, the Index Department has opted to suspend Code recodification activities for state agencies until further notice. The Index Department and LIS will accept any comments and questions regarding this action or other issues related to this subject.

## 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. The Register will also contain the Cumulative Index and Sections Affected Indices will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are the end of March, June, Sept, Dec.

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

The Register is a weekly update 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'

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## 2003 REGISTER SCHEDULE VOLUME # 27

Issue#	Copy Due by 4:30 pm	Publication Date	Issue#	Copy Due by 4:30 pm	Publication Date
Issue 1	December 23, 2002	January 03, 2003	Issue 38	September 08, 2003	September 19, 2003
Issue 2	December 31, 2002	January 10, 2003	Issue 39	September 15, 2003	September 26, 2003
Issue 3	January 06, 2003	January 17, 2003	Issue 40	September 22, 2003	October 03, 2003
Issue 4	January 13, 2003	January 24, 2003	Issue 41	September 29, 2003	October 10, 2003
Issue 5	January 21, 2003	January 31, 2003	Issue 42	October 06, 2003	October 17, 2003
Issue 6	January 27, 2003	February 07, 2003	Issue 43	October 14, 2003	October 24, 2003
Issue 7	February 03, 2003	February 14, 2003	Issue 44	October 20, 2003	October 31, 2003
Issue 8	February 10, 2003	February 21, 2003	Issue 45	October 27, 2003	November 07, 2003
Issue 9	February 18, 2003	February 28, 2003	Issue 46	November 03, 2003	November 14, 2003
Issue 10	February 24, 2003	March 07, 2003	Issue 47	November 10, 2003	November 21, 2003
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Issue 34	August 11, 2003	August 22, 2003			
Issue 35	August 18, 2003	August 29, 2003			
Issue 36	August 25, 2003	September 05, 2003			
Issue 37	September 02, 2003	September 12, 2003			

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## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Conditions of Employment
- 2) Code Citation: 80 Illinois Administrative Code 303
- 3) Section Numbers:      Proposed Action:  
303.149                      New Section
- 4) Statutory Authority: Implementing and authorized by the Personnel Code [20 ILCS 415]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed new section creates a cross reference to the Organ Donor Leave as proposed in 80 Illinois Administrative Code 332. The Organ Donor Leave will govern the operation of plans allowing time off with pay for State employees who donate an organ, bone marrow, blood, or blood platelets pursuant to the Organ Donor Leave Act, P.A. 92-754, effective January 1, 2003.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These proposed rules neither create nor expand any State mandate on units of local government, school districts or community college districts.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Ben Bagby  
Illinois Department of Central Management Services  
720 Stratton Office Building  
Springfield IL 62706  
217/782-9669

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 12) 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: A timekeeping code will be established for an Organ Donor Leave.
  - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2003

The full text of the Proposed Rules begins on the next page.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND  
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## NOTICE OF PROPOSED AMENDMENTS

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## SUBPART F: TUITION REIMBURSEMENT

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

## Section 303.390 Tuition Reimbursement

AUTHORITY: Implementing and authorized by the Personnel Code [20 ILCS 415].

SOURCE: Filed May 29, 1975; amended at 3 Ill. Reg. 22, p. 78, effective June 1, 1979; amended at 3 Ill. Reg. 26, p. 199, effective July 1, 1979; emergency amendment at 3 Ill. Reg. 48, p. 188, effective January 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 11, p. 70, effective March 1, 1980; amended at 4 Ill. Reg. 15, p. 216, effective March 31, 1980; amended at 4 Ill. Reg. 22, p. 227, effective June 1, 1980; amended at 5 Ill. Reg. 8029, effective August 1, 1981; codified at 7 Ill. Reg. 13209; emergency amendment at 8 Ill. Reg. 329, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7788, effective May 23, 1984; amended at 14 Ill. Reg. 3433, effective February 27, 1990; emergency amendment at 15 Ill. Reg. 5076, effective March 20, 1991, for a maximum of 150 days; emergency expired August 17, 1991; amended at 15 Ill. Reg. 5214, effective April 2, 1991; amended at 15 Ill. Reg. 14067, effective September 12, 1991; amended at 16 Ill. Reg. 8368, effective May 21, 1992; amended at 17 Ill. Reg. 5587, effective March 29, 1993; amended at 19 Ill. Reg. 8130, effective June 7, 1995; amended at 19 Ill. Reg. 11775, effective August 7, 1995; emergency amendment at 21 Ill. Reg. 11291, effective July 22, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 15454, effective November 24, 1997; amended at 23 Ill. Reg. 13815, effective November 4, 1999; emergency amendment at 24 Ill. Reg. 16694, effective October 27, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 4847, effective March 19, 2001; emergency amendment at 25 Ill. Reg. 12429, effective September 14, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 1138, effective January 18, 2002; amended at 27 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART B: LEAVE OF ABSENCE

[Section 303.149 Organ Donor Leave](#)

[Leaves of absence shall be allowed to employees who donate organ or bone marrow as provided in 80 Illinois Administrative Code 332.](#)

(Source: New Section added at 27 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Organ Donor Leave
- 2) Code Citation: 80 Illinois Administrative Code 332
- 3) Section Numbers:      Proposed Action:  

332.1	New Section
332.2	New Section
332.3	New Section
332.4	New Section
332.5	New Section
332.6	New Section
332.7	New Section
- 4) Statutory Authority: Implementing and authorized by the Organ Donor Leave Act (P.A. 92-754, effective January 1, 2003)
- 5) A Complete Description of the Subjects and Issues Involved: This Part governs the operation of plans allowing time off with pay for State employees who donate an organ, bone marrow, blood, or blood platelets. This Part does not apply to time off taken for the purpose of preliminary compatibility testing and/or screening for organ or bone marrow transplant.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These proposed rules neither create nor expand any State mandate on units of local government, school districts or community college districts.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED RULES

Ben Bagby  
Illinois Department of Central Management Services  
720 Stratton Office Building  
Springfield IL 62706  
217/782-9669

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
  - D) Reporting, bookkeeping or other procedures required for compliance: A timekeeping code will be established for an Organ Donor Leave.
  - E) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2003

The full text of the Proposed Rules begins on the next page.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED RULES

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND POSITION CLASSIFICATIONS  
CHAPTER 1: DEPARTMENT OF CENTRAL MANAGEMENT SERVICESPART 332  
ORGAN DONOR LEAVE

## Section

332.1	Title
332.2	Authority
332.3	Purpose
332.4	Definitions
332.5	Organ Donor
332.6	Blood Donor
332.7	Impact on Accumulated Benefit Time

AUTHORITY: Implementing and authorized by the Organ Donor Leave Act (P. A. 92-754, effective January 1, 2003).

SOURCE: Adopted at 27 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 332.1 Title

This Part may be cited as the Organ Donor Leave Rules.

## Section 332.2 Authority

This Part is promulgated pursuant to the Organ Donor Leave Act, Public Act 92-754, effective January 1, 2003.

## Section 303.3 Purpose

This Part governs the operation of plans allowing time off with pay for State employees who donate an organ, bone marrow, blood, or blood platelets. This Part does not apply to time off taken for the purpose of preliminary compatibility testing and/or screening for organ or bone marrow transplant.

## Section 332.4 Definitions

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED RULES

“Agency” means any branch, department, board, committee, or commission of State government, but does not include units of local government, school districts, or boards of election commissioners.

“Participating employee” means a permanent full-time or part-time employee who has been employed by an agency for a period of 6 months or more and who donates an organ, bone marrow, blood, or blood platelets.

“Medical documentation” as used in this Part for purposes of donating an organ or bone marrow means a written statement by a physician or medical practitioner licensed under the Medical Practice Act or under similar laws of Illinois or another state or country.

“Medical documentation” as used in this Part for purposes of donating blood or platelets means a written statement from the American Red Cross or blood bank indicating that the employee donated or attempted to donate blood or blood platelets.

## Section 332.5 Organ Donor

- a) On request, a participating employee may be entitled to Organ Donor Leave with pay. An employee may use:
  - 1) up to 30 days of Organ Donor Leave in any 12-month period to serve as a bone marrow donor; or
  - 2) up to 30 days of Organ Donor Leave in any 12-month period to serve as an organ donor.
- b) An employee may use Organ Donor Leave only after obtaining approval from the employee’s agency. Medical documentation of the proposed organ or bone marrow donation shall be required before leave is approved by the employing agency.

## Section 332.6 Blood Donor

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED RULES

- a) On request, a participating employee may be entitled to use:
  - 1) up to one hour to donate or attempt to donate blood every 56 days, and
  - 2) up to 2 hours to donate or attempt to donate blood platelets in accordance with appropriate medical standards established by the American Red Cross or other nationally recognized standards. Leave to donate blood platelets may not be granted more than 24 times in a 12-month period.
- b) An employee may be required to submit medical documentation to the employee's agency after donating or attempting to donate blood or blood platelets.

## Section 332.7 Impact on Accumulated Benefit Time

An employee will not be required to use accumulated sick or vacation leave benefit time before becoming eligible for any provision mentioned in this Part.

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Telephone Assistance Programs
- 2) Code Citation: 83 Ill. Adm. Code 757
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
757.200	Amendment
- 4) Statutory Authority: Implementing Sections 13-301 and 13-301.1 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/13-301, 13-301.1 and 10-101].
- 5) A Complete Description of the Subjects and Issues Involved: The current language in Section 757.200(a) restricts investments by the Universal Telephone Assistance Corporation ("UTAC"). The rule restricts UTAC to investing funds in securities backed by the United States government. UTAC and Commission Staff recommend that the Universal Telephone Service Assistance Program administrator be allowed to invest in securities backed by the United States government or its agencies, investment grade bonds with remaining terms to maturity of three years or less, mutual funds that invest no less than 80% of their assets in bonds backed by the United States government or its agencies and investment grade bonds, with weighted-average remaining terms to maturity of three years or less, FDIC-insured certificates of deposit, FDIC-insured money market accounts, and other cash equivalent FDIC-insured investments. It is the opinion of Staff and UTAC that this will allow UTAC to earn a higher return on its investments and extend the life of the program. At the end of December 1999, UTAC projected that it could continue to offer supplemental assistance for approximately 15 years. In 2001, due to the dramatically increased levels of participation, UTAC projected a remaining pool life of approximately 5 ½ years. Using the most current data, UTAC projects the life of the pool to be approximately 18 months.
- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED AMENDMENT

- 10) Statement of Statewide Policy Objectives: These proposed amendments neither create nor expand any State mandate on units of local government, school districts, or community college districts.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Comments should be filed, within 45 days after the date of this issue of the *Illinois Register* in Docket 03-0010, with:

Chief Clerk  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield IL 62701  
(217)782-7434

- 12) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not for profit corporations affected: These amendments will affect any subject jurisdictional entities that are also small businesses as defined in the Illinois Administrative Procedure Act. These amendments will not affect any small municipalities or not for profit corporations.
  - B) Reporting, bookkeeping or other procedures required for compliance: No new procedures are necessary for compliance with the proposed amendments.
  - C) Types of professional skills necessary for compliance: Managerial skills.
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Commission did not anticipate the need for this amendment at that time.

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

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED AMENDMENT

TITLE 83: PUBLIC UTILITIES  
CHAPTER I: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER f: TELEPHONE UTILITIESPART 757  
TELEPHONE ASSISTANCE PROGRAMS

## SUBPART A: GENERAL PROVISIONS

## Section

757.10	Definitions
757.15	Dispute Procedures

## SUBPART B: LINK UP PROGRAM

## Section

757.100	Link Up Service Requirement
757.105	Link Up Recovery Mechanism
757.110	Link Up Publicity
757.115	Link Up Application Procedure and Processing
757.120	Link Up Filing Requirements
757.125	Link Up Eligibility
757.130	Income Certification

## SUBPART C: UNIVERSAL TELEPHONE SERVICE ASSISTANCE PROGRAM

## Section

757.200	Service Requirement
757.205	UTSAP Funding
757.210	UTSAP Recovery
757.215	UTSAP Administrator
757.220	UTSAP Contribution Solicitation and Program Publicity
757.225	UTSAP Eligibility
757.230	UTSAP Application Procedure and Processing
757.235	UTSAP Income Certification
757.240	Recertification (Repealed)
757.245	UTSAP Filing Requirements

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## SUBPART D: STAFF LIAISON

Section  
757.300 Staff Liaison

## SUBPART E: LIFELINE SERVICE

Section  
757.400 Lifeline Service Requirement  
757.405 Lifeline Recovery Mechanism  
757.410 Lifeline Publicity  
757.415 Lifeline Application Procedures and Processing  
757.420 Lifeline Filing Requirements  
757.425 Lifeline Eligibility  
757.430 Income Certification and Recertification

757.Exhibit A LEC Quarterly Report to Commission  
757.Exhibit B Monthly LEC Supplemental Assistance Charge and Contributions Report  
757.Exhibit C Quarterly UTSAP Administrator Report to Commission  
757.Exhibit D Lifeline Recertification Ineligibility Notice  
757.Exhibit E Link Up/Lifeline Programs Certification Form

AUTHORITY: Implementing Sections 13-301 and 13-301.1 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/13-301, 13-301.1 and 10-101].

SOURCE: Adopted at 13 Ill. Reg. 14366, effective October 1, 1989; amended at 14 Ill. Reg. 17923, effective October 15, 1990; emergency repealer at 15 Ill. Reg. 5082, effective March 25, 1991, for a maximum of 150 days; repealed at 15 Ill. Reg. 11929, effective August 12, 1991; adopted at 16 Ill. Reg. 17981, effective December 15, 1992; amended at 20 Ill. Reg. 15257, effective December 1, 1996; emergency amendments at 21 Ill. Reg. 16416, effective December 10, 1997 for a maximum of 150 days; amended at 22 Ill. Reg. 8810, effective May 9, 1998; amended at 23 Ill. Reg. 11875, effective October 1, 1999; amended at 27 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART C: UNIVERSAL TELEPHONE SERVICE ASSISTANCE PROGRAM

Section 757.200 Service Requirement

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED AMENDMENT

- a) Each LEC shall participate in the Universal Telephone Service Assistance Program (UTSAP) as required and authorized by Section 13-301.1 of the Public Utilities Act and as ordered by the Commission. All voluntary contributions received by a LEC under Section 757.205 from the date of initial participation until a determination is made by the Commission under Section 757.200(b) shall be forwarded to the UTSAP Administrator consistent with the provisions of Section 757.210(d). The UTSAP Administrator shall invest these funds in:
- 1) Securities ~~securities~~ backed by the United States government or its agencies;
  - 2) Investment grade bonds with remaining terms to maturity of three years or less;
  - 3) Mutual funds that invest no less than 80% of their assets in bonds backed by the United States government or its agencies;
  - 4) Investment grade bonds, with weighted-average remaining terms to maturity of three years or less; or
  - 5) Federal Deposit Insurance Corporation (FDIC)-insured certificates of deposit, FDIC-insured money market accounts, and other cash equivalent FDIC-insured investments.
- b) On July 1 of each year the UTSAP Administrator shall file with the Commission a petition requesting the Commission to determine the amount of supplemental assistance, if any, the LECs shall provide each eligible new subscriber or eligible subscriber under the programs set forth in subsection (c) of this Section. The petition shall contain recommendations of the UTSAP Administrator as provided in Section 757.215(e)(5). The Commission may enter an order without a hearing; however, a hearing shall be held if requested by a party or by Staff within 30 days after the date the petition is filed, and a hearing may also be held on the Commission's or the Hearing Examiner's own motion. The Commission shall determine, subject to the availability of funds, the amount of supplemental assistance, if any, the LECs shall provide each eligible new subscriber or eligible subscriber under the programs set forth in subsection (c) of this Section.
- c) The UTSAP may provide assistance or, in the case of customers of eligible telecommunications carriers, supplement the assistance provided by the Link Up

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Program as described in Subpart B and/or the Lifeline Program as described in Subpart D through:

- 1) a waiver of the telephone service installation charges for eligible new subscribers, which, in the case of eligible telecommunications carriers, is in addition to that provided in Section 757.100(b);
  - 2) a waiver of all or a portion of the local exchange service obligation of eligible subscribers or eligible new subscribers, which, in the case of eligible telecommunications carriers, is in the form of State Lifeline service support; or
  - 3) a combination of both subsections (c) (1) and (2) above as ordered by the Commission under subsections (b), (d), and (e).
- d) Limitation of eligibility
- 1) If the Commission determines that a waiver of all or a portion of the local exchange service obligation should be provided by the UTSAP, in the form of State Lifeline service support or otherwise, the Commission may, if it deems necessary, limit eligibility under Section 757.425(a) to:
    - A) one or more of the individual Proxy Programs identified in the definition of "Proxy Programs" in Section 757.10, or
    - B) one or more subprograms within, or components of, an individual Proxy Program.
  - 2) Any proposals to limit eligibility pursuant to this subsection (d) shall be made as part of the petition filed annually under subsection (b) of this Section.
  - 3) The Commission shall adopt a proposal that limits eligibility for the Lifeline Program to one or more Proxy Programs or subprograms or components thereof pursuant to this subsection (d) only if it finds that:
    - A) participation in the Proxy Program, subprogram, or component thereof can be verified;

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- B) the funds available to the UTSAP from voluntary contributions are sufficient and predictable, so as to permit the UTSAP to provide State Lifeline support to all subscribers or all new subscribers within the Proxy Program, subprogram, or component on an on-going basis;
  - C) the proposal will increase accessibility to telephone service;
  - D) the proposal adequately considers the needs of and potential benefits to participants in the Proxy Programs; and
  - E) the proposal establishes narrowly targeted qualification criteria that are based solely on income or factors directly related to income, consistent with 47 CFR 54.409 as of October 1, 1997. This incorporation does not include any later amendments or editions.
- e) The Commission, on its own motion, or based upon a petition filed by the UTSAP Administrator, may order the LECs to temporarily suspend payment of or temporarily reduce the amount of the supplemental assistance provided under the programs set forth in Section 757.200(c), if the total program costs exceed, or will exceed, the funds available from contributions specified in Section 757.205. If the Commission suspends or reduces the amount of payments under this Section, the Commission shall determine, subject to the availability of funds, the amount of supplemental assistance, if any, the LECs shall provide each eligible new subscriber or eligible subscriber under the programs set forth in subsection (c) of this Section.

(Source: Amended at 27 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED RULE

- 1) Heading of the Part: Substance Abuse Treatment and Intervention Services for Criminal Justice Clients
- 2) Code Citation: 77 Ill. Adm. Code 2061
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2061.101	New
2061.103	New
2061.201	New
2061.203	New
2061.301	New
2061.303	New
2061.305	New
2061.307	New
2061.309	New
2061.311	New
2061.313	New
2061.315	New
2061.401	New
2061.403	New
2061.405	New
2061.407	New
2061.411	New
2061.413	New
2061.415	New
2061.417	New
2061.419	New
2061.501	New
2061.503	New
2061.505	New
2061.507	New
2061.509	New
2061.511	New
2061.513	New
- 4) Statutory Authority: Implementing and authorized by Section 15-5 of the Illinois Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301/15-5].
- 5) A Complete Description of the Subjects and Issues involved: This proposed rulemaking is a cooperative effort of DHS' Office of Alcoholism and Substance Abuse and the

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Illinois Department of Corrections. These two agencies have partnered together for nearly 15 years to develop and implement a continuum of substance abuse care services for inmates and parolees. Existing Department rules found at 77 Ill. Adm. Code 2060 outline a number of requirements that are extremely difficult to impose within penal institutions. Department of Corrections contractual service providers often request exceptions to the Department's rules at 77 Ill. Adm. Code 2060 in order to meet the unique requirements within the prison setting. This proposed rulemaking creates a best practice for substance abuse treatment in the prison setting. The proposed rules seek to standardize services to inmates and parolees, and memorialize clear expectations that will enable effective monitoring.

- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed rulemaking contain incorporations by reference? Yes
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days of the date of this issue of the Illinois Register. All requests and comments should be submitted in writing to:  
  
Karl Menninger, Acting Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
Harris Building, 3<sup>rd</sup> Floor  
Springfield, Illinois 62762  
(217) 785-9772
- 12) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Providers of substance abuse treatment services to inmates and parolees.

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- B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 13) Regulatory agenda on which this rulemaking was summarized: This rulemaking will appear on the January 2003 Regulatory Agenda.

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED RULE

TITLE 77: PUBLIC HEALTH

CHAPTER X: DEPARTMENT OF HUMAN SERVICES

SUBCHAPTER d: LICENSURE

PART 2061  
SUBSTANCE ABUSE TREATMENT AND INTERVENTION SERVICES  
FOR CRIMINAL JUSTICE CLIENTS

SUBPART A: GENERAL REQUIREMENTS

Section

- 2061.101 Applicability
- 2061.103 Incorporation by Reference and Definitions

SUBPART B: LICENSURE REQUIREMENTS

Section

- 2061.201 Types of Licenses
- 2061.203 Categories of Licensure

SUBPART C: REQUIREMENTS – ALL LICENSES

Section

- 2061.301 Federal, State, and Local Regulations
- 2061.303 Cessation of Service
- 2061.305 Clinical Staff Qualifications and Requirements
- 2061.307 Department of Corrections Staff Training Requirements
- 2061.309 Department of Corrections Personnel Requirements
- 2061.311 Service Fee Exemption
- 2061.313 Client Rights
- 2061.315 Client Records

SUBPART D: REQUIREMENTS – DEPARTMENT OF CORRECTIONS TREATMENT

Section

- 2061.401 Treatment Services
- 2061.403 Client Screening and Identification

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- 2061.405 Medical Services/Infectious Disease Control
- 2061.407 Assessment for Client Placement
- 2061.409 Assessment for Treatment Planning
- 2061.411 Treatment Plans
- 2061.413 Group Treatment
- 2061.415 Treatment Plan Reviews
- 2061.417 Progress Notes and Documentation of Service Delivery
- 2061.419 Continuing Treatment and/or Continuing Recovery Care and Discharge Planning

SUBPART E: REQUIREMENTS – DEPARTMENT OF CORRECTIONS  
DESIGNATED PROGRAM – CLINICAL RE-ENTRY MANAGEMENT

## Section

- 2061.501 General Requirements
- 2061.503 Pre-release Engagement
- 2061.505 Assessment and Service Plan
- 2061.507 Community Tracking/Monitoring of Clinical Progression
- 2061.509 Progress Reports
- 2061.511 Clinical Re-entry Documentation
- 2061.513 Client Discharge from Clinical Re-entry Management

AUTHORITY: Implementing and authorized by Section 15-5 of the Illinois Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301/15-5].

SOURCE: Adopted at 27 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL REQUIREMENTS

## Section 2061.101      Applicability

This Part shall apply to all persons engaged in providing substance abuse treatment and intervention services, as defined in this Part, to individuals who are incarcerated in facilities (excluding adult transitional or work release centers) operated by the Illinois Department of Corrections (hereafter referred to as “DOC”), and intervention services to parolees as defined in this Part.

## Section 2061.103      Incorporation by Reference and Definitions

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This Part shall include those definitions specified in 77 Ill. Adm. Code 2060 (Alcoholism and Substance Abuse Treatment and Intervention Licenses). In cases where new definitions of like terms appear, this Part shall supercede.

“Admission” means what occurs after a client has completed screening by the DOC, has completed an assessment, received placement into a level of intensity, and been accepted for and begins such treatment.

“Age appropriate” means services that are offered that are consistent with the client’s chronological and emotional comprehension.

“Adult” means a person who is under the custody of DOC and either housed in adult facilities, or on adult parole status.

“Anger management” means education designed to teach techniques to manage rage and prevent violence.

“Assessment” means the process of collecting and professionally interpreting data and information from an individual and/or collateral sources, with the individual’s permission, about alcohol and other drug use and its consequences as a basis for determining a diagnostic impression of a substance use disorder, determining the severity of the disorder and co-morbid conditions and identifying the intensity of substance abuse treatment, as well as needs for other services.

“Client” means a person who receives services as set forth in this Part.

“Clinical re-entry management” means activities designed to serve clients involved with or who are parolees of DOC substance abuse treatment programs. These services are designed to intervene and address multiple problems, often chronic in nature, presented by the client at the time of release to the community and include referrals to licensed community-based substance abuse treatment providers for the purpose of continuing treatment and/or recovery.

“Clinical staff” means any person who provides substance abuse treatment or intervention services as set forth in this Part.

“Cognitive approach” means the examination of thoughts and beliefs.

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“Continuing recovery plan” means activities developed with the client prior to discharge from facility treatment programs after all goals have been completed. Such activities include support groups, linkages to licensed community-based substance abuse treatment providers and other necessary follow-up activities that will support and enhance client progress to date.

“Continuum of care” means a structure of interlinked substance abuse treatment services (either offered by one licensee or through linkage agreements with other licensees) that is designed so a client’s changing needs will be met as that individual moves through the treatment and recovery process.

“Continuing treatment” means a plan developed with the client prior to transfer from one facility to another or upon discharge from a facility substance abuse treatment program when all goals are not completed. This plan identifies goals that require completion, recommends continuing substance abuse treatment at a specified intensity level, and upon the client’s release from a facility substance abuse treatment program links the client to a licensed community-based substance abuse treatment program. It shall identify other recommended activities, and other necessary follow-up activities that will maximize the value of facility substance abuse treatment and move the client toward completion of identified goals.

“Department” means the Department of Human Services.

“Diagnostic impression” means an initial determination of substance abuse or dependence resulting from an assessment that is used to develop the initial treatment plan.

“Discharge” means the point at which the client’s facility substance abuse treatment is terminated either by successful completion or by some other action initiated by the client and/or the organization.

“Facility” means an area designed to provide substance abuse treatment and intervention services, as specified in this Part, in any DOC State-owned or leased office space, program sites, or correctional facilities that are used to house juveniles or adults.

“Gender appropriate” means that services are geared to address specific areas unique to males or females.

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“Juvenile” means a person who is under the custody of the Department of Corrections, Juvenile Division, or on juvenile parole status.

“Parole” means a period of mandatory supervised release.

“Person” means any individual, firm, group, association, partnership, corporation, trust, government, or governmental subdivision or agency.

“Prisoner Review Board” means appointed civilians that decide whether an offender should be granted conditional release before the end of a sentence.

“Stages of Change” means a model of readiness to change. (Prochaska, J.O., & DiClemente, C.C., (1992) *Stages of Change in the Modification of Problem Behavior*, Sycamore Publishing, Sycamore, Illinois.

## SUBPART B: LICENSURE REQUIREMENTS

## Section 2061.201 Types of Licenses

The licenses granted in this Part shall comply with 77 Ill. Adm. Code 2060 (Alcoholism and Substance Abuse Treatment and Intervention Licenses), Subpart B (Licensure Requirements). Consistent with rules herein, services may be provided to adults as well as juveniles. The license certificate for the facility shall specify the type of licensure and a designation of adult or juvenile services.

## Section 2061.203 Types of Licenses

## a) Department of Corrections Treatment

This type of treatment shall be authorized by a treatment license and delivered to juveniles or adults housed within a Department of Corrections facility, such services encompass low intensity, moderate intensity, and high intensity treatment and each license issued will specify all three intensities.

## b) Department of Corrections Designated Program

This type of intervention shall be authorized by an intervention license and delivered by a program designated by DOC (hereafter referred to as “Designated Program”) to provide clinical re-entry management services, assessment for

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planning and community tracking/ monitoring of the clinical progression of the client.

## SUBPART C: GENERAL REQUIREMENTS – ALL LICENSES

The licenses granted in this Part shall comply with 77 Ill. Adm. Code 2060 (Alcoholism and Substance Abuse Treatment and Intervention Licenses), Subpart C incorporated herein with the exception of Sections 2060.301, 2060.305, 2060.307, 2060.309, 2060.317, 2060.323, 2060.325, 2060.327, and 2060.329, and shall also comply with the provisions contained within this part. This part is unique to DOC services.

## Section 2061.301 Federal, State, and Local Regulations

The Department of Corrections and the treatment provider (licensee) shall maintain responsibility for compliance with applicable State and federal laws, constitutions, regulations, court rules, and judicial orders, including but not limited to the following (the owner or the one with control over the facility shall be responsible for facility-related requirements and the treatment provider and DOC shall be responsible respectively for compliance with provisions over which they have control):

- a) The Illinois Human Rights Act [775 ILCS 5]. DOC and the treatment provider (licensee) shall also take affirmative action to ensure that no unlawful discrimination is committed;
- b) The Americans with Disabilities Act of 1990 (42 USC 12101) and the regulations promulgated thereunder;
- c) The Environmental Barriers Act [410 ILCS 25] and the Illinois Accessibility Code (71 Ill. Adm. Code 400);
- d) The Age Discrimination Act of 1975 (42 USC 3001); and
- e) The 1991 Civil Rights Act (42 USC 1981).

## Section 2061.303 Cessation of Service

- a) The Department shall be notified at least 30 calendar days prior to the date on which cessation of any service is scheduled to occur. If involuntary cessation occurs due to a change in vendor by DOC or inability to operate (from damage to

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the facility, loss of staff, change in management, corporation dissolution or any other cause), the licensee shall notify the Department upon cessation even though the 30 days notice has not occurred.

- b) When the licensee ceases operation of any service, all personnel and financial records shall be maintained by the licensee.
- c) DOC shall be solely responsible for client records derived or resulting from a licensee doing business with its offender population through a contractual agreement.
- d) Client records shall remain at DOC upon cessation of service by a licensee. Client records shall be made available immediately to DOC upon notice of intent to discontinue the contractual services. In cases where there is a change of vendor, formal transition of cases between the licensee and new contractor shall occur within 10 days of notice of intent to discontinue the contract.
- e) Upon notice to the Department by DOC of discontinuation of the contractual agreement, the license shall automatically become null and void at the date of discontinuation and all documentation of licensure shall be immediately surrendered to the Department.

## Section 2061.305 Clinical Staff Qualifications and Requirements

- a) Except as set forth in subsection (c) below, all clinical staff providing substance abuse treatment services under this Part, shall:
  - 1) hold clinical certification as a Certified Alcohol and Drug Counselor or as a Certified Criminal Justice Alcohol and Drug Professional from the Illinois Alcohol and Other Drug Abuse Professional Certification Association (IAODAPCA), 1305 Wabash Avenue, Suite L, Springfield, Illinois 62704;
  - 2) be a licensed professional counselor or licensed clinical professional counselor pursuant to the Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107]; or
  - 3) be a physician licensed to practice medicine in all its branches pursuant to the Medical Practice Act of 1987 [225 ILCS 60]; or

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- 4) be licensed as a psychologist pursuant to the Clinical Psychology Practice Act [225 ILCS 15]; or
  - 5) be licensed as a social worker or licensed clinical social worker pursuant to the Clinical Social Work and Social Work Practice Act [225 ILCS 20].
- b) Except as set forth in subsection (c) below, all clinical staff providing only designated program services, clinical screenings or assessments under this Part, shall:
- 1) meet one of the qualifications specified in subsection (a) above; or
  - 2) hold assessor certification as a Certified Assessment and Referral Specialist (CARS) from IAODAPCA.
- c) Any new professional staff, including interns, who will provide clinical services in a treatment or designated program service and who do not meet the requirements of subsection (a) or (b) when hired shall:
- 1) meet the requirements specified in subsection (a) or (b) within 30 months after the date of employment;
  - 2) not work in any supervisory capacity until such requirements are met;
  - 3) work under the direct, verifiable supervision of an individual who has staff supervisory responsibility at the facility and who meets the requirements for professional staff specified in subsection (a); and
  - 4) sign, and adhere to, a professional code of ethics developed by the licensee.
- d) In subsection (c) above supervision shall last until the employee meets at least one of the requirements for professional staff designation specified in subsection (a) or (b) or until the 30 month period has lapsed. Such supervision shall be verifiable, at a minimum, by:
- 1) signature of the supervisor and the affected employee on the treatment plan and all reviews of, or any change to, the client's treatment plan; and

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- 2) documentation of face-to-face supervision meetings, at least once monthly. This supervision can occur in a group or individual setting and shall be a distinct activity separate from regularly scheduled client staffings.
- e) Any employee providing clinical services under supervision at one or more licensees who does not meet at least one of the requirements specified in subsection (a) or (b) within the relevant 30 month period shall not provide any direct clinical services at the end of the 30 month period until the appropriate certification is received.
- f) It is the responsibility of each licensee to ensure that all professional staff meet the requirements set forth in this Section.

## Section 2061.307 Department of Corrections Staff Training Requirements

All licensee staff shall be required to complete the Pre-Service Orientation Training (PSOT), annual training, cross training and cycle training as specified by DOC.

## Section 2061.309 Department of Corrections Personnel Requirements

- a) All on-site licensee staff shall comply with background investigation criteria established by DOC that includes the following:
  - 1) completion of a DOC application for background investigation prior to working on-site in a DOC facility, an initial urinalysis test, and be photographed and fingerprinted;
  - 2) upon background investigation clearance, obtaining an annual tuberculosis test and submit to random urinalysis tests; and
  - 3) adherence to DOC policies and procedures related to security and custody.
- b) A designated treatment clinical staff member shall be available on-call twenty-four hours for consultation with DOC staff relative to any aspect of client care.
- c) Verification of DOC requirements shall be maintained in the personnel file at the facility. At a minimum, the personnel file shall include:

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- 1) copies of required background investigation application approval;
- 2) urinalysis testing screening results;
- 3) tuberculosis test result notification;
- 4) documentation of required DOC training;
- 5) hostage photographs and fingerprints.

## Section 2061.311 Service Fee Exemption

No fees shall be assessed for services to clients housed within DOC facilities.

## Section 2061.313 Client Rights

- a) A written statement shall be provided to any client, at the time of acceptance for an intervention service or admission to a treatment service, that describes the rights of clients as follows:
  - 1) access to services will not be denied on the basis of race, religion, ethnicity, disability, sexual orientation or HIV status;
  - 2) confidentiality of HIV/AIDS status and testing and anonymous testing as specified in 77 Ill. Adm. Code 2060.321 and this Part;
  - 3) the right to nondiscriminatory access to services as specified in the Americans with Disabilities Act of 1990 (42 USC 12101);
  - 4) the right to give or withhold informed consent regarding treatment and regarding confidential information about the client;
  - 5) a description of the process available when a person disagrees with a licensee's decision or policies;
  - 6) confidentiality of client records as specified in 77 Ill. Adm. Code 2060.319 and this Part; and

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- 7) the right to refuse treatment or any treatment procedure and a right to be informed of the consequences resulting from such refusal.
- b) The client will attest by signature that he or she has reviewed a copy of the written statement of client rights and this signatory document shall be maintained in the client record. If a client is unable to read such written statement, it shall be read to the client in a language the client understands.
- c) The statement of client rights shall be posted in an area accessible to clients at all times.
- d) A written, dated, and signed informed consent form shall be obtained from the client for participation of the client in any research projects.

## Section 2061.315 Client Records

- a) Licensees shall maintain a written record for each client. Such record may also be maintained electronically on a computer but shall be made available in hard copy upon request for review by the Department or DOC.
- b) Any written entry on the record shall be in ink and shall be dated and shall meet all other signatory requirements for clinical staff as specified in this Part.
- c) Written signatures or initials and electronic signature or computer-generated signature codes and corresponding dates are acceptable as authentication to identify the author intended. Signature or initial stamps shall not be utilized.
- d) All signatures or initials, whether written, electronic, or computer-generated, shall include the initials of the signer's credentials.
- e) In order to utilize electronic signature or computer-generated signature codes and dates, the licensee shall adopt a policy that permits use and authentication by electronic or computer-generated signature and dates and shall, at a minimum:
  - 1) identify which staff are authorized to authenticate records using electronic or computer-generated signature and dates;
  - 2) ensure that each user is assigned a unique identifier that is generated through a confidential access code;

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- 3) certify, in writing, that each identifier is kept confidential; and
- 4) have each user certify, in writing, that he or she is the only person with user access to the identifier and the only person authorized to use the signature code.
- f) Records maintained on computer shall have a back-up system to safeguard the records in the event of operator or equipment failure.
- g) Any document or entry made on a document in the record that is in any other language than English shall have an accompanying English language translation.
- h) All records shall be protected in a locked room, locked file, safe or similar container or in computer records with secure, limited access.
- i) The record shall document any service provided by the licensee at any facility.
- j) The record shall contain the signatory document that indicates the client has been informed of his or her rights.
- k) The record shall contain, on a standardized format, the following information:
  - 1) name;
  - 2) facility;
  - 3) inmate number;
  - 4) outdate or parole date;
  - 5) area in which the inmate expects to return to when paroled;
  - 6) date of birth;
  - 7) sex;
  - 8) race or ethnic origin and/or language preference;
  - 9) education;

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- 10) marital status;
  - 11) employment potential;
  - 12) physical or mental disability, if any;
  - 13) social security number.
- l) The record shall contain dates of any admission, and change in intensity of service or discharge.
- m) The record shall be kept for a period of five years from the date of discharge or cessation of service. While DOC may elect to keep records past this five year period, if the option to delete records is exercised, it shall be done by one of the following methods:
- 1) burning or shredding; and
  - 2) erasure from all computer files.
- n) The record shall contain the following information or documents for any treatment service:
- 1) documentation of the treatment assessment and client placement process;
  - 2) the treatment plan and documentation of all required signatures and dates;
  - 3) progress notes that document all treatment services, any subsequent treatment plan;
  - 4) reviews and on-going assessment and documentation of all required signatures and dates;
  - 5) documentation of completion of patient education relative to AIDS risk reduction education and tuberculosis information;
  - 6) documentation of any correspondence or telephone calls received or made relevant to treatment services; and

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- 7) a copy of the discharge summary.
- o) A staff member shall be designated who will have responsibility to ensure that all records are in compliance with this Part. This staff member shall review, at least annually, the record system to ensure that the system meets all requirements specified in this Part.
- p) Records shall be kept in an area of the facility specified by DOC where the client is receiving services and shall be directly accessible to the clinical staff providing these services.
- q) Information in the record may be used for training, research and quality improvement provided that the information is collected in accordance with any relevant confidentiality requirements.

## SUBPART D: REQUIREMENTS – DEPARTMENT OF CORRECTIONS TREATMENT

## Section 2061.401 Treatment Services

All substance abuse treatment services shall be delivered to offenders incarcerated in a DOC facility by licensed providers. Such services shall vary in intensity based upon the diagnostic impression of the client and the subsequent treatment plan developed for that client. A cognitive approach must be employed to address the connectivity between substance use and criminal activity, and to work toward pro-social change with this population. All intensity levels shall employ a treatment readiness component that examines stages of change as a framework to further engage clients in the recovery process to provide an opportunity to explore the impact that inappropriate substance use has had on their own lives and the lives of others within the community, and to explore the consequences and connectivity to substance use and criminal activity. It shall also serve as an avenue for the client to explore ambivalence related to recovery and a client's readiness to make changes in his/her life that significantly reduce harm to themselves and others. This service shall immediately focus on the client's eventual return to the community and shall be considered a fluid mechanism to move the client through pre-contemplation, contemplation, preparation, action and maintenance. As clinically indicated, treatment may include educational parameters. Types of treatment services are as follows:

- a) Low Intensity Treatment

Substance abuse treatment consisting of face-to-face clinical services, individually or in a group setting, for juveniles or adults. The frequency and

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intensity of treatment shall depend on client need but shall be a planned regimen of regularly scheduled sessions that average less than nine hours per week.

b) Moderate Intensity Treatment

Substance abuse treatment consisting of face-to-face clinical services, individually or in a group setting, for juveniles or adults. The frequency and intensity of such treatment shall depend on client need but shall be a planned regimen of scheduled sessions for a minimum of nine to fourteen hours per week.

c) High Intensity Treatment

Substance abuse treatment consisting of face-to-face clinical services, individually or in a group setting, for juveniles or adults. The frequency and intensity of such treatment shall depend on client need but shall include a planned regimen of clinical services for a minimum of fifteen hours per week. Upon completion of primary treatment goals, clients sustaining progress and receiving continuing recovery care shall remain in a facility separated from the general population, subject to the ability of DOC to accommodate such separation, until released to the community. This will not include those transferred to another facility or discharged for disciplinary reasons.

Section 2061.403 Client Screening and Identification

- a) A validated, age and gender appropriate substance abuse screening tool approved by the Department, shall be administered by DOC to inmates at Reception and Classification or other facilities where inmates are considered for transfer to a facility substance abuse treatment program.
- b) DOC shall utilize standardized eligibility criteria when transferring a client to a facility for substance abuse treatment which consider security and client needs, and when possible, separation of the substance abuse treatment program from the general facility population.
- c) Clients transferred to substance abuse treatment programs shall meet DOC standardized criteria for referral.

Section 2061.405 Medical Services/Infectious Disease Control

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- a) DOC shall maintain responsibility for client medical services and policies relative to infectious disease control in accordance with the standards established for inmate care and facility operations.
- b) DOC and/or licensee staff shall deliver initial AIDS Risk Reduction counseling and education services and tuberculosis information consisting of the following components:
  - 1) education relative to infectious disease control and HIV/AIDS that shall provide information about the etiology and transmission of HIV infection and associated risk behaviors, symptomatology and clinical progression of HIV infection and AIDS and their relationship to substance abuse behavior, prevention of transmission and risk reduction (including information about needle sharing, sexual transmission, transmission to infants, etc.), the availability of counseling and testing services, the confidentiality rights of the patient regarding counseling, testing and HIV status and relapse prevention.
  - 2) education relative to infectious disease control and tuberculosis that shall include information about its transmission and prevention, the importance of diagnosis, the requirement for skin testing and the interpretation of skin test results, the importance of x-rays for positive test results, and HIV infected persons, with importance of treatment regimens and the basic symptoms associated with tuberculosis.
- c) Upon completion of any mandatory education specified in this Section, documentation shall be placed in the client record. That documentation shall specify the type of education received and the date received, and shall be signed by the client if the documentation is maintained separately from the treatment plan.

## Section 2061.407      Assessment for Client Placement

- a) An assessment shall be conducted prior to admission to treatment. This assessment shall be an individual face-to-face service and shall include collection of demographic data as referenced in 77 Ill. Adm. Code 2060.325 (l) and this Part, and:

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- 1) an evaluation of the severity of the six dimensions established in the following domains:
    - A) acute intoxication and/or withdrawal potential;
    - B) biomedical conditions and complications;
    - C) emotional, behavioral, or cognitive conditions and complications;
    - D) readiness to change;
    - E) relapse, continued use or continued problem potential; and
    - F) recovery environment
  - 2) a diagnostic impression of substance abuse and/or dependence, and
  - 3) a recommendation for placement in low intensity, moderate intensity, or high intensity treatment as established in this Part.
- b) Basic information shall also be provided to the client about treatment services and shall include the following:
- 1) the procedures and treatment services the client will receive;
  - 2) if possible, an introduction to the clinical staff who serve as the primary contact within the facility treatment program;
  - 3) the hours during which services are available;
  - 4) any limitations placed on duration of services; and
  - 5) rules and regulations of the facility treatment program applicable to client conduct.

## Section 2061.409 Assessment for Treatment Planning

Upon admission and initial placement in treatment, the clinical assessment of the client shall continue in order to develop the treatment plan. Client needs shall be determined through

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specific inquiry and analysis in the six domains established in this Part and include, but not be limited to:

- a) A review of DOC medical screenings and any subsequent health care issues, including a determination of acute intoxication and/or withdrawal potential, the current substance use or abuse pattern and medication use, history of prior treatment for substance abuse or dependence and number of relapses, if applicable;
- b) Any previous emotional or behavioral problems and treatment and the client's current emotional and behavioral functioning, including a history of previous or on-going physical, emotional or sexual abuse, in order to detect problems that may be life threatening or indicative of severe personality disorganization or that may seriously affect the client's progress in treatment;
- c) An analysis of the client's family origin and/or living environment prior to incarceration including child care responsibilities, religion, childhood, military service history, education and vocational history, historical financial status, social or peer group, family constellation and history of substance abuse, criminal history, and the relatedness of the substance use to criminal offenses; and
- d) An analysis of the environment the client expects to return to upon parole, support systems available to the client, and potential for employment.

## Section 2061.411 Treatment Plans

- a) At a minimum, the initial treatment plan shall be based on the client's presenting concerns as evidenced from the biomedical and emotional/behavioral assessment. Such treatment plan shall be developed within 14 calendar days after admission to treatment.
- b) The initial treatment plan shall also be signed and dated by the client, indicating participation in the development of the plan, and by the clinical staff assigned primary responsibility for services to the client.
- c) The treatment plan shall be written, gender and culturally appropriate and individual to each client.

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- d) The treatment plan shall list problems (e.g., an injury, dysfunction or loss), goals (a statement to guide resolution or reduction of the problem), objectives (observable and measurable signposts on the way to achieving the goals), method (the treatment services to be provided, the intensity and duration of those services) and a time table for achieving the goals and objectives of treatment that are within the time frame of the client's expected participation.
- e) The treatment plan shall describe and include the frequency of all activities, referrals and consultations planned for the client and shall designate all clinical staff members assigned to provide or coordinate referrals for such services.

## Section 2061.413 Group Treatment

Group treatment shall consist of didactic and counseling groups as follows:

- a) Didactic groups include, but are not limited to, therapeutic activities designed to educate clients on a specific treatment related topic in a group setting. All didactic groups shall be led or supervised by clinical staff or by other professionals with credentials specific to the subject matter of the didactic group following a lesson plan or outline approved by the licensee. Clinical justification for all clients who attend any didactic group shall be documented in the client record. Didactic groups should not exceed 30 juveniles or 60 adults.
- b) Counseling groups include, but are not limited to, therapeutic activities designed to allow clients an opportunity to process issues related to their treatment in a group setting. Counseling groups can have a specific focus (i.e., substance use and connectivity to criminal activity, relapse prevention, gender competent and age appropriate topics, etc.) but are generally less educational and more process oriented than didactic groups. All counseling groups shall be facilitated by clinical staff. Justification for each client who attends any counseling group shall be documented as an assessed need in the client record. Counseling groups at no time shall exceed 15 juveniles or 30 adults. When clinically indicated, clients shall participate in smaller clinical groups.
- c) Programs may choose to implement community meetings in large groups to address various issues in the inmate community. Community meetings shall not be part of the treatment clinical service hours each week for each inmate, but may

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be counted toward overall service hours required each week. The size of community meeting groups shall be determined by DOC and/or the licensee.

## Section 2061.415 Treatment Plan Reviews

- a) Ongoing assessment of the client's progress in treatment shall occur in order to determine the intensity of the client's treatment or the need to increase or decrease this intensity. As the client progresses through treatment, continual assessment shall occur and be recorded in progress notes. At a minimum, such review shall be based upon domains continued stay or discharge criteria, the current treatment plan and all subsequent progress notes. Treatment plan reviews shall occur as follows:
  - 1) upon movement to any other intensity of treatment based on any change in the level of client functioning; and
  - 2) initial reviews, shall be conducted within 30 calendar days and every 90 days thereafter; and
  - 3) prior to planned discharge.
- b) Documentation of the treatment plan review shall:
  - 1) be by progress note in the client record;
  - 2) include the participation of the client;
  - 3) be initialed and dated by the client; and
  - 4) be initialed and dated by the clinical staff.

## Section 2061.417 Progress Notes and Documentation of Service Delivery

- a) Progress notes shall reflect client progress and shall be consistent with the clinical assessment, intensity of service, and expectation of progress. Progress notes can include a summary of services delivered prior to each treatment plan review. Progress notes shall be summarized in accordance with the time frames established for treatment plan reviews as specified in this Part. Progress notes shall be entered in the client record and include the following:

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- 1) chronological documentation of the client's progress in treatment;
  - 2) documentation of any change in the client's behavior; and
  - 3) descriptions of the clients response to treatment, the outcome of treatment, and when appropriate the response of significant others to events in the course of treatment.
- b) Documentation of service delivery in the client record shall specify the name and credentials of the individual who provided the service and be signed or initialed and dated in ink by the individual making the entry or in accordance with the provisions specified in 77 Ill. Adm. Code 2060.325 (c) through (e) and this Part.
- c) Any entry that includes a subjective interpretation of the client's progress shall include a description of the actual behavior observed within the treatment program shall be documented.
- d) Each service delivered shall be documented in the client record and include the specific type of service, date, time and duration of each service rendered to the client.
- e) Documentation of team staffings among treatment, clinical re-entry managers and DOC staff shall, at a minimum, reflect the date, time, and summarize joint planning.

Section 2061.419      Continuing Treatment and/or Continuing Recovery Care and Discharge Planning

- a) Organizations licensed hereunder shall develop recommendations for continuing treatment for those clients exiting the facility treatment program prior to completing a level of intensity within 45 days prior to parole. In cases where notification of release or transfer by DOC is not given within that specified time period, the recommendations shall be made within 7 days of notice. Notation of such shall be made in the progress notes. At a minimum, the plan shall specify:
- 1) a summary of progress to date;
  - 2) notation of completed goals in program;

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- 3) goals that need to be addressed in continuing treatment in the community;
  - 4) a recommendation of continuing level of care specified in 77 Ill. Adm. Code 2060.401;
- b) copies of the summary sheet containing recommendations for continuing treatment shall be contained in the client file, forwarded to the designated DOC personnel, and to the pre-release clinical re-entry manager where dedicated clinical re-entry management services are in place.
  - c) at facilities where no dedicated clinical re-entry management services are in place, treatment licensees shall provide case management services to make firm referrals to community treatment licensees for the purpose of continuing treatment. Such referrals shall contain a copy of the summary sheet as outlined in 2061.421 a) 5) of this Part.
  - d) Licensees recommending continuing treatment at a specified level of care need not complete a discharge summary but shall close the file. Clients will continue treatment within the community upon release from the facility.
  - e) Licensees shall develop a continuing recovery plan for those clients exiting the facility treatment program who are no longer actively receiving treatment in the facility, or no longer require an intensity of care. Copies of the summary sheet containing recommendations for continuing recovery shall be contained in the client file, forwarded to the designated DOC personnel, and to the pre-release clinical re-entry manager where dedicated clinical re-entry management services are in place. The continuing recovery plan shall be completed 45 days prior to the patient discharge from an intensity of care. In cases where notification of release or transfer by DOC is not given within that specified time period, the recommendations shall be made within 7 days of notice. Notation of such shall be made in the progress notes. At a minimum, the plan shall specify:
    - 1) a relapse prevention plan for clients who have obtained abstinence that also identifies actions to be taken if relapse should occur;
    - 2) actions recommended by the licensee to support continuing recovery or reinitiation of active treatment services; specific and measurable client involvement in the event that accountability by the client is required for clinical re-entry management and parole officers; and

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- 3) community recovery support services that will maintain, support and enhance progress made in treatment.
- f) Licensees shall develop discharge and exclusionary criteria consistent with customary clinical standards accepted within the community. After the client is discharged from treatment, a discharge summary shall be entered in the client record 15 days prior to an exit from the facility. In cases where notification of release or transfer by DOC is not given within that specified time period, the recommendations shall be made within 7 days of notice. Notation of such shall be made in the progress notes. Copies shall be distributed to the designated DOC personnel and the pre-release clinical re-entry manager where dedicated clinical re-entry management services are in place. This summary shall include:
- 1) the reason for discharge and the progress of the client relative to each goal and objective in the treatment plan;
  - 2) a prognosis statement of the client's conditions at discharge, including any continued use of prescribed medications; and
  - 3) the client's continuing recovery plan.

SUBPART E: REQUIREMENTS – DEPARTMENT OF CORRECTIONS  
DESIGNATED PROGRAM CLINICAL RE-ENTRY MANAGEMENT

Section 2061.501 General Requirements

- a) In addition to the provisions specified in this Subpart, the designated program shall meet all applicable provisions specified in Subparts A, B, and C of this Part, with the exception of subsections 2061.303(c) and (d) of this Part.
- b) The designated program shall provide clinical re-entry management services for clients receiving treatment services at a DOC facility and who are paroling back to the community. These services are designed to intervene and address multiple problems, often chronic in nature, presented by the client at the time of parole to the community and shall include continuing treatment and/or continuing recovery care linkage to licensed community-based substance abuse treatment providers.

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- c) Services specified in this Section shall be provided in a uniform manner to those clients in DOC facilities with substance abuse treatment programs or for clients who have been paroled from DOC and who will be residing in Illinois.
- d) The Designated program shall have written policies and procedures available at the DOC facility that specify all clinical re-entry management services and how they will be provided on and off-site.

## Section 2061.503 Pre-release Engagement

- a) In facilities where clinical re-entry management services are available, a pre-release clinical re-entry manager shall be located on-site to facilitate services designed to support progress in treatment and in preparation for release of the client to the community.
- b) The client's informed consent shall be obtained prior to the provision of services.
- c) Prior to providing any services, each case shall be staffed with clinical staff in the treatment program.
- d) Orientation groups shall be conducted for each client within the first sixty days of admission to treatment by the pre-release clinical re-entry manager. The purpose of the orientation is to provide an opportunity to further engage the client in the overall substance abuse treatment process and to provide a critical link for examination of the stages of change as the client moves through treatment.
- e) Orientation shall include information regarding the role of the pre-release clinical re-entry manager within the facility, and expectations of client participation in the development of a service plan specifying continuing treatment and/or recovery plan needs upon transfer to another facility program or release to the community. Pre-release clinical re-entry managers shall prepare the client for community-based continuing and/or recovery care and provide information about interaction with a post-release clinical re-entry manager in order to monitor the client's clinical progression and the role of the post-release clinical re-entry manager with the parole division.
- f) All orientations shall provide information about the differences between facility treatment and licensed community-based treatment.

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## Section 2061.505      Assessment and Service Plan

- a) The Designated program shall conduct an assessment, in accordance with the provisions specified in 77 Ill. Adm. Code 2060.417, for the purpose of completing a service plan by the pre-release clinical re-entry manager within a regularly scheduled thirty calendar day regimen prior to the client's release to the community.
- b) In the event the facility gives less than forty-five days notice that the client is paroling to the community, service plans shall be completed within seven days of said notice. Documentation shall be made in the case notes to reflect such lack of notice.
- c) Service plans shall specify the client's parole date and the city and state where he or she expects to reside. Based upon the assessment, the plan shall specify recommendations for continuing treatment and/or recovery care for Prisoner Review Board consideration, and include the name of the licensed community-based treatment provider where the client has been referred for continuing treatment and/or recovery care, the treatment licensee address, telephone number.
- d) The assessment and service plan shall include, at a minimum, the collection of demographic data as specified in this Part.
- e) The service plan shall utilize the summary provided by the facility treatment program summarizing the client's progress in facility treatment, and include a listing of all completed goals while in facility treatment. The service plan will update any further goals completed since the summary was forwarded. It shall also contain a listing of goals that need to be addressed by the community-based treatment licensee.
- f) The service plan shall address issues related to health, physical, psychological, economic, employment, legal status, and housing and link the clients to services when appropriate.
- g) The service plan shall specify the level of monitoring and the first appointment date the client must meet with the community clinical re-entry manager.

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- h) The pre-release clinical re-entry manager shall complete all necessary release of information forms for purposes of referral to licensed community-based substance abuse treatment.
- i) Copies of the service plan shall be distributed to the treatment licensee and designated DOC personnel.

## Section 2061.507 Community Tracking/Monitoring of Clinical Progression

- a) The designated program shall provide community clinical re-entry management services that are designed to assist the offender with referral to continuing treatment and/or recovery care, assist parole with information regarding the client's clinical progression, and other identified issues, such as housing and vocational needs, and assist licensed community-based treatment licensees in identifying any special continuing treatment and/or recovery care client needs.
- b) The designated program shall provide written notification to the parole office regarding the date of client admission to continuing treatment and/or care which shall include identification of the treatment program; address and telephone number, the name, address, and telephone number of the clinical re-entry manager assigned to the case; and the clinical re-entry management monitoring level.
- c) The designated program shall have mutual linkage agreements with any treatment program utilized for referrals that ensures communication and documentation of client progress in continuing treatment and/or recovery care.
- d) The designated program shall specify the method that will be utilized to intervene with the client should such client fail to comply with the program criteria or those conditions specified in the service plan.

## Section 2061.509 Progress Reports

- a) The designated program shall provide monthly reports to each applicable parole office relative to the client's clinical progression or lack thereof in continuing treatment and/or care.

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- b) The designated program shall complete a written report summarizing each client's continuing treatment and/or recovery care plan upon discharge from clinical re-entry management.
- c) The clinical re-entry manager shall document all case consultations with parole, including any information as it relates to the formal status of parole or any changes, including violations, that occur.

## Section 2061.511 Clinical Re-entry Documentation

- a) Clinical re-entry managers shall maintain client records in accordance with the provisions specified in 77 Ill. Adm. Code 2060.325, with the exception of subsections (n) and (q).
- b) Additionally, each client record shall include:
  - 1) documentation of the client's informed consent and any other consent to release information form;
  - 2) the service plan, including the assessment for continuing treatment and/or recovery care, and prior treatment summary information that recommends continuing treatment and/or recovery care;
  - 3) copies of previous psychological evaluation reports, when conducted, and/or documentation of verbal reports regarding psychological evaluations or documentation of attempts to obtain psychological evaluations.
  - 4) copies of any correspondence from DOC or relevant judicial court proceedings and/or documentation of verbal reports regarding judicial court proceedings, or documentation of attempts to obtain verbal or written reports regarding judicial court proceedings.
  - 5) documentation of admission to continuing treatment and a copy of the notification to the parole officer;
  - 6) documentation of any chemical test results, when applicable;
  - 7) documentation of court appearances, when applicable;

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- 8) all received written reports from the treatment licensee relative to the client's progress, or lack thereof, in treatment, and/or documentation of verbal reports from treatment licensee, or documentation of attempts to obtain verbal or written reports from treatment licensees;
- 9) copies of correspondence to client regarding non-compliance;
- 10) copies of any case conference meeting report; and
- 11) copies of all documents related to the client's discharge from clinical re-entry management.

## Section 2061.513 Client Discharge from Clinical Re-entry Management

- a) The designated program shall establish standardized procedures for discharge of the client from the program. Such procedures shall include, at a minimum:
  - 1) the process for review of client progress in treatment to determine if a change in status is justified;
  - 2) the specific instances that would lead to a change in client status and the procedure to be followed when such determination is made;
  - 3) the process that will be followed when there is a DOC directive to discharge; and
  - 4) the process to ensure that proper notice is given to the parole office and the client upon discharge.
- b) The designated program shall send a written report of discharge to the parole office within ten calendar days after discharge. Such reports shall contain the client's last known or intended residency, summary of treatment progress, and recommendations for further treatment and/or recovery care.

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Local Health Protection Grant Rules
- 2) Code Citation: 77 Ill. Adm. Code 615
- 3) Section Numbers: Proposed Action:  
615.340 Amendment
- 4) Statutory Authority: Authorized by and implementing Division 5-25 of the Counties Code [55 ILCS 5]; the Public Health District Act [70 ILCS 905]; the Illinois Municipal Code [65 ILCS 5]; and Section 55 of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-10].
- 5) A Complete Description of the Subjects and Issues Involved:  

This rulemaking requires local health departments (lhds) to develop and maintain a current all hazard emergency response/disaster plan for their jurisdiction. The plans are intended to provide a framework for response operations of the lhd and to outline specific actions for local response and recovery activities. Minimum elements to be included in the plans are specified and include procedures for 24-hour availability of the local health department to receive information on an emergency situation; internal notification of key staff within the lhd; contact between the lhd, local law enforcement and the Department; mobilization of non-essential staff to assist with the emergency situation; dissemination of information to first responders; and implementation of a mass vaccination and distribution/management of the federal stockpile of pharmaceuticals in response to a **communicable disease situation in their jurisdiction.**
- 6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? Yes T No
- 7) Does this Rulemaking Contain an Automatic Repeal Date? Yes \_\_\_ No T  
If "yes," please specify the date:
- 8) Does this Rulemaking Contain any Incorporations by Reference? Yes \_\_\_ No T
- 9) Are there any Other Proposed Amendments Pending on this Part? Yes \_\_\_ No T
- 10) Statement of Statewide Policy Objectives: This rulemaking will not require additional expenditures by units of local government.

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

Interested persons may present their comments concerning these rules in writing, within 45 days after this issue of the Illinois Register, to:

Peggy Snyder  
Division of Legal Services  
Illinois Department of Public Health  
535 West Jefferson, Fifth Floor  
Springfield, Illinois 62761  
(217)782-2043  
(e-mail: rules@idph.il.state.us)

12) Initial Regulatory Flexibility Analysis:A) Type of Small Businesses, Small Municipalities, and Not-For-Profit Corporations Affected:

This rulemaking will not affect small businesses, small municipalities or not-for-profit corporations.

B) Reporting, Bookkeeping or Other Procedures Required for Compliance: None.C) Types of Professional Skills Necessary for Compliance: None.13) State reasons for this rulemaking if it was not included in either of the two most recent regulatory agendas: This rulemaking is needed to permanently adopt the identical emergency rules, which became effective December 6, 2002.

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

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER h: LOCAL HEALTH DEPARTMENTS

## PART 615

## LOCAL HEALTH PROTECTION GRANT RULES

## SUBPART A: GENERAL

Section	
615.100	Definitions
615.110	Incorporated Materials

## SUBPART B: ADMINISTRATION OF LOCAL HEALTH PROTECTION GRANTS

Section	
615.200	Eligibility
615.210	Purpose and Distribution of Grant Funds
615.220	Review and Consultation; Plan of Correction
615.230	Waiver of Requirements

## SUBPART C: PROGRAM STANDARDS

Section	
615.300	Infectious Diseases
615.310	Food Protection
615.320	Potable Water Supply
615.330	Private Sewage Disposal
615.340	Common Requirements

## SUBPART D: DUE PROCESS

Section	
615.400	Denial, Suspension or Revocation of Grant Application or Grant Agreement
615.410	Procedures for Hearings

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

615.Appendix A Recommended Policies and Procedures for Immunization Clinics  
(Repealed)

Authority: Implementing and authorized by Division 5-25 of the Counties Code [55 ILCS 5]; the Public Health District Act [70 ILCS 905]; the Illinois Municipal Code [65 ILCS 5]; and Section 55 of the Civil Administrative Code of Illinois [20 ILCS 2310/10].

Source: Filed October 20, 1977; Part repealed, new Part adopted at 5 Ill. Reg. 1415, effective July 1, 1981; codified at 8 Ill. Reg. 16335; amended at 14 Ill. Reg. 805, effective January 1, 1990; Part repealed, new Part adopted by emergency rules at 17 Ill. Reg. 13002, effective July 21, 1993, for a maximum of 150 days; emergency expired on December 18, 1993; Part repealed, new Part adopted at 18 Ill. Reg. 4320, effective March 1, 1994; emergency amendment at 20 Ill. Reg. 3974, effective February 16, 1996; for a maximum of 150 days; emergency expired on July 15, 1996; amended at 21 Ill. Reg. 2960, effective February 20, 1997; amended at 26 Ill. Reg. 421, effective January 1, 2002; emergency amendment at 26 Ill. Reg. 18051, effective December 6, 2002, for a maximum of 150 days; amended at 27 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART C: PROGRAM STANDARDS

## Section 615.340 Common Requirements

- a) All activities performed under this Part shall be governed in all respects by the laws of the State of Illinois. Personnel performing the programs described in this Subpart shall meet the applicable requirements of the Medical Practice Act of 1987 [225 ILCS 60]; the Illinois Nursing Act of 1987 [225 ILCS 65]; and the Environmental Health Practitioner Licensing Act [225 ILCS 37].
- b) All local health departments shall maintain a 24-hour notification system that the IDPH, hospitals, or members of the general public can contact to promptly reach a staff person to report a suspect or actual public health incident or event. Local health departments must document, at least quarterly, the method used to ensure the operational reliability of this 24-hour notification system. In addition, local health departments shall document and provide to the IDPH Emergency Officer and their IDPH Regional Health Officer the procedure that IDPH, hospitals or members of the general public must utilize to activate this 24-hour notification system.

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- c) All local health departments are required to maintain a current, all hazard emergency response/disaster plan for their jurisdiction. "All hazard" includes, but is not limited to, natural, technological and intentionally caused emergency events, including disease outbreaks, bioterrorism, floods, severe weather, environmental and food protection incidents and others. Within 15 days after the effective date of this emergency rulemaking, all local health departments shall electronically submit to the Department the plan for their jurisdiction. Any and all future amendments to the plan shall be electronically submitted to the Department immediately. All local health departments shall keep a copy of the plan on file in their principal office. The Department will review each plan once at least every three years, or as often as necessary, as part of the local health department's program review process conducted in accordance with Section 615.220. The emergency response/disaster plan will provide a framework for response operations of the local health department or multi-jurisdiction, and will outline specific actions for local response and recovery activities. The plan will provide guidance for the local health department's primary programs to support jurisdiction-wide emergency operations and prescribe, among other items, the availability of personnel and response needs and provisions. The following items are minimum elements of an approved emergency response/disaster plan:
- 1) procedure for 24-hour availability of the local health department to receive information on a significant or potential emergency situation from the general public or a federal, state or local governmental agency;
  - 2) procedure for internal notification ("call-tree") to alert key staff within the local health department of an emergency situation;
  - 3) procedure that details how and when the local health department will contact the local emergency management agency, local law enforcement agency and the Department of an emergency situation;
  - 4) procedure that will outline the rapid mobilization of non-essential staff of the local health department to assist with the emergency situation, including the identification of critical programs administered by the local health department;
  - 5) procedure for the dissemination of information to first responders, local health care providers, hospitals, clinics and pharmacies within the

## DEPARTMENT OF PUBLIC HEALTH

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jurisdiction to alert them of a significant or potential emergency situation;  
and

- 6) procedure for the implementation of a mass vaccination and prophylaxis  
and treatment distribution/management of stockpiles of pharmaceuticals in  
response to a significant or potential communicable disease situation  
within the jurisdiction.

de) The local health department shall submit information quarterly on forms provided by the Department concerning activities conducted in each program conducted by the local health department.

(Source: Amended at 27 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## BOARD OF TRUSTEES OF EASTERN ILLINOIS UNIVERSITY

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Organization and Public Information
- 2) Code Citation: 2 Ill. Adm. Code 6000
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
6000.110	Amended
6000.120	Amended
6000.130	Amended
6000.150	Amended
6000.210	Amended
6000.220	Amended
6000.240	Repealed
6000.250	Amended
6000.Appendix A	Amended
- 4) Statutory authority: The Freedom of Information Act [5 ILCS 140/4], The Illinois Administrative Procedure Act [5 ILCS 100/5-15], and Eastern Illinois University Law [110 ILCS 665/10-25].
- 5) Effective date of rules: January 17, 2003.
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this rulemaking contain incorporations by reference? No.
- 8) Date filed in agency's principal office: January 17, 2003.
- 9) Date notice(s) of proposed amendments was published in the *Illinois Register*:  
These rules are published pursuant to Section 5-15 of the Illinois Administrative Procedure Act. [5 ILCS 100/5-15].
- 10) Whether JCAR has issued a Statement of Objections to this Part? No, these are required rules.
- 11) Difference(s) between the proposal and the final version: None, these are required rules.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No, these are required rules.

## BOARD OF TRUSTEES OF EASTERN ILLINOIS UNIVERSITY

## NOTICE OF ADOPTED AMENDMENTS

- 13) Will these amendments replace emergency amendment currently in effect? No.
- 14) Are there any other proposed amendments pending on this Part? No.
- 15) Summary and purpose of rules: These rules are intended to explain what the Board of Trustees of Eastern Illinois University is, how the Board is organized, and how the public can obtain information from the Board.
- 16) Information and questions regarding these rules shall be directed to:

Office of General Counsel  
Eastern Illinois University  
600 Lincoln Avenue  
1148 Blair Hall  
Charleston, IL 61920

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

## BOARD OF TRUSTEES OF EASTERN ILLINOIS UNIVERSITY

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 2: GOVERNMENTAL ORGANIZATION

## SUBTITLE F: EDUCATIONAL AGENCIES

## CHAPTER XX: BOARD OF TRUSTEES OF EASTERN ILLINOIS UNIVERSITY

## PART 6000

## ORGANIZATION AND PUBLIC INFORMATION

## SUBPART A: INTRODUCTION AND ORGANIZATION

## Section

6000.100	Purpose
6000.110	Board Membership
6000.120	Board Meetings
6000.130	Agenda of Board Meetings
6000.140	Minutes of Board Meetings
6000.150	Accessibility of Board Meetings

## SUBPART B: PUBLIC INFORMATION

## Section

6000.200	Freedom of Information Officer
6000.210	Form and Content Requests
6000.220	Inspection and Copying of Records
6000.230	Fees
6000.240	Denial of Requests <u>(Repealed)</u>
6000.250	Response <del>Time</del>
6000.260	Appeals

## SUBPART C: RULEMAKING

## Section

6000.300	Rulemaking
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## SUBPART D: PURCHASING RULES

## Section

## BOARD OF TRUSTEES OF EASTERN ILLINOIS UNIVERSITY

## NOTICE OF ADOPTED AMENDMENTS

6000.400 Access to Purchasing Rules  
6000.Appendix A Organizational Chart

**AUTHORITY:** Implementing Section 4 of the Freedom of Information Act [5 ILCS 140/4] and Section 5-15 the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and authorized by Section 3g of the Freedom of Information Act [5 ILCS 140/3g] and by Section 10-25 of the Eastern Illinois University Law [110 ILCS 665/10-25].

**SOURCE:** Adopted at 22 Ill. Reg. 9560, effective May 22, 1998; amended at 22 Ill. Reg. 19536, effective October 22, 1998; amended at 23 Ill. Reg. 5544, effective April 22, 1999; amended at 27 Ill. Reg. 1504, effective January 17, 2003.

## Section 6000.110 Board Membership

- a) The Board is the designated policy-making agency for Eastern Illinois University. The Board's purpose is to operate, manage, control, and maintain Eastern Illinois University. The Board's powers and duties are determined in accordance with the Eastern Illinois University Law [110 ILCS 665/10-25] and are set forth in its Board Regulations, which are available in the University's library, and on the University's web page.
- b) The Board is composed of seven voting members appointed by the Governor with the advice and consent of the Senate, and one voting student member, who is elected by the Student Body [110 ILCS 665/10-15]. ~~Until July 1, 2001, the~~ The student member ~~has~~shall have all of the privileges of membership, including the right to vote on all Board matters except those involving faculty tenure, faculty promotion ~~or, and~~ any issue on which the student member has a direct conflict of interest [110 ILCS 665/10-25]. Unless the student member is entitled to vote on a measure at a meeting of the Board or any of its committees, he or she shall not be considered a member for the purpose of determining whether a quorum is present at the time that measure is voted upon. ~~Beginning on July 1, 2001, and thereafter, the student member of the Board shall be a nonvoting member.~~
- c) The Board annually elects one member to serve as Chairperson. The Chairperson presides at all Board Meetings, with the full power to vote on and discuss all matters placed before the Board. The Chairperson is also responsible for submitting information and recommendations relative to the business and interests of the University.

## BOARD OF TRUSTEES OF EASTERN ILLINOIS UNIVERSITY

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- d) The Board is the final institutional authority; however, it delegates primary responsibility to the President of the University for the management of the institution.  
(Source: Amended at 27 Ill. Reg. 1504, effective January 17, 2003.)

## Section 6000.120 Board Meetings

- a) The Board makes all of its policy decisions at open meetings of the Board which are held in accordance with the Open Meetings Act [5 ILCS 120/[et seq.](#)]. The Board may also hold closed meetings pursuant to the Open Meetings Act [5 ILCS 120/2(a)].
- b) Meetings are held and a quorum determined in accordance with the Eastern Illinois University Law [110 ILCS 665/10-25].
- c) Meetings are held at least once each quarter. The Board however, by vote of a majority of a quorum, may omit or cancel any meeting. The date of any meeting may be changed by vote of a majority of a quorum or by order of the Chairperson. The regular meeting that is held in April is the annual meeting.
- d) The Board may hold special meetings by vote of a majority of a quorum taken during any regular meeting, by call of the Chairperson, or by call of any three voting members.  
~~Notice of a special meeting must be mailed to all members shall be notified of a special meeting pursuant to the Illinois Open Meetings Act. at least five days prior to the date of the special meeting.~~
- e) ~~All~~ Quarterly meetings of the Board are held on the campus of Eastern Illinois University and are conducted in accordance with the Open Meetings Act [5 ILCS 120/1 [et seq.](#)].

(Source: Amended at 27 Ill. Reg. 1504, effective January 17, 2003.)

## Section 6000.130 Agenda of Board Meetings

- a) The Board maintains an agenda of its meetings in accordance with the Open Meetings Act [5 ILCS 120/2.02].
- b) The President of the University, in consultation with the Chairperson of the Board, develops an agenda prior to each Board meeting. The President will normally ~~mail~~[provide](#) meeting materials to Board Members as well as to other appropriate parties at least seven days prior to the next scheduled meeting. Distribution of some meeting

## BOARD OF TRUSTEES OF EASTERN ILLINOIS UNIVERSITY

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materials, however, may be subject to reasonable limitations in the case of special or emergency meetings.

(Source: Amended at 27 Ill. Reg. 1504, effective January 17, 2003.)

## Section 6000.150 Accessibility of Board Meetings

- a) ~~Individuals wishing~~ Persons desiring to address the Board ~~must on other than current agenda items shall~~ submit a written request to the President at least ten calendar days prior to the Board meeting. The request ~~must~~ shall include the name and address of the person ~~who would be speaking, wishing to speak,~~ the name of the group represented, and a summary of the presentation.
- b) The President and the Chairperson ~~will~~ shall consult with respect to each request to address the Board. At least three calendar days before the meeting, the President ~~will~~ shall indicate to each ~~individual~~ person properly submitting a request to address the Board whether the request will be granted or denied. If the request is granted, the form and duration of the presentation ~~will~~ shall be subject to rulings ~~designated by of~~ the Chairperson.
- c) ~~Due to many demands placed on the Board, outside presentations normally are not possible. Parties wishing to address the Board, whose written requests are denied, may offer a written statement to the Board, if they so desire. At the end of each Board meeting, a period of time will be set aside for public comment. Any individual desiring to address the Board will be allowed up to five minutes for comments or questions. Only one person may speak on behalf of an organization. Public comment would not be approved on disputed matters that are being addressed in internal university processes such as grievances, student judicial proceedings, pending bids, labor negotiations, etc.~~
- d) ~~Because of heavy demands on the Board of Trustees, the total time for presentations will be limited to 20 minutes unless the Board moves for and approves a longer period. Persons wishing to address the Board, but are unable to do so, may submit a written statement to the Board.~~
- d) ~~In accordance with the Open Meetings Act [5 ILCS 120/2.05], any e) Any~~ person may record by tape, film, or other means, the meetings of the Board or its committees. ~~However, required to be open by Illinois law, provided that~~ if the recording process interferes with the ~~functions of the overall decorum and proceeding of a~~ meeting, ~~such recording~~ will be discontinued at the request of the Chairperson or other presiding officer.

## BOARD OF TRUSTEES OF EASTERN ILLINOIS UNIVERSITY

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- e)f) A report of the proceedings of the Board is published for each fiscal year in sufficient number for distribution to interested parties.

(Source: Amended at 27 Ill. Reg. 1504, effective January 17, 2003.)

## Section 6000.210 Form and Content Requests

- a) All requests under the Freedom of Information Act [5 ILCS 140/3] for access to public records must be in writing and must contain the following information:
- 1) the name, ~~and address,~~ and signature of the person submitting the request;
  - 2) a specific description of the public records sought including, whenever possible, names, dates, and other identifying information.
- b) A request shall be "received" for purposes of the Freedom of Information Act [5 ILCS 140/3] on the date on which it ~~arrives in the office referred to above.~~ is received by the Freedom of Information Officer. Failure to submit the request to the appropriate address may delay its receipt.

(Source: Amended at 27 Ill. Reg. 1504, effective January 17, 2003.)

## Section 6000.220 Inspection and Copying of Records

- a) Inspection of public records which are required by the Freedom of Information Act to be made available for public inspection must occur under the supervision of the Custodian of the Records after review of the request by the Freedom of Information Officer in the place where the records are kept or the office of the Freedom of Information Officer during regular office hours when the records are not being used by persons performing official duties. Upon request, the ~~Freedom of Information Officer~~ Custodian of Records will make arrangements for an explanation of computer language or printout format.
- b) One copy of each public record required to be copied by the Freedom of Information Act [5 ILCS 140/3b] shall be provided by the Custodian of Records after review of the request by the Freedom of Information Officer, ~~if requested,~~ following receipt of the fees specified in Section 6000.230 of this Part.

(Source: Amended at 27 Ill. Reg. 1504, effective January 17, 2003.)

Section 6000.240 Denial of Requests (Repealed)

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A denial of a request for access to public records is made by the Freedom of Information Officer by letter mailed to the person submitting the request. The letter shall state the reasons for the denial and the names and the titles of each person responsible for the denial, and shall give notice of the right to appeal the denial. Failure of the Freedom of Information Officer to respond to a request for access to public records within seven (7) working days after its receipt shall be considered a denial of the request.

(Source: Amended at 27 Ill. Reg. 1504, effective January 17, 2003.)

Section 6000.250 Response ~~Time~~

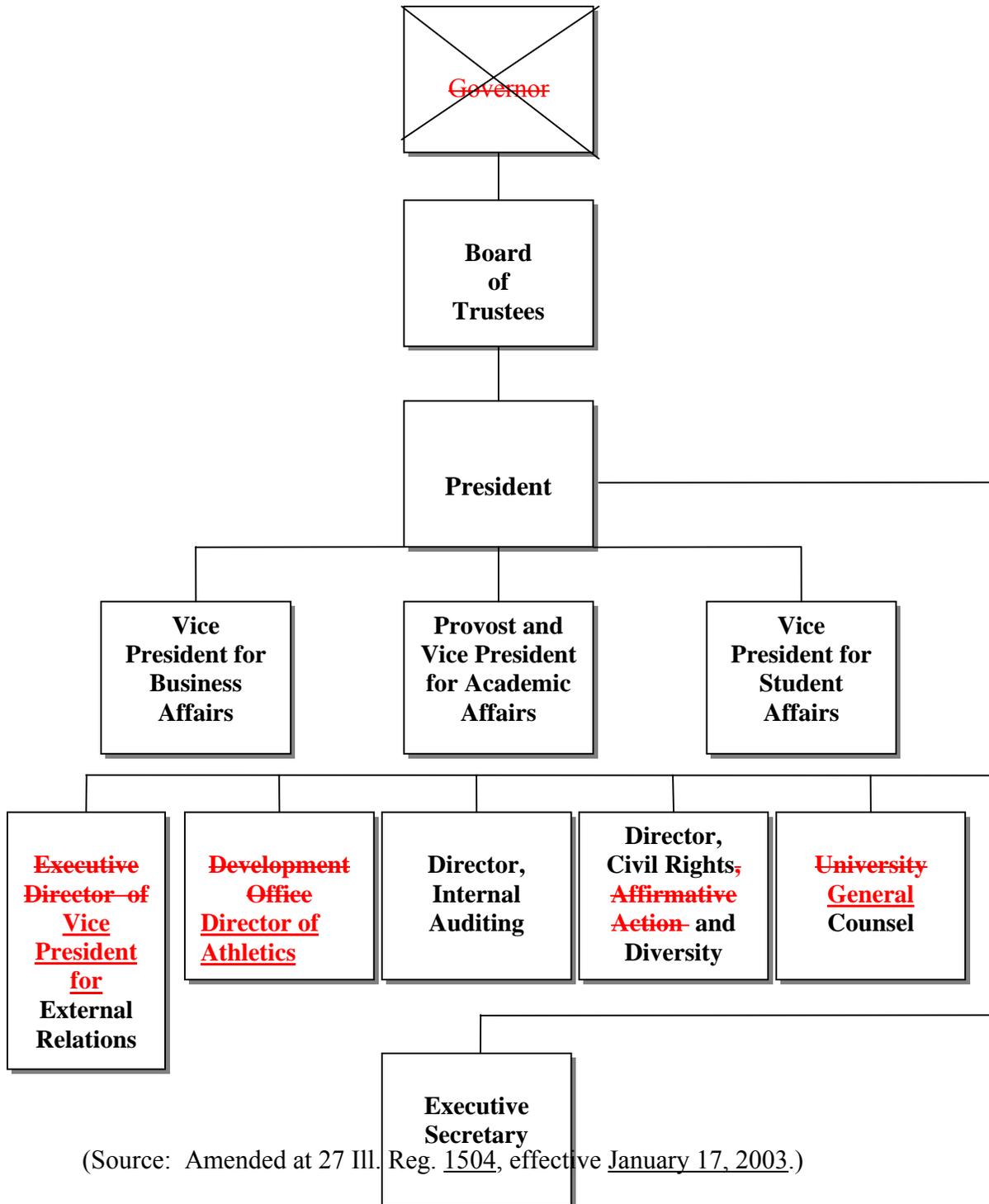
The Freedom of Information Officer shall respond to each request for access to public records within seven (7) working days after its receipt, unless the response time is extended for an additional period of not more than seven (7) working days [5 ILCS 140/3]. The response shall be by letter mailed to the person making the request and shall approve the request in its entirety, approve the request in part and deny it in part, or deny the request in its entirety. If the request is denied, the letter shall state the reasons for the denial and the names and titles of each person responsible for the denial. Each notice of denial shall also inform the requestor of the right to appeal the denial to the President of the University.

(Source: Amended at 27 Ill. Reg. 1504, effective January 17, 2003.)

BOARD OF TRUSTEES OF EASTERN ILLINOIS UNIVERSITY

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**Section 6000. Appendix A Organizational Chart**



(Source: Amended at 27 Ill. Reg. 1504, effective January 17, 2003.)

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NOTICE OF ADOPTED AMENDMENTS

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Home Inspector License Act
- 2) Code Citation: 68 Ill. Adm. Code 1410
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1410.10	New
1410.20	New
1410.100	New
1410.110	New
1410.120	New
1410.130	New
1410.140	New
1410.150	New
1410.160	New
1410.170	New
1410.180	New
1410.200	New
1410.210	New
1410.220	New
1410.230	New
1410.240	New
1410.250	New
1410.260	New
1410.300	New
1410.310	New
1410.320	New
1410.330	New
1410.340	New
1410.350	New
1410.400	New
1410.410	New
1410.420	New
1410.500	New
1410.510	New
1410.520	New
1410.530	New
1410.540	New
1410.550	New

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1410.560	New
1410.570	New
1410.580	New
1410.590	New
1410.600	New

- 4) Statutory Authority: Implementing and authorized by the Home Inspector License Act [225 ILCS 441].
- 5) Effective Date of Rule: January 17, 2003
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these adopted rules contain incorporations by reference? No
- 8) A copy of these adopted rules is on file in the Office of Banks and Real Estate's (OBRE's) principal office and is available for public inspection.
- 9) Notice(s) of Proposal Published in Illinois Register:  
26 Ill. Reg. 13125 on September 6, 2002
- 10) Has JCAR issued a Statement of Objection to these rules? If answer is "yes," please complete the following: No
- 11) Difference(s) between proposal and final version: OBRE has incorporated JCAR's recommendations for technical and clarifying changes.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these rules replace any emergency rules currently in effect?  
Yes
- 14) Are there any rulemakings pending on this Part?  
No
- 15) Summary and Purpose of Rule: This rulemaking contains licensing, standards of practice, education, discipline, and other provisions to implement the new Home Inspector License Act.

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OFFICE OF BANKS AND REAL ESTATE

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

Norm Willoughby  
Assistant Commissioner  
Office of Banks and Real Estate  
500 E. Monroe Street  
Springfield, IL 62701  
217/782-3000

The full text of the adopted rules begin on the next page:

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TITLE 68: PROFESSIONS AND OCCUPATIONS  
CHAPTER VIII: OFFICE OF BANKS AND REAL ESTATEPART 1410  
HOME INSPECTOR LICENSE ACT

## SUBPART A: DEFINITIONS AND APPLICABILITY OF THIS PART

## Section

- 1410.10 Definitions
- 1410.20 Applicability of this Part

## SUBPART B: LICENSING AND EDUCATION REQUIREMENTS

## Section

- 1410.100 Application for a Home Inspector
- 1410.110 Application for a Home Inspector Entity License
- 1410.120 Application for Non-Resident Home Inspector License by Reciprocity
- 1410.130 Expiration of Home Inspector Licenses
- 1410.140 Renewal of Home Inspector Licenses
- 1410.150 Pre-License Education Requirements
- 1410.160 Continuing Education Requirements
- 1410.170 Issuance of Certificate of Licensure
- 1410.180 Exemptions

## SUBPART C: STANDARDS OF PRACTICE AND BUSINESS REQUIREMENTS

## Section

- 1410.200 Standards of Practice
- 1410.210 Notification of Name Change
- 1410.220 Assumed Name
- 1410.230 Address Change; Street Address
- 1410.240 Work Log of Inspections
- 1410.250 Entities must Utilize Licensed Home Inspectors
- 1410.260 Disclosure of a Conflict of Interest

## SUBPART D: ENFORCEMENT PROVISIONS

## Section

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF ADOPTED AMENDMENTS

- 1410.300 Grounds for Discipline
- 1410.310 Felony Convictions; Discipline of Other Professional License; Notification
- 1410.320 Cooperation Required with OBRE
- 1410.330 Administrative Warning Letter
- 1410.340 Additional Education; Reporting Requirements
- 1410.350 Suspension or Denial for Failure to Pay Taxes, Child Support or any Illinois-Guaranteed Student Loan

## SUBPART E: ADMINISTRATIVE PROVISIONS

## Section

- 1410.400 Fees
- 1410.410 Duties of the Liaison
- 1410.420 Granting of Variances

## SUBPART F: EDUCATION PROVIDER AND COURSE REQUIREMENTS

## Section

- 1410.500 Education Provider Application; Requirements
- 1410.510 Pre-License Education Course Requirements of Education Providers
- 1410.520 Pre-License Course Curriculum
- 1410.530 Example of Acceptable Pre-License Education Program
- 1410.540 Continuing Education Course Requirements of Education Providers
- 1410.550 Curriculum for Continuing Education Courses; Continuing Education Credit for Participation other than as a Student
- 1410.560 Distance Education
- 1410.570 Expiration Date and Renewal for Education Providers and Pre-License and Continuing Education Courses
- 1410.580 Continuing Education Reporting
- 1410.590 Transcript or Certificate of Completion

## SUBPART G: HEARINGS

## Section

- 1410.600 Hearings

**AUTHORITY:** Implementing and authorized by the Home Inspector License Act [225 ILCS 441].

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SOURCE: Emergency rules adopted at 26 Ill. Reg. 13317, effective August 22, 2002, for a maximum of 150 days; adopted at 27 Ill. Reg. 1513, effective January 17, 2003.

## SUBPART A: DEFINITIONS AND APPLICABILITY OF THIS PART

## Section 1410.10 Definitions

Unless otherwise clarified by this Part, definitions set forth in the Act also apply or the purposes of this Part.

“Act” means the Home Inspector License Act [225 ILCS 441].

“Classroom hour” or “hour” as it pertains to the education requirements means classroom attendance for a minimum of 50 minutes of lecture or its equivalent through a distance-learning program approved by OBRE.

“Compensation” means the valuable consideration or the intention or expectation of receiving valuable consideration given by one person or entity to another person or entity in exchange for the performance of some activity or service. Compensation shall include the transfer of valuable consideration, including without limitation the following:

commissions;

referral fees;

bonuses;

prizes;

merchandise;

finder fees;

performance of services;

coupons or gift certificates;

discounts;

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rebates;

a chance to win a raffle, drawing, lottery, or similar game of chance not prohibited by any other law or statute;

retainer fee; or

salary.

“License” means a certificate of authority, permit or registration issued by OBRE.

“Licensee” means a person who has been issued a license under the Act or this Part.

#### Section 1410.20 Applicability of this Part

Nothing in this Part shall supersede the Illinois Plumbing Law [225 ILCS 320] administered through the Plumbers Licensing Code (68 Ill. Adm. Code 750) and the Illinois Plumbing Code (77 Ill. Adm. Code 890).

### SUBPART B: LICENSING AND EDUCATION REQUIREMENTS

#### Section 1410.100 Application for a Home Inspector License

Each initial applicant for a Home Inspector License shall submit to OBRE:

- a) An application, provided by OBRE, that is signed and fully completed by the applicant;
- b) The fee as provided by this Part;
- c) Proof of successful completion of the pre-license education requirements as provided by the Act and this Part or has verified meeting the waiver requirements provided by Section 5-15 of the Act; and
- d) proof of successful completion of the examination authorized by OBRE.

#### Section 1410.110 Application for a Home Inspector Entity License

An entity who desires to practice as a home inspector or provide home inspections in the State of Illinois in the form of a corporation, Limited Liability Company or a legally formed partnership shall submit to OBRE:

## OFFICE OF BANKS AND REAL ESTATE

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- a) An application, provided by OBRE, that is signed and fully completed by the applicant;
- b) The fee as provided by this Part;
- c) A list of all owners, partners, officers, members, managers or directors of the entity; and
- d) Articles of Incorporation, Articles of Organization or other evidence of legal formation or authority.

## Section 1410.120 Application for Non-Resident Home Inspector License by Reciprocity

An initial applicant who desires a Home Inspector License by reciprocity and holds a valid Home Inspector License issued by a proper licensing authority of another jurisdiction, that OBRE has a valid reciprocal agreement shall submit to OBRE:

- a) An application, provided by OBRE, that is signed and fully completed by the applicant;
- b) The fee as provided by this Part; and
- c) A certificate of good standing from the applicant's licensing authority.

## Section 1410.130 Expiration of Home Inspector Licenses

All Home Inspector Licenses issued pursuant to Sections 100, 110 and 120 of this Part shall expire on November 30 of even numbered years.

## Section 1410.140 Renewal of Home Inspector Licenses

- a) Each applicant for renewal of a Home Inspector License issued pursuant to Sections 100 and 120 of this Part shall submit to OBRE:
  - 1) An application, provided by OBRE, that is signed and fully completed by the applicant;
  - 2) The fee as provided by this part; and
  - 3) Proof of successful completion of the continuing education requirements as provided by this Part.
- b) Each applicant for renewal of a home inspector entity license issued pursuant to Section 110 of this Part shall submit to OBRE:
  - 1) An application, provided by OBRE, that is signed and fully completed by the applicant;
  - 2) A certificate of good standing or authorization to conduct business in Illinois from the Secretary of State of Illinois; and
  - 3) The fee as provided by this Part.

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- c) Any person who fails to submit a renewal application and renew his or her license by the expiration date of the license may renew his or her license for a period of 2 years following the expiration date of his or her license by submitting to OBRE:
  - 1) An application, provided by OBRE, that is signed and fully completed by the applicant;
  - 2) The fee and late penalty as provided by this Part; and
  - 3) proof of successful completion of the continuing education requirements as provided by this Part.
- d) Any person who fails to submit a renewal application within 2 years of the expiration date shall not be eligible to renew his or her license, and must meet the requirements of a new applicant as required by the Act and this Part.

## Section 1410.150 Pre-License Education Requirements

- a) Any person who makes application for a Home Inspector License shall be required, as a pre-requisite to examination, to have successfully completed 60 classroom hours of pre-license instruction in a course of study pursuant to Subpart F of this Part. Pre-license education requirements shall only be accepted from education providers and courses approved by OBRE, except as provided in subparagraph (b) of this Section.
- b) OBRE may accept evidence of successful completion of pre-license education credit or partial credit from courses taken after January 1, 2001 and prior to January 1, 2003. An applicant who wishes to obtain credit for pre-license education courses not licensed by OBRE shall submit to OBRE prior to June 30, 2003:
  - 1) An application, provided by OBRE, to request approval for pre-license education credit signed and fully completed by the applicant;
  - 2) A certificate of successful completion provided by the education provider or any other evidence to be considered by OBRE; and
  - 3) The fee as provided in Section 1410.400.

## Section 1410.160 Continuing Education Requirements

- a) A home inspector who makes application to renew his or her Home Inspector License shall successfully complete the equivalent of 6 hours per year of approved continuing education pursuant to Subpart F, preceding the renewal; for example, a total of 12 hours of approved continuing education for a 2 year renewal cycle. Continuing education may be obtained anytime during the pre-renewal period.

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- b) If a home inspector was issued an initial license for less than one year prior to the expiration of the license, then no continuing education is required for that renewal. If a home inspector has held a license for more than one year prior to the expiration, but less than two years, then 6 hours of approved continuing education is required.

## Section 1410.170 Issuance of Certificate of Licensure

OBRE shall issue a certificate of licensure and a pocket card to all home inspectors approved for licensure under this Act and this Part. The certificate shall include the name and license number of the home inspector or home inspector entity, address, and the date of expiration.

## Section 1410.180 Exemptions

As set forth in Section 5-5(c)(2) of the Act, nothing in the Home Inspector License Act or this Part shall limit or prohibit a person who has been issued a valid license, registration, certification or other credential by a regulatory authority of the State of Illinois that authorizes a person to engage in a practice or hold oneself out to engage in an activity or use any title for which such a license, registration, certification or credentials were issued.

## SUBPART C: STANDARDS OF PRACTICE AND BUSINESS REQUIREMENTS

## Section 1410.200 Standards of Practice

- a) For the purposes of this Section, the terms listed below shall mean:
- 1) Alarm Systems: Warning devices, installed or free-standing, including but not limited to: carbon monoxide detectors, flue gas and other spillage detectors, security equipment, ejector pumps and smoke alarms.
  - 2) Client: A person or person who engages or seeks to engage the services of a home inspector for an inspection assignment.
  - 3) Component: A part of a system.
  - 4) Decorative: Ornamental; not required for the operation of the essential systems and components of a home.
  - 5) Describe: To report a system or component by its type or other observed, significant characteristics to distinguish it from other systems or components.
  - 6) Home Inspection: As defined in Section 1-10 of the Act.

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- 7) Home Inspection Report: A written evaluation prepared and issued by a home inspector upon completion of a home inspection, that meets the standards of practice as established by OBRE.
  - 8) Inspect: To visually examine readily accessible systems and components of a building in accordance with these Standards of Practice, using normal operating controls and opening readily accessible access panels.
  - 9) Roof Drainage Systems: Components used to carry water off a roof and away from a building.
  - 10) Significantly Deficient: Unsafe or not functioning.
  - 11) Solid Fuel Burning Appliances: A hearth and fire chamber or similar prepared place in which a fire may be built and which is built in conjunction with a chimney; or a listed assembly of a fire chamber, its chimney and related factory-made parts designed for unit assembly without requiring field construction.
  - 12) Structural Component: A component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads).
  - 13) System: A combination of interacting or interdependent components, assembled to carry out one or more functions.
  - 14) Under Floor Crawl Space: The area within the confines of the foundation and between the ground and the underside of the floor.
  - 15) Unsafe: A condition in a system or component that poses a significant risk of personal injury or property damage during normal, day-to-day use. The risk may be due to damage, deterioration, improper installation or a change in accepted residential construction standards.
- b) These Standards of Practice define the practice of home inspection in the State of Illinois and shall:
- 1) Provide home inspection guidelines; and
  - 2) Define certain terms relating to these home inspections.
- c) The purpose of these standards of practice is to establish a minimum and uniform standard for licensed home inspectors to provide the client with information regarding the condition of the systems and components of the home as inspected at the time of the home inspection.
- d) Home inspectors or home inspector entities shall enter into a written agreement with the client prior to the home inspection that includes at a minimum:
- 1) The purpose of the inspection;
  - 2) The date of the inspection;
  - 3) The name, address and license number of the home inspector or home inspector entity;
  - 4) The fee for services performed;

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- 5) A statement that the inspection will be performed in accordance with these Standards;
  - 6) A list of the systems and components to be inspected;
  - 7) Limitations or exclusions of systems or components being inspected; and
  - 8) The signature of the home inspector or the duly authorized representative of a home inspector entity.
- e) At the conclusion of the home inspection, a home inspector shall submit a written report to the client or duly authorized representative, that includes the home inspector's signature and license number and shall:
- 1) Describe the systems and components that were inspected;
  - 2) Report on those systems and components inspected that, in the opinion of the inspector, are significantly deficient; and
    - A) A reason why the system or component is significantly deficient.
    - B) Disclose any systems or components designated for inspection, that were present at the time of the home inspection, but were not inspected and a reason they were not inspected.
- f) These Standards are not intended to limit home inspectors from:
- 1) Including other inspection services, systems or components in addition to those defined in these standards of practice; and
  - 2) Excluding systems and components in the written agreement from the inspection.
- g) When, pursuant to written agreement with a client, the structural system/foundation is inspected, the home inspector shall:
- 1) Inspect the structural components including the foundation and framing; and
  - 2) Describe the foundation and report the methods used to inspect the under-floor crawl space, floor, wall, ceiling, roof, structure and report the methods used to inspect the attic.
- h) When, pursuant to the written agreement with a client, the exterior is inspected, the home inspector shall:
- 1) Inspect the exterior wall covering, flashing, trim, all exterior doors, attached decks, balconies, stoops, steps, porches, and their associated railings, the eaves, soffits, and fascias where accessible from the ground level, the vegetation, grading, surface drainage, and retaining walls on the property when any of these are likely to adversely affect the building, walkways, patios, and driveways leading to dwelling entrances; and
  - 2) Describe the exterior wall covering.
- i) When, pursuant to the written agreement with a client, the roof system is inspected, the home inspector shall:

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- 1) Inspect the roof covering, the roof drainage systems, the flashings, the skylights, chimneys, and roof penetrations; and
  - 2) Describe the roof covering and report the methods used to inspect the roof.
- j) When, pursuant to the written agreement with a client, the plumbing system is observed, the home inspector shall describe in detail the interior water supply and distribution including all fixtures and faucets, the drain, waste and vent systems including all fixtures, the water heating equipment, the vent systems, flues, and chimneys, the fuel storage and fuel distribution systems, the drainage sumps, sump pumps, and related piping, and the location of main water and main fuel shut-off valves.
- k) When, pursuant to the written agreement with a client, the electrical system is inspected, the home inspector shall:
- 1) Inspect the service drop, the service entrance conductors, cables, and raceways, the service equipment and main disconnects, the service grounding, the interior components of service panels and sub panels, the conductors, the over-current protection devices, installed lighting fixtures, switches, and receptacles, the ground fault circuit interrupters;
  - 2) Describe the amperage and voltage rating of the service, the location of main disconnects and sub panels, the wiring methods; and
  - 3) Report on the presence of solid conductor aluminum branch circuit wiring and on the absence of smoke detectors.
- l) When, pursuant to the written agreement with a client, the heating system is inspected, the home inspector shall:
- 1) Inspect the installed heating equipment, the vent systems, flues, and chimneys; and
  - 2) Describe the energy source, the heating method by its distinguishing characteristics.
- m) When, pursuant to the written agreement with a client, the cooling system is inspected, the home inspector shall:
- 1) inspect the installed central and through-wall cooling equipment; and
  - 2) describe the energy source, the cooling method by its distinguishing characteristics.
- n) When, pursuant to the written agreement with a client, the interior is inspected, the home inspector shall inspect the walls, ceilings, and floors, the steps, stairways, and railings, the countertops, installed cabinets, doors and windows, garage doors and garage door operators.
- o) When, pursuant to the written agreement with a client, the insulation and ventilation are inspected, the home inspector shall:

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- 1) inspect the insulation and vapor retarders in unfinished spaces, the ventilation of attics and foundation areas, the mechanical ventilation systems; and
  - 2) describe the insulation and vapor retarders in unfinished spaces, the absence of insulation in unfinished spaces at conditioned surfaces.
- p) When, pursuant to the written agreement with a client, the fireplaces and solid fuel burning appliances are inspected, the home inspector shall:
- 1) Inspect the system components, the vent systems, flues, and chimneys; and
  - 2) Describe the fireplaces, solid fuel burning appliances, and the chimneys.

## Section 1410.210 Notification of Name Change

It is the responsibility of each licensee issued a license under this Act to notify OBRE in writing, within fifteen (15) days of any change of name. For example, if the licensee has had a name change either by court order or due to a change in marital status, the licensee shall notify OBRE of the name change together with a certified copy of the marriage certificate or portions of the court order relating to the name change, and indicate under the name the license shall be issued.

## Section 1410.220 Assumed Name

If a licensee operates under any name other than that appearing on his or her license, he or she shall submit to OBRE a certified copy of his or her registration under the Assumed Business Name Act [805 ILCS 405] at the time of application or within 30 days after the registration.

## Section 1410.230 Address Change; Street Address

It is the responsibility of each licensee to notify OBRE in writing of a change of address within fifteen (15) days of such change. A licensee may use a Post Office Box number for example P.O. Box 1001, as a mailing address, but must additionally notify OBRE of a street address of the licensee's residence or business location.

## Section 1410.240 Work Log of Inspections

A person or entity licensed under the Act shall be required to maintain a work log record of home inspections conducted for a period of 5 years after the home inspection is performed. The

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work log shall be kept in a sequential format and shall include the date, the name of the client and the address of the home inspected.

**Section 1410.250 Entities must Utilize Licensed Home Inspectors**

A Home Inspector Entity licensed pursuant to the Act and this Part shall only utilize licensed home inspectors to conduct home inspections and to sign home inspection reports. The licensed home inspector who signs a home inspection report on behalf of a home inspector entity shall include his or her license number on such report. A Home Inspector Entity is responsible for the actions of all their employees, agents and inspectors while providing home inspections in Illinois.

**Section 1410.260 Disclosure of a Conflict of Interest**

As set forth in Section 15-10(20) of the Act, a home inspector may provide services to a client in addition to a home inspection. The home inspector shall first, however, provide a written notice of the services intended and how such services may conflict with the home inspection services provided. Thereafter, the described additional services may only be performed upon securing the written consent of the client. The written notice of services and written consent shall not be contained in the written agreement with a client, but must be provided in a separate document.

**SUBPART D: ENFORCEMENT PROVISIONS****Section 1410.300 Grounds for Discipline**

A rebuttable presumption of dishonest, unethical or unprofessional conduct shall arise whenever a home inspector, while performing a home inspection or developing a home inspection report, commits one or more of the following acts or omissions and fails to provide a credible explanation upon request:

- a) The licensee expresses an opinion without being based on practical experience or education and honest conviction.
- b) The licensee fails to act in good faith in dealing with a client.
- c) The licensee discloses any information concerning the results of a home inspection without the approval of the clients.
- d) The licensee accepts compensation from more than one interested party for the same service without the consent of all interested parties.
- e) The licensee offers or accepts commissions or allowances, directly or indirectly, from other parties dealing with a client while providing a home inspection.

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- f) The licensee fails to promptly disclose in writing to a client any interest in a business or the subject property that may affect or have the potential to affect the client.
- g) The licensee allows an interest in any business to affect the quality of the results of a home inspection.
- h) The licensee fails to disclose in writing to the client prior to the home inspection any limitations or exclusions of systems or components being inspected.
- i) The licensee aids or assists another in the violation of the Act or this Part.
- j) The licensee fails to satisfy a material term of a consent to administrative supervision order or consent order.
- k) The licensee aids, assists, or facilitates another to use or appropriate credentials or a license for the purpose of preparing a home inspection report knowing such person to be unlicensed.
- l) The licensee advises a client as to whether the client should or should not engage in a real estate transaction or provides an opinion of value regarding the residential real property that is the subject of the home inspection.

## Section 1410.310 Felony Convictions; Discipline of Other Professional License; Notification

- a) A licensee who holds a valid license issued under the Act shall notify OBRE in writing within 30 days from the date of conviction of any crime described in Section 15-10(a)(4) of the Act. In addition to the notice, the licensee shall provide to OBRE all court records, including but not limited to indictments, information, plea agreements, pre-trial sentencing motions, investigations and orders, as well as judgment and sentencing orders, or other information as required by OBRE to determine fitness for licensure.
- b) A licensee who holds a valid license issued under the Act who has had another professional license disciplined as described in Section 15-10(a)(9) of the Act shall notify OBRE in writing within 30 days after any adverse temporary or final order. In addition to the notice, the licensee shall provide all adverse orders, whether by consent or otherwise, plea agreements, motions or pleadings wherein a licensee has made a written statement or admission of culpability in the violation of a professional regulation or standard, or other information as required by OBRE to determine fitness for licensure.

## Section 1410.320 Cooperation Required with OBRE

Pursuant to Section 15-10(a)(16) of the Act, all licensees are required to fully cooperate with any audit, investigation, interrogatory, examination or request for information regarding any aspect

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of the licensee's home inspection practice or application for licensure. Full cooperation includes but is not necessarily limited to:

- a) Providing to OBRE a complete copy of a signed home inspection report as it was transmitted to the client, including file memoranda, work files, supporting and/or verification documentation that are required to be maintained by the Act;
- b) Providing to OBRE continuing education certificates or work logs that are required to be maintained by the Act or this Part; or
- c) Providing to OBRE a complete response to any written interrogatory or request for clarification submitted to a licensee or applicant.

#### Section 1410.330 Administrative Warning Letter

OBRE may issue an administrative warning letter with or without a compliance agreement that may include a fee pursuant to this Part. A compliance agreement may include conditions in order to maintain the standards of professional conduct, the competency of a licensee, and the protection of the public. Administrative warning letters with or without a compliance agreement are not considered to be discipline and are not subject to the Freedom of Information Act [5 ILCS 140].

#### Section 1410.340 Additional Education; Reporting Requirements

OBRE may require a licensee, pursuant to a compliance agreement or order, to complete remedial education, additional continuing education or pre-license education coursework, provide any reports, records or other documents pertaining to home inspection practice that OBRE may deem necessary to maintain standards of professional conduct, the competency of a licensee, and for the protection of the public.

#### Section 1410.350 Suspension or Denial for Failure to Pay Taxes, Child Support or any Illinois-Guaranteed Student Loan

- a) If OBRE receives certification that a licensee is in violation of Section 15-40, 15-45 or 15-50 of the Act, OBRE shall notify the licensee, by certified or registered mail, return receipt requested, or other signature restricted delivery, that the licensee may be refused renewal of the license at its expiration date, unless the licensee provides to OBRE certification that the licensee has eliminated the arrearage or has arranged for payment of the obligations in a manner satisfactory to the appropriate administering agency.
- b) If OBRE receives certification that an applicant is in violation of Section 15-40, 15-45 or 15-50 of the Act, OBRE shall notify such applicant, by certified or

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registered mail, return receipt requested, or other signature restricted delivery, of its intent to deny the applicant a license under the Act, unless the applicant provides to OBRE proof that the applicant has eliminated the arrearage or has arranged for payment of the obligations in a manner satisfactory to the appropriate administering agency.

- c) For the purposes of this Section, “certification” shall mean:
  - 1) a verified statement by the appropriate administering agency of such delinquency, failure to file or failure to pay; or
  - 2) a finding by an administrative body after notice to the licensee or applicant of evidentiary proceedings or a court of competent jurisdiction that the licensee or applicant is delinquent in child support or is liable to pay a certain amount for Illinois taxes or is delinquent or has defaulted on an Illinois-guaranteed student loan obligation.
- d) A licensee or applicant may participate in a hearing, but the basis for the hearing shall only be for the purpose of proving that the petitioner is not the person for which such failure to pay or arrearage information was received, that the petitioner has executed a formal, written payment plan with the appropriate administering agency, signed by both parties, or that the petitioner has satisfied the outstanding debt. Collateral attack of the certification is not permitted.
- e) A license will be eligible for reinstatement, renewal or issuance upon a showing that the certified failure to file, failure to pay delinquency or default has been satisfied, and by completing the appropriate application and paying any fees provided in this Part.

## SUBPART E: ADMINISTRATIVE PROVISIONS

## Section 1410.400 Fees

- a) Initial application fee for a Home Inspector License pursuant to Sections 5-10 and 5-12 of the Act and Sections 1410.100, 1410.110, 1410.120 and 1410.130 of this Part.
  - 1) The application fee for an initial license as a home inspector shall be \$250.
  - 2) The application fee for an initial license as a home inspector entity shall be \$250.
- b) Renewal application fee for a Home Inspector License pursuant to Sections 5-16 and 5-17 of the Act and Section 1410.130 of this Part.
  - 1) The application fee to renew a license as a home inspector shall be calculated at \$200 per year for a total of \$400 per renewal.

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- 2) The application to renew a home inspector entity license shall be calculated at \$200 per year for a total of \$400 per renewal.
  - 3) The application fee to renew a license, that has expired, as a home inspector or a home inspector entity shall be the sum of all lapsed renewal fees plus \$50 late fee.
- c) Initial application fee for a license as an education provider, a pre-license course, and a continuing education course.
- 1) The application fee for a license as an education provider pursuant to Section 20-5 of the Act and Section 1410.570 of this Part shall be \$1,000, plus course application fees.
  - 2) The application fee for a license for a pre-license course pursuant to Section 20-10 of the Act and Section 1410.570 of this Part shall be \$100.
  - 3) The application fee for a license for a continuing education course pursuant to Section 20-10 of the Act and Section 1410.570 of this Part shall be \$50.
- d) Application fee to renew a license as an education provider, a pre-license course, and a continuing education course.
- 1) The application fee to renew a license as an education provider shall be calculated at \$500 per year for a total of \$1,000 per renewal.
  - 2) The application fee to renew a license, that has expired, as an education provider shall be the sum of all lapsed renewal fees plus a \$50 late fee.
  - 3) The application fee to renew a license as a pre-license course shall be calculated at \$50 per year for a total of \$100 per renewal.
  - 4) The application fee to renew a license that has expired, as a pre-license course shall be the sum of all lapsed renewal fees plus a \$50 late fee.
  - 5) The application fee to renew a license as a continuing education course shall be calculated at \$25 per year for a total of \$50 per renewal.
  - 6) The application fee to renew a license, that has expired, as a continuing education course shall be the sum of all lapsed renewal fees plus a \$50 late fee.
- e) For the purposes of determining if a license has expired under this Section, OBRE shall consider the license expired, if the post-mark on the renewal application is a date later than the expiration date, or, if delivered other than by mail, the license shall be considered expired, if the renewal application is received by OBRE on a date after the expiration date.
- f) General
- 1) All fees paid pursuant to the Act and this Part are non-refundable.
  - 2) The fee for the issuance of a duplicate license certificate or pocket card for the issuance of a replacement license certificate or pocket card, that has

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been lost or destroyed, or for the issuance of a license certificate or pocket card with a name or address change other than during the renewal period shall be \$25.

- 3) The fee for a certification of a licensee's record for any purpose shall be \$25.
- 4) The fee for a decorative wall license showing registration shall be the cost of producing the license.
- 5) The fee for a roster of persons licensed under the Act shall be the cost of producing the roster.
- 6) The fee for an applicant to take the examination for a Home Inspector License shall be the cost of providing the examination. If a designated testing service is utilized for the examination, the fee shall be paid directly to the designated testing service. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged, shall result in the forfeiture of the examination fee.
- 7) The fee for requesting a waiver of any education requirement provided by the Act and this Part shall be \$50.
- 8) The fee for a copy of the transcript of any proceeding under the Act shall be the cost to produce such copy.
- 9) The fee for certifying any record, for example, a copy of a disciplinary order or application, shall be \$1 per page.
- 10) OBRE may charge an administrative fee not to exceed \$2,000 as a part of a compliance agreement issued with an administrative warning letter pursuant to Section 1410.330 of this Part.

## Section 1410.410 Duties of the Liaison

- a) The Commissioner may delegate the authority of OBRE and the Commissioner to the liaison as provided in Section 25-15 of the Act. Such delegation may include, but is not limited to:
  - 1) Determine the course of an investigation based upon his or her knowledge, training and experience;
  - 2) Determine whether a complaint be closed without an investigation, given the allegations, or evidence of a violation of the Act and this Part;
  - 3) Close a complaint without any action;
  - 4) Issue an administrative warning letter, cease and desist letter, or request that an attorney issue such letters;
  - 5) Enter into compliance agreements;

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- 6) Refer a complaint for prosecution; or
  - 7) Act upon a request for a variance from this Part.
- b) The authority, once delegated, shall continue until such time as it is amended or withdrawn.

## Section 1410.420 Granting of Variances

The Commissioner of the Office of Banks and Real Estate may grant variances from these rules in individual cases where he or she finds:

- a) the provision from that the variance is granted is not statutorily mandated;
- b) the granting of the variance would not be contrary to the public welfare; and
- c) the rule from that the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

## SUBPART F: EDUCATION PROVIDER AND COURSE REQUIREMENTS

## Section 1410.500 Education Provider Application; Requirements

- a) In accordance with Section 20-5 of the Act, any person or entity seeking approval to provide pre-license and/or continuing education courses shall submit an application on forms provided by OBRE, that is signed by the applicant and fully completed along with the appropriate fee required by this Part.
- b) The program of pre-license and/or continuing education for a licensed education provider shall:
  - 1) be approved by the provider's governing and/or supervising body;
  - 2) utilize qualified instructors; and
  - 3) offer courses that are approved and licensed, and conform to the standards established in this Subpart.
- c) Facilities
  - 1) An education provider must provide an office for the maintenance of all records, office equipment and office space necessary for customer service.
  - 2) The premises, equipment and facilities of the education provider shall comply with applicable community, state or federal fire codes, building codes, and health and safety standards.
  - 3) The education provider is subject to inspection prior to approval or at any time thereafter by authorized representatives of OBRE. Inspections shall be conducted during regular business hours, with at least 48 hours advance notice.

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- 4) No education provider shall maintain an office, or conduct education courses in a private residence.
  - 5) An education provider shall only conduct education courses in locations that are conducive to learning.
- d) Administration
- 1) No licensed education provider shall advertise that it is endorsed, recommended, or accredited by OBRE. The education provider may indicate that it is licensed by and the course of study has been approved and licensed by OBRE.
  - 2) Each education provider shall provide a prospective student prior to enrollment with information that specifies the course of study to be offered, the tuition, the provider's policy regarding refund policies, any additional fee for supplies, materials or books, and other matters that are material to the relationship between the provider and the student.
  - 3) Each education provider shall maintain for each student a record that shall include the course of study undertaken, dates of attendance, and a transcript of courses satisfactorily completed. All records shall be maintained by the education provider for a period of 5 years and shall be made available to the student or to OBRE upon request during regular business hours. An education provider may charge a student the cost of reproducing copies of a transcript.
  - 4) Each education provider shall upon request by OBRE, provide evidence of financial resources available to equip and maintain its program, as documented by, for example, a current balance sheet or an income statement.
  - 5) Any out-of-state education providers shall reimburse OBRE for all reasonable expenses incurred by OBRE while inspecting its facilities.
  - 6) Each education provider shall notify OBRE of all proposed changes in ownership of the education provider at least 30 days prior to the change in ownership.

## Section 1410.510 Pre-License Education Course Requirements of Education Providers

- a) For the purposes of this section, a course shall be defined as a course of instruction, that meets the curriculum requirements of this Part, and shall be at least 15 hours in length.
- b) Each course shall meet the appropriate course curriculum prescribed by this Part.
- c) Each course shall include an examination of a minimum of 25 questions for each 15 hours of instruction, for example, a 15 hour course would require a 25 question

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examination, a 30 hour course would require a 50 question examination. The questions shall be either multiple choice or true/false or a combination of the same. Open book examinations shall not be accepted. No student shall be deemed to have successfully completed the course, unless he or she has scored a minimum of 70% on the course examination.

- d) OBRE shall only grant approval for courses, and that are a part of an overall pre-license education program for a Home Inspector License. An education provider must have a complete 60 hour pre-license program approved by OBRE.
- e) Each education provider who seeks approval of a course shall submit to OBRE an application on forms provided by OBRE, that is signed by the applicant and fully completed, and shall include, but not be limited to, an outline and course description for each course, materials to be used in instruction, an examination with answer key, and the appropriate fee pursuant to this Part.

## Section 1410.520 Pre-License Course Curriculum

- a) Pre-license education course work to obtain a license as a home inspector shall consist of a minimum of 60 hours of instruction, of which no less than 40 hours shall be classroom instruction and no less than 10 hours shall be practical lab instruction. The content for pre-license instruction courses shall not be repetitive and shall represent a progression of instruction in that the home inspector's knowledge is increased in the following topics, including but not limited to:
  - 1) Exteriors: Exterior study must contain the following as a minimum.
    - A) Identification and inspection of exposed foundations.
    - B) Identification and inspection of siding and exterior wall covering material, flashing, and trim including: Aluminum, brick, vinyl, steel Asphalt, hardboard, stucco, wood, exterior insulation finish system.
    - C) Identification and inspection of gutter and drainage control systems.
    - D) Inspection of porches steps and rails including the structural composition.
    - E) Identification and implications on vegetation, grading and surface drainage including: retaining walls, walk ways and driveways leading to a dwelling entrance.
  - 2) Interiors: Interior study must contain the following as a minimum:
    - A) Identification and inspection of wall, ceiling and floor defects.
    - B) Identification and inspection of step, stair and railing defects.

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- C) Identification and inspection of countertop, cabinet and island defects as it pertains to a kitchen or other type room.
  - D) Identification and inspection of interior and exterior door defects.
  - E) Identification and inspection of window defects and operation.
  - F) Identification and inspection of garage door defects, garage door opener defects, and garage structure defects including fire safety and habitability.
- 3) Roofing: Roofing study must contain the following as a minimum:
- A) Identification of the type and style of roofs.
  - B) Identification and inspection of the roofing materials used including: asphalt, cedar shake, cedar shingle, tar, residential rolled roofing, clay and concrete tiles, slate, metal, and asbestos.
  - C) Identification and inspection of skylights and flashing.
  - D) Identification of chimneys and other penetrations, including proper height and composition.
- 4) Plumbing: Plumbing study must contain the following as a minimum:
- A) Identification and inspection of the main distribution system including all fixtures and faucets and materials.
  - B) Identification and inspection of all drain, waste and vent systems including all fixtures and materials.
  - C) Identification and inspection of water heating systems.
  - D) Identification and inspection of fuel distribution systems and materials.
  - E) Inspection and identification of all drainage control devices, including sump pumps, ejector pumps or other related piping.
  - F) Identification of water source and sewer distribution.
- 5) Electrical: Electrical study must contain the following as a minimum:
- A) Identification and inspection of the main service, including the size, location, over current protection, such as a breaker or a fuse, service entrance conductors, cables, and raceways.
  - B) Identification and inspection of the branch distribution, including fuse boxes, breaker boxes, and sub-panels.
  - C) Identification and inspection of all over current protection devices and wire type identification.
  - D) Identification and inspection of installed lighting fixtures, switches, and receptacles.
  - E) Identification and inspection of safety devices, including ground fault circuit interrupters.

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- 6) Heating, ventilation and air conditioning (HVAC): HVAC study must include the following as a minimum:
  - A) Identification and inspection of the installed heating equipment, including: gas forced air, fuel oil forced air, heat pumps, electric forced air, and hydronic heating equipment as well and the distribution related to the various types.
  - B) Identification and inspection of fuel sources and distribution.
  - C) Identification and inspection of flue pipes and spent gas removal systems.
  - D) Identification and inspection of all related safety devices.
  - E) Identification and inspection of installed cooling systems, including central and window mounted systems.
- 7) Structural: Structural study must contain the following as a minimum:
  - A) Identification and inspection of all structural components, including floor and wall framing.
  - B) Identification and inspection of all foundation support systems, including: poured concrete, concrete block, brick, stone, wood and all related perimeter footing systems.
  - C) Identification and inspection of water related or seepage related sources.
  - D) Identification and inspection of flood control devices.
  - E) Identification and inspection of roof structure and systems related to composition.
  - F) Identification and inspection of under roof and under floor ventilation.
  - G) Identification and inspection of insulation and vapor protection systems.
- 8) Miscellaneous Appliances: Appliance study must contain the following as a minimum:
  - A) Identification of all fireplaces, solid fuel burning appliances, chimneys and vents.
  - B) Identification and inspection of all major appliances, including, but not limited to range, stove, oven, refrigerator, window air conditioner, washer, drier, trash compactor, and garbage disposal, and other appliances that may be a part of a transaction.
- 9) Applicable laws: Illinois specific law study must contain at a minimum:
  - A) Specific knowledge and understanding of the Illinois Home Inspector License Act and Administrative Rule.

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- B) General knowledge and understanding of Illinois Human Rights Act.
- C) General knowledge and understanding of contract law.
- 10) Standards of Practice: Standards of practice study must contain the following as a minimum:
  - A) Required disclosures to a client.
  - B) Required report content.
  - C) Competent report writing.
  - D) Specific knowledge of business practices and standards of practice.

## Section 1410.530 Example of Acceptable Pre-License Education Program

Examples of an acceptable pre-license education program and courses are:

- a) 15 hour course of classroom instruction.
  - 1) Exteriors;
  - 2) Interiors; and
  - 3) Roofing.
- b) 15 hour course of classroom instruction.
  - 1) Plumbing;
  - 2) Electrical; and
  - 3) HVAC.
- c) 15 hour course of classroom instruction.
  - 1) Structural;
  - 2) Miscellaneous Appliances;
  - 3) Applicable Laws; and
  - 4) Standards of Practice.
- d) 15 hour practical lab instruction.

## Section 1410.540 Continuing Education Course Requirements of Education Providers

- a) A continuing education course shall be at least 3 hours in length and shall meet the course curriculum prescribed in Section 1410.550 of this Subpart.
- b) Each education provider who seeks approval of a continuing education course shall submit to OBRE an application on forms provided by OBRE, that is signed by the applicant and fully completed, and shall include, but not be limited to, a course outline and description of the course, a minimum 25 question exam with answer key, the number of hours sought, and the appropriate fee pursuant to this Part.

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## Section 1410.550 Curriculum for Continuing Education Courses; Continuing Education Credit for Participation other than as a Student

- a) Continuing education courses for a home inspector shall include course work that shall increase his or her skill, knowledge and competency in home inspections and shall cover topics such as, but not limited to:
  - 1) Identifying and inspecting the following components and systems:
    - A) Exteriors;
    - B) Interiors;
    - C) Roofing;
    - D) Plumbing;
    - E) Electrical;
    - F) HVAC;
    - G) Structural; and
    - H) Miscellaneous appliances; and
  - 2) Applicable laws and standards of practice.
- b) Continuing education credit may also be granted by OBRE for participation, other than as a student, in home inspection educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, or authorship of textbooks. A home inspector who wishes to obtain continuing education credit for these activities shall submit to OBRE:
  - 1) An application on forms provided by OBRE, that is signed by the applicant and fully completed; and
  - 2) The fee provided for by this Part

## Section 1410.560 Distance Education

- a) For pre-license education or continuing education, distance education is defined as any educational process based on the geographical separation of instructor and student for example CD ROM, on-line learning, correspondence courses, video conferencing, etc.
- b) Distance education courses may be approved and licensed by OBRE, if:
  - 1) the education provider is approved and licensed by OBRE;
  - 2) the distance education course meets the requirements for pre-license education and continuing education as provided in the Act and this Part; and
  - 3) the education provider establishes a mechanism for proctored examination approved by OBRE.

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## Section 1410.570 Expiration Date and Renewal for Education Providers and Pre- License and Continuing Education Courses

- a) All education provider and pre-license and continuing education course licenses shall expire on December 31 of odd numbered years.
- b) Every education provider who wishes to renew his, her or its license and pre-license and continuing education course licenses shall submit to OBRE:
  - 1) an application, provided by OBRE, that is signed and fully completed;
  - 2) any course materials requested by OBRE during the renewal application process; and
  - 3) the fees as required by this Part.

## Section 1410.580 Continuing Education Reporting

Each licensed education provider, pursuant to Section 20-5(e) of the Act, approved to offer approved continuing education courses shall submit to OBRE on or before the 15<sup>th</sup> of each month, a report of those licensees successfully completing the continuing education courses offered by the provider during the preceding calendar month.

- a) The monthly reports shall include, but not be limited to, the following information for each licensee:
  - 1) the licensee's name, address, social security number, and license number;
  - 2) the education provider's name and license number; and
  - 3) the continuing education course name and license number.
- b) If an education provider during the preceding calendar month offered no continuing education courses, the provider shall so report on forms provided by OBRE.
- c) The monthly reports shall be submitted in a computer readable format provided and specified by OBRE.
- d) There will be no processing fee for a monthly report submitted in the computer readable format provided and specified by OBRE. Each monthly report submitted on paper or in a format other than a computer readable format provided and specified by OBRE shall be accompanied by a processing fee of \$.50 per licensee, per course, listed on the report, payable by check to OBRE.
- e) A monthly report received by OBRE with a postmark after the day it is due (the 15<sup>th</sup> day of the month) shall be accompanied by an administrative late fee of \$200 in addition to the fees set forth above.
- f) If an education provider fails to file monthly reports or a statement that no courses were offered, or fails to pay the required fees for three consecutive months, the courses offered by that school may be disqualified pursuant to the procedures set

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forth in the Act and this Part until all delinquent reports, processing fees, and administrative fees as set forth in this Section have been submitted to and are received by OBRE. OBRE shall send notice to the school of an informal conference before the Board and of pending disqualification pursuant to the Act this Part by certified or registered mail, return receipt requested or by other signature restricted delivery service.

## Section 1410.590 Transcript or Certificate of Completion

Each licensed education provider shall within 10 days of completion of the course provide to each student, who successfully completes an approved pre-license or continuing education course, a certified transcript or certificate of completion. The certified transcript or certificate of completion shall include the following information, but not limited to, the student's name, address, social security number, and license number (if applicable), the name and license number of the education provider, the name and license number of the course, and the approved hours completed.

## SUBPART G: HEARINGS

## Section 1410.600 Hearings

All disciplinary hearings brought before the Board under Article 15 of the Act shall be conducted in accordance with the Rules of Practice in Administrative Hearings as provided for in 68 Illinois Administrative Code 1110.

## ILLINOIS DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: State Agency Accounts Receivable
- 2) Code Citation: 74 Ill. Adm. Code 910
- 3) Section Numbers:      Adopted Action:  
910.20                      Amend  
910.50                      Amend
- 4) Statutory Authority: Implementing and authorized by Section 8 of the Illinois State Collection Act of 1986 [30 ILCS 210/8]
- 5) Effective Date of Amendments: January 17, 2003
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register:  
October 4, 2002  
26 Ill. Reg. 14356
- 10) Has JCAR issued a Statement of Objections to the Amendments? No
- 11) Differences between proposal and final version. Added last sentence to subsection 910.50(d).
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were necessary
- 13) Will these amendments replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No

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- 15) Summary and Purpose of Amendments: It has come to the Board's attention that there may be questions about the significance of removing from the Comptroller's Offset System debts determined by the Attorney General or by the Debt Collection Board to be uncollectable. This amendment is intended to clarify the circumstances under which uncollectable receivables should or should not be removed from the Comptroller's Offset System.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Ben Bagby  
Illinois Department of Central Management Services  
720 Stratton Office Building  
Springfield IL 62706  
(217) 782-9669

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

## ILLINOIS DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED AMENDMENTS

TITLE 74: PUBLIC FINANCE  
CHAPTER VIII: DEBT COLLECTION BOARDPART 910  
STATE AGENCY ACCOUNTS RECEIVABLE

Section	
910.10	Scope
910.20	Definitions
910.30	Assumption of Jurisdiction by Board
910.40	Agency Referrals
910.50	Actions by Board
910.60	Format; Board Procedures
910.70	Voiding a Contract

AUTHORITY: Implementing and authorized by Section 8 of the Illinois State Collection Act of 1986 [30 ILCS 210/8].

SOURCE: Adopted at 21 Ill. Reg. 11921, effective August 15, 1997; amended at 26 Ill. Reg. 9302, effective July 1, 2002; amended at 27 Ill. Reg. 1542, effective January 17, 2003.

## Section 910.20 Definitions

- a) For purposes of this Part, “State agency” shall have the meaning found in the Illinois State Auditing Act.
- b) For purposes of this Part, “State agency account receivable”, “account(s) receivable”, or “receivable(s)” shall mean amounts due a State agency from non-governmental entities which are legally enforceable, which have not been lawfully certified as uncollectable and for which there is no legal barrier to referral to the Board for recovery. Amounts due the General Assembly, the Supreme Court and the several courts of this State and the constitutionally elected State Officers are included only if they elect to have such receivables subject to the Board’s jurisdiction. The definition shall not include:
  - 1) amounts less than \$100 (NOTE: Nothing in this Part prohibits agencies from referring receivables to the Board in amounts less than \$100.);
  - 2) amounts due the Illinois Student Assistance Commission under the student loan program.

## ILLINOIS DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED AMENDMENTS

- c) For purposes of Section 50-11 of the Illinois Procurement Code (30 ILCS 500/50-11) a person shall be considered to be “delinquent in the payment of any debt” if that person owes a debt to the State or any of its agencies that totals \$1000 or more, exclusive of interest, and that is more than 90 days past due. A debt due the State shall refer to any receivable owed the State, as defined in procedure 26.20.10 of the Comptroller’s Statewide Accounting Management System (SAMS) manual, subject to the exceptions listed in subsections (c)(1) and (c)(2). Procedure 26.20.10 of the SAMS manual, as in effect January 1, 2001, is hereby incorporated by reference. No later editions or amendments are included. A copy of procedure 26.20.10 may be obtained upon request from the Office of the Comptroller, 325 West Adams Street, Springfield, Illinois, 62704. To the extent the formal due date of any receivable is not established by law, the due date of that receivable for purposes of this Section shall be computed using the method set forth in procedure 26.20.10 of the SAMS manual. The following debts shall not be considered delinquent for purposes of this Section:

- 1) debts that are the subject of a pending administrative or judicial review;
- 2) debts that are covered by a written payment agreement, so long as the debtor is current in his payments under the terms of the payment agreement.

- d) [For purposes of this Part, “uncollectable” shall have the meaning found in Section 2 of the Uncollected State Claims Act \[30 ILCS 205/2\].](#)

(Source: Amended at 27 Ill. Reg. 1542, effective January 17, 2003)

## Section 910.50 Actions by Board

If receivables become subject to its jurisdiction, the Debt Collection Board will take one of the following actions:

- a) Return the receivables to the applicable State agency with:
  - 1) directions for additional collection efforts by the agency; and
  - 2) instructions on how the agency should report the status of its efforts to the Board;

## ILLINOIS DEPARTMENT OF PUBLIC HEALTH

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- b) Refer the receivables to one of the Board's outside collection vendors;
- c) Refer the receivables to the Attorney General for collection (this action may be taken only if the amount is greater than \$1,000);
- d) Certify the receivables as uncollectable. [Unpaid receivables should not automatically be removed from the Comptroller's Offset System when certified as uncollectable by either the Attorney General or the Debt Collection Board. Debts should only be removed from the Offset System if covered by the automatic stay or a discharge in bankruptcy, or if the debtor is an individual who is deceased or the debtor is a corporation that has been dissolved by the state of incorporation. If system coding enhancements or adjustments are necessary to track these receivables, the agency will be required to be in compliance by July 1, 2003.](#)

(Source: Amended at 27 Ill. Reg. [1542](#), effective [January 17, 2003](#))

## ILLINOIS DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Hospital Licensing Requirements
- 2) Code Citation: 77 Ill. Adm. Code 250
- 3) Section Numbers:

<u>Section Numbers:</u>	<u>Adopted Action:</u>
250.160	Amended
250.320	Amended
250.1035	Added
250.1520	Amended
250.2470	Amended
250.2620	Amended
- 4) Statutory Authority: Hospital Licensing Act [210 ILCS 85]
- 5) Effective date of rules/amendments: January 15, 2003
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? Yes
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: August 9, 2002 - 26 Ill. Reg. 12128
- 10) Has JCAR issued a Statement of Objection to this/these rules? No
- 11) Difference between proposal and final version:

The following changes were made in response to comments received during the first notice or public comment period:

1. In Section 250.160(a)(1), a new (L) was added as follows:  
AL) [“Joint Commission on Accreditation of Healthcare Organizations, 2002 Hospital Accreditation Standards \(HAS\) \(January 1, 2002\), Standard P.E. 1.9 and Standard P.E. 8, which may be obtained from the Joint Commission on Accreditation of Healthcare Organizations, One](#)

## ILLINOIS DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED AMENDMENTS

[Renaissance Boulevard, Oak Brook Terrace, Illinois 60181, \(See Section 250.1035.\)](#)”

2. In Section 250.1035, “[licensed under the Act](#)” was added after “[hospital](#)”.
3. In Section 250.1035, “[shall](#)” and “[following](#)” were changed to roman type.
4. In Section 250.1035, “[\(see Section 150.150\):](#)” was deleted and “[\(See Hospital Accreditation Standards \(HAS\) of the](#)” was added.
5. In Section 250.1035, the first line of subsection (a) and both lines of subsection (b) were deleted; “[. Section 250.160:](#)” was added after “[Organizations](#)”; the following was added:
  - Aa) [Hospitals shall have policies regarding the identification of possible victims of abuse.](#)
  - b) [Hospital policies regarding possible victims of alleged or suspected abuse or neglect shall address patients= special needs relative to the patient assessment process, including consent, evidence collection, notification and release of information to authorities, and referrals to community agencies.](#)
  - c) [“Nothing in this Section requires hospitals to adopt new policies regarding domestic violence if their existing hospital policies meet the requirements of this Section.”](#)

The following changes were made in response to comments and suggestions of the JCAR:

1. In the Table of Contents, Subpart V heading, “[/OR](#)” was added after “AND”.
2. In the Table of Contents, “ILLUSTRATION A Seismic Zone Map” was stricken and “[ILLUSTRATION A Seismic Zone Map](#)” was added after “EXHIBIT C”.
3. In Section 250.1035, “[See](#)” was changed to “[see](#)”.

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

- 12) [Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?](#) Yes

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13) Will these amendments replace emergency amendments/rules currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and purpose of the amendments: Section 250.160 (Incorporated and Referenced Materials) is being amended to update existing references, including updating the National Fire Protection Association (NFPA) Life Safety Code to the 2000 edition, and updating the Building Officials and Code Administration (BOCA) Code to the 2000 edition. Standards of the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) on identifying victims of domestic violence are also incorporated.

Section 250.320 (Admission and Supervision of Patients) is being amended to allow patients who are admitted by a podiatrist to have their histories and physical examination performed by the admitting podiatrist, provided that the podiatrist has been approved to perform such examinations by the hospital governing board and that the examinations are directly related or incident to the podiatric service, operation, or surgery for which the patient is admitted. This change reflects a clarification in the standards of the Joint Commission on Accreditation of Healthcare Organizations.

Section 250.1035 (Domestic Violence Standards) is being added to implement Public Act 91-0163, which amended the Hospital Licensing Act to require the Department to establish standards relating to domestic violence.

Section 250.1520 (Reports) is being amended to conform the requirements for maternal death reports to the Department's rules titled Maternal Death Review. Reports are required to be made on the death of a pregnant woman or the death of a woman within one year following the termination of pregnancy.

Section 250.2470 (Structural) is being amended to update references to the Life Safety Code to the 2000 edition. Other codes are also updated.

Section 250.2620 (Codes and Standards) is being amended to update references to the Life Safety Code and the NFPA "Guide on Alternative Approaches to Life Safety."

16) Information and questions regarding these adopted rulemaking may be directed to:

Peggy Snyder  
Division of Legal Services  
Department of Public Health

ILLINOIS DEPARTMENT OF PUBLIC HEALTH

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535 West Jefferson, Fifth Floor  
Springfield, Illinois 62761  
217/782-2043  
e-mail: [rules@idph.state.il.us](mailto:rules@idph.state.il.us)

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

## ILLINOIS DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 77: PUBLIC HEALTH

## CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

## SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

## PART 250

## HOSPITAL LICENSING REQUIREMENTS

## SUBPART A: GENERAL

## Section

- 250.110 Application for and Issuance of Permit to Establish a Hospital
- 250.120 Application for and Issuance of a License to Operate a Hospital
- 250.130 Administration by the Department
- 250.140 Hearings
- 250.150 Definitions
- 250.160 Incorporated and Referenced Materials

## SUBPART B: ADMINISTRATION AND PLANNING

## Section

- 250.210 The Governing Board
- 250.220 Accounting
- 250.230 Planning
- 250.240 Admission and Discharge
- 250.250 Visiting Rules
- 250.260 Patients' Rights
- 250.265 Language Assistance Services
- 250.270 Manuals of Procedure
- 250.280 Agreement with Designated Organ Procurement Agencies

## SUBPART C: THE MEDICAL STAFF

## Section

- 250.310 Organization
- 250.315 House Staff Members
- 250.320 Admission and Supervision of Patients
- 250.330 Orders for Medications and Treatments
- 250.340 Availability for Emergencies

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## SUBPART D: PERSONNEL SERVICE

Section	
250.410	Organization
250.420	Personnel Records
250.430	Duty Assignments
250.435	Health Care Worker Background Check
250.440	Education Programs
250.450	Personnel Health Requirements
250.460	Benefits

## SUBPART E: LABORATORY

Section	
250.510	Laboratory Services
250.520	Blood and Blood Components
250.525	Designated Blood Donor Program
250.530	Proficiency Survey Program (Repealed)
250.540	Laboratory Personnel (Repealed)
250.550	Western Blot Assay Testing Procedures (Repealed)

## SUBPART F: RADIOLOGICAL SERVICES

Section	
250.610	General Diagnostic Procedures and Treatments
250.620	Radioactive Isotopes
250.630	General Policies and Procedures Manual

## SUBPART G: GENERAL HOSPITAL EMERGENCY SERVICE

Section	
250.710	Classification of Emergency Services
250.720	General Requirements
250.725	Notification of Emergency Personnel
250.730	Community or Areawide Planning
250.740	Disaster and Mass Casualty Program
250.750	Emergency Services for Sexual Assault Victims

## SUBPART H: RESTORATIVE AND REHABILITATION SERVICES

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Section	
250.810	Applicability of Other Parts of These Requirements
250.820	General
250.830	Classifications of Restorative and Rehabilitation Services
250.840	General Requirements for all Classifications
250.850	Specific Requirements for Comprehensive Physical Rehabilitation Services
250.860	Medical Direction
250.870	Nursing Care
250.880	Additional Allied Health Services

## SUBPART I: NURSING SERVICE AND ADMINISTRATION

Section	
250.910	Nursing Services
250.920	Organizational Plan
250.930	Role in hospital planning
250.940	Job descriptions
250.950	Nursing committees
250.960	Specialized nursing services
250.970	Nursing Care Plans
250.980	Nursing Records and Reports
250.990	Unusual Incidents
250.1000	Meetings
250.1010	Education Programs
250.1020	Licensure
250.1030	Policies and Procedures
<a href="#">250.1035</a>	<a href="#">Domestic Violence Standards</a>
250.1040	Patient Care Units
250.1050	Equipment for Bedside Care
250.1060	Drug Services on Patient Unit
250.1070	Care of Patients
250.1075	Use of Restraints
250.1080	Admission Procedures Affecting Care
250.1090	Sterilization and Processing of Supplies
250.1100	Infection Control

## SUBPART J: SURGICAL AND RECOVERY ROOM SERVICES

## Section

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250.1210	Surgery
250.1220	Surgery Staff
250.1230	Policies & Procedures
250.1240	Surgical Privileges
250.1250	Surgical Emergency Care
250.1260	Operating Room Register and Records
250.1270	Surgical Patients
250.1280	Equipment
250.1290	Safety
250.1300	Operating Room
250.1305	Visitors in Operating Room
250.1310	Cleaning of Operating Room
250.1320	Postoperative Recovery Facilities

## SUBPART K: ANESTHESIA SERVICES

Section	
250.1410	Anesthesia Service

## SUBPART L: RECORDS AND REPORTS

Section	
250.1510	Medical Records
250.1520	Reports

## SUBPART M: FOOD SERVICE

Section	
250.1610	Dietary Department Administration
250.1620	Facilities
250.1630	Menus and Nutritional Adequacy
250.1640	Diet Orders
250.1650	Frequency of Meals
250.1660	Therapeutic (Modified) Diets
250.1670	Food Preparation and Service
250.1680	Sanitation

## SUBPART N: HOUSEKEEPING AND LAUNDRY SERVICES

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## Section

250.1710	Housekeeping
250.1720	Garbage, Refuse and Solid Waste Handling and Disposal
250.1730	Insect and Rodent Control
250.1740	Laundry Service
250.1750	Soiled Linen
250.1760	Clean Linen

## SUBPART O: MATERNITY AND NEONATAL SERVICE

## Section

250.1810	Applicability of other Parts of these regulations
250.1820	Maternity and Neonatal Service (Perinatal Service)
250.1830	General Requirements for all Maternity Departments
250.1840	Discharge of Newborn Infants from Hospital
250.1850	Rooming-In Care of Mother and Infant
250.1860	Special Programs
250.1870	Single Room Maternity Care

SUBPART P: ENGINEERING AND MAINTENANCE OF THE PHYSICAL PLANT, SITE,  
EQUIPMENT, AND SYSTEMS – HEATING, COOLING, ELECTRICAL, VENTILATION,  
PLUMBING, WATER, SEWER, AND SOLID WASTE DISPOSAL

## Section

250.1910	Maintenance
250.1920	Emergency electric service
250.1930	Water Supply
250.1940	Ventilation, Heating, Air Conditioning, and Air Changing Systems
250.1950	Grounds and Buildings Shall be Maintained
250.1960	Sewage, Garbage, Solid Waste Handling and Disposal
250.1970	Plumbing
250.1980	Fire and Safety

## SUBPART Q: CHRONIC DISEASE HOSPITALS

## Section

250.2010	Definition
250.2020	Requirements

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## SUBPART R: PHARMACY OR DRUG AND MEDICINE SERVICE

## Section

250.2110	Service Requirements
250.2120	Personnel Required
250.2130	Facilities for Services
250.2140	Pharmacy and Therapeutics Committee

## SUBPART S: PSYCHIATRIC SERVICES

## Section

250.2210	Applicability of other Parts of these Regulations
250.2220	Establishment of a Psychiatric Service
250.2230	The Medical Staff
250.2240	Nursing Service
250.2250	Allied Health Personnel
250.2260	Staff and Personnel Development and Training
250.2270	Admission, Transfer and Discharge Procedures
250.2280	Care of Patients
250.2290	Special Medical Record Requirements for Psychiatric Hospitals and Psychiatric Units of General Hospitals or General Hospitals Providing Psychiatric Care
250.2300	Diagnostic, Treatment and Physical Facilities and Services

## SUBPART T: DESIGN AND CONSTRUCTION STANDARDS

## Section

250.2410	Applicability of these Standards
250.2420	Submission of Plans for New Construction, Alterations or Additions to Existing Facility
250.2430	Preparation of Drawings and Specifications – Submission Requirements
250.2440	General Hospital Standards
250.2450	Details
250.2460	Finishes
250.2470	Structural
250.2480	Mechanical
250.2490	Plumbing and Other Piping Systems
250.2500	Electrical Requirements

## SUBPART U: CONSTRUCTION STANDARDS FOR EXISTING HOSPITALS

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Section	
250.2610	Applicability of these Standards
250.2620	Codes and Standards
250.2630	Existing General Hospital Standards
250.2640	Details
250.2650	Finishes
250.2660	Mechanical
250.2670	Plumbing and Other Piping Systems
250.2680	Electrical Requirements

## SUBPART V: SPECIAL CARE AND/OR SPECIAL SERVICE UNITS

Section	
250.2710	Special Care and/or Special Service Units
250.2720	Day Care for Mildly Ill Children

## SUBPART W: ALCOHOLISM AND INTOXICATION TREATMENT SERVICES

Section	
250.2810	Applicability of Other Parts of These Requirements
250.2820	Establishment of an Alcoholism and Intoxication Treatment Service
250.2830	Classification and Definitions of Service and Programs
250.2840	General Requirements for all Hospital Alcoholism Program Classifications
250.2850	The Medical and Professional Staff
250.2860	Medical Records
250.2870	Referral
250.2880	Client Legal and Human Rights

~~ILLUSTRATION A—Seismic Zone Map~~

APPENDIX A	Codes and Standards (Repealed)
EXHIBIT A	Codes (Repealed)
EXHIBIT B	Standards (Repealed)
EXHIBIT C	Addresses of Sources (Repealed)

ILLUSTRATION A Seismic Zone Map

TABLE A	Measurements Essential for Level I, II, III Hospitals
TABLE B	Sound Transmission Limitations in General Hospitals
TABLE C	Filter Efficiencies for Central Ventilation and Air Conditioning Systems in General Hospitals (Repealed)
TABLE D	General Pressure Relationships and Ventilation of Certain Hospital Areas

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(Repealed)

TABLE E	Piping Locations for Oxygen, Vacuum and Medical Compressed Air
TABLE F	General Pressure Relationships and Ventilation of Certain Hospital Areas
TABLE G	Insulation/Building Perimeter

AUTHORITY: Implementing and authorized by the Hospital Licensing Act [210 ILCS 85].  
SOURCE: Rules repealed and new rules adopted August 27, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 21, p. 49, effective May 16, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 45, p. 85, effective November 6, 1978; amended at 3 Ill. Reg. 17, p. 88, effective April 22, 1979; amended at 4 Ill. Reg. 22, p. 233, effective May 20, 1980; amended at 4 Ill. Reg. 25, p. 138, effective June 6, 1980; amended at 5 Ill. Reg. 507, effective December 29, 1980; amended at 6 Ill. Reg. 575, effective December 30, 1981; amended at 6 Ill. Reg. 1655, effective January 27, 1982; amended at 6 Ill. Reg. 3296, effective March 15, 1982; amended at 6 Ill. Reg. 7835 and 7838, effective June 17, 1982; amended at 7 Ill. Reg. 962, effective January 6, 1983; amended at 7 Ill. Reg. 5218 and 5221, effective April 4, 1983 and April 5, 1983; amended at 7 Ill. Reg. 6964, effective May 17, 1983; amended at 7 Ill. Reg. 8546, effective July 12, 1983; amended at 7 Ill. Reg. 9610, effective August 2, 1983; codified at 8 Ill. Reg. 19752; amended at 8 Ill. Reg. 24148, effective November 29, 1984; amended at 9 Ill. Reg. 4802, effective April 1, 1985; amended at 10 Ill. Reg. 11931, effective September 1, 1986; amended at 11 Ill. Reg. 10283, effective July 1, 1987; amended at 11 Ill. Reg. 10642, effective July 1, 1987; amended at 12 Ill. Reg. 15080, effective October 1, 1988; amended at 12 Ill. Reg. 16760, effective October 1, 1988; amended at 13 Ill. Reg. 13232, effective September 1, 1989; amended at 14 Ill. Reg. 2342, effective February 15, 1990; amended at 14 Ill. Reg. 13824, effective September 1, 1990; amended at 15 Ill. Reg. 5328, effective May 1, 1991; amended at 15 Ill. Reg. 13811, effective October 1, 1991; amended at 17 Ill. Reg. 1614, effective January 25, 1993; amended at 17 Ill. Reg. 17225, effective October 1, 1993; amended at 18 Ill. Reg. 11945, effective July 22, 1994; amended at 18 Ill. Reg. 15390, effective October 10, 1994; amended at 19 Ill. Reg. 13355, effective September 15, 1995; emergency amendment at 20 Ill. Reg. 474, effective January 1, 1996, for a maximum of 150 days; emergency expired on May 29, 1996; amended at 20 Ill. Reg. 3234, effective February 15, 1996; amended at 20 Ill. Reg. 10009, effective July 15, 1996; amended at 22 Ill. Reg. 3932, effective February 13, 1998; amended at 22 Ill. Reg. 9342, effective May 20, 1998; amended at 23 Ill. Reg. 1007, effective January 15, 1999; emergency amendment at 23 Ill. Reg. 3508, effective March 4, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9513, effective August 1, 1999; amended at 23 Ill. Reg. 13913, effective November 15, 1999; amended at 24 Ill. Reg. 6572, effective April 11, 2000; amended at 24 Ill. Reg. 17196, effective November 1, 2000; amended at 25 Ill. Reg. 3241, effective February 15, 2001; amended at 27 Ill. Reg. 1547, effective January 15, 2003.

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## SUBPART A: GENERAL

## Section 250.160 Incorporated and Referenced Materials

- a) The following regulations and standards are incorporated in this Part:
- 1) Private and professional association standards:
- A) American Society for Testing and Materials (ASTM), Standard No. E90-~~99 (2002)(1996)~~: Standard Test Method Recommended Practice for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions and Elements Floors and Walls, which may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959/1916 Race Street, Philadelphia, Pennsylvania 19103. (See Section 250.2420.)
- B) The following standards of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE), which may be obtained from the ~~National Association of~~ American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc., 1791 Tullie Circle, N.E., Atlanta, GA 30329: (See Section 250.2480.)
- i) ASHRAE Handbook of Fundamentals (~~2001~~1997);
- ii) ASHRAE Handbook for HVAC Systems and Equipment (1996);
- iii) ASHRAE Handbook-~~HVAC for~~ Applications (~~1999~~1995).
- C) The following standards of the National Fire Protection Association (NFPA); ~~Standard No. 101 (1997): Life Safety Code (see Sections 250.2420, 250.2450, 250.2460, 250.2470, and 250.2490) and the following standards~~, which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269:
- i) No. 101 (2000): Life Safety Code; (See Sections 250.2420, 250.2450, 250.2460, 250.2470, and 250.2490.)
- ii) ~~†~~ No. 10 (~~1998~~1994): Standard for Installation of Portable Fire Extinguishers; (See Section 250.1980.)
- iii) ~~‡~~ No. 13 (~~1999~~1996): Standards for the Installation of Sprinkler Systems; (See Sections 250.2490 and 250.2670.)
- iv) ~~‡‡~~ No. 14 (~~2000~~1996): Standard for the Installation of Standpipe, Private Hydrants and Hose Systems; (See Sections 250.2490 and 250.2670.)

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- ~~vii)iv)~~ No. 25 (~~1998~~1995): Standard for the Inspection Inspections, Testing and Maintenance of Water-Based Fire Protection Systems;
- ~~vi)v)~~ No. 30 (~~2000~~1996): Flammable and Combustible Liquids Code; (See Section 250.1980.)
- ~~vii)vi)~~ No. 45 (~~2000~~1996): Standard on Fire Protection for Laboratories Using Chemicals ~~Code~~;
- ~~viii)vii)~~ No. 54 (~~1999~~1996): National Fuel Gas Code;
- ~~ix)viii)~~ No. 70 (~~2002~~1996): National Electrical Code; (See Sections 250.2440 and 250.2500.)
- ~~x)ix)~~ No. 72 (~~1999~~1996): National Fire Alarm Code;
- ~~xi)x)~~ No. 80 (~~1999~~1995): Standard for Fire Doors and Fire Windows; (See Section 250.2450.)
- ~~xii)xi)~~ No. 82 (~~1999~~1994): Standard on Incinerators and Waste and Linen Rubbish-Handling Systems and Equipment; (See Section 250.2440.)
- ~~xiii)xii)~~ No. 90A (~~1999~~1996): Standard for Installation of Air Conditioning and Ventilating Systems; (See Sections 250.2480 and 250.2660.)
- ~~xiv)xiii)~~ No. 96 (~~2001~~1997): Standard for Ventilation Control and Fire Protection of Commercial-Vapor Removal Cooking Operations Equipment; (See Section 250.2660.)
- ~~xv)xiv)~~ No. 99 (~~2002~~1996): Standard for Health Care Facilities ~~Code~~; (See Sections 250.1410, 250.1980, 250.1910, 250.2460, 250.2480, 250.2490 and 250.2660.)
- ~~xvi)xv)~~ No. 101-~~AM~~ (~~2001~~1992): Guide on Alternative Approaches to Life Safety; (See Section 250.2620.)
- ~~xvii)xvi)~~ No. 110 (~~1999~~1996): Standard for Emergency and Standby Power Systems ~~Code~~;
- ~~xviii)xvii)~~ No. 220 (~~1999~~): Standard on Types of Building Construction; (See Sections 250.2470 and 250.2620.)
- ~~xix)xviii)~~ No. 221 (~~2000~~1994): Standard for Firewalls-Fireworks and Fire Barrier Walls ~~Code~~;
- ~~xx)xix)~~ No. 241 (~~2000~~1996): Standard for Safeguarding Construction, and Alteration and Alterations Demolition Operations ~~Code~~;
- ~~xxi)xx)~~ No. 255 and 258 (~~2000~~1996): Standard Method of Test of Surface Burning Characteristics of Building MaterialsMaterial, and Recommended Practice for

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- Determining Smoke Generation of Solid Materials; (See Section 250.2480.)
- ~~xxii)xxi)~~ No. 701 (~~1999~~1996): Standard Methods of Fire Tests for Flame-Propagation of Resistent Textiles and Films; (See Sections 250.2460 and 250.2650.)
- D) American Academy of Pediatrics and American College of Obstetricians and Gynecologists, Guidelines for Perinatal Care, Third Edition (1992), which may be obtained from the American Academy of Pediatrics, 141 Northwest Point Boulevard, Elk Grove Village, Illinois 60009. (See Section 250.1820.)
- E) American College of Obstetricians and Gynecologists, Guidelines for Women's Healthcare (January 1996) and Guidelines for Perinatal Care, Fourth Edition, which may be obtained from the American College of Obstetricians and Gynecologists, 409 12th Street, SW, Washington, D.C. 20024-1288. (See Section 250.1820.)
- F) National Council on Radiation Protection and Measurements (NCRP), Report No.49: Structural Shielding Design and Evaluation for Medical Use of X-rays and Gamma Rays of Energies up to 10 MeV (1976) and NCRP Report No. 102: Medical X-Ray, Electron Beam and Gamma-Ray Protection for Energies Up to 50 MeV (Equipment Design, Performance and Use) (1989), which may be obtained from the National Council on Radiation Protection and Measurements, 7910 Woodmont Ave., Suite 800, Bethesda, Maryland 20814-3095. (See Sections 250.2440 and 250.2450.)
- G) DOP Penetration Test Method MIL STD No.282 (1995): Filter Units, Protective Clothing, Gas-mask Components and Related Products: Performance Test Methods, which may be obtained from Naval Publications and Form Center, 5801 Tabor Avenue, Philadelphia, Pennsylvania 19120. (See Section 250.2480.)
- H) National Association of Plumbing-Heating-Cooling Contractors (PHCC), National Standard Plumbing Code (1957), which may be obtained from the National Association of Plumbing-Heating-Cooling Contractors, 1016 20th Street, N.W., Washington, D.C. 20036. (See Section 250.2420.)
- I) Building Officials and Code Administrators (BOCA) International, International Building Code (IBC) (2000) Eleventh Edition, "The BOCA National Building Code (1996)", which may be obtained

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- from BOCA, ~~International Inc.~~, 4051 Flossmoor Road, Country Club Hills, IL 60477-5795. (See Section 250.2420.)
- J) American Standards Association, Inc., Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped (1968), which may be obtained from the American Standards Association, Inc., East 40th Street, New York, New York 10016. (See Section 250.2420.)
- ~~K) Underwriters Laboratories, Inc. (UL), Publication No. 181 (1994): Air Ducts, which may be obtained from Underwriters Laboratories, Inc., 333 Pfingsten Road, Northbrook, Illinois 60062. (See Section 250.2420.)~~
- ~~K)L) Accreditation Council for Graduate Medical Education, Essentials of Accredited Residencies in Graduate Medical Education (1997), which may be obtained from the Accreditation Council for Graduate Medical Education, 515 North State Street, Suite 200, Chicago, Illinois 60610. (See Section 250.315.)~~
- L) Joint Commission on Accreditation of Healthcare Organizations, 2002 Hospital Accreditation Standards (HAS) (January 1, 2002), Standard P.E.1.9 and Standard P.E.8, which may be obtained from the Joint Commission on Accreditation of Healthcare Organizations, One Renaissance Boulevard, Oak Brook Terrace, Illinois 60181. (See Section 250.1035.)
- 2) Federal Government Publications:  
 Department of Health and Human Services, United States Public Health Service, Centers for Disease Control and Prevention, "~~CDC Guidelines for Isolation Precautions in Hospitals~~", ~~February 18, 1997~~ January 1996 and "~~CDC Guidelines for Infection Control in Health Care Hospital Personnel~~", ~~1998~~ July 1993, which may be obtained from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. (See Section 250.1100.)
- b) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.
- c) The following statutes and State regulations are referenced in this Part:
- 1) State of Illinois statutes:
    - A) Hospital Licensing Act [210 ILCS 85].
    - B) Illinois Health Facilities Planning Act [20 ILCS 3960].

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- C) Medical Practice Act of 1987 [225 ILCS 60].
  - D) Podiatric Medical Practice Act of 1987 [225 ILCS 100].
  - E) Pharmacy Practice Act of 1987 [225 ILCS 85].
  - F) Physicians Assistant Practice Act of 1987 [225 ILCS 95].
  - G) Illinois Clinical Laboratory Act [210 ILC 25].
  - H) Radiation Installation Act [420 ILCS 30].
  - I) X-ray Retention Act [210 ILCS 90].
  - J) Safety Glazing Materials Act [430 ILCS 60].
  - K) Mental Health and Developmental Disabilities Code [405 ILCS 5].
  - L) Nursing and Advanced Practice Nursing Act [225 ILCS 65].
- 2) State of Illinois rules:
- A) Department of Public Health, Illinois Plumbing Code (77 Ill. Adm. Code 890).
  - B) Department of Public Health, Sexual Assault Survivors Emergency Treatment Code (77 Ill. Adm. Code 545).
  - C) Department of Public Health, Control of Communicable Diseases Code (77 Ill. Adm. Code 690).
  - D) Department of Public Health, Food Service Sanitation Code (77 Ill. Adm. Code 750).
  - E) Department of Public Health, Public Area Sanitary Practice Code (77 Ill. Adm. Code 895).
  - F) Capital Development Board, Illinois Accessibility Code (71 Ill. Adm. Code 400).
  - G) State Fire Marshal, Boiler and Pressure Vessel Safety (41 Ill. Adm. Code 120).
  - H) State Fire Marshal, Fire Prevention and Safety (41 Ill. Adm. Code 100).
  - I) Department of Nuclear Safety, Standards for Protection Against Radiation (32 Ill. Adm. Code 340).
  - J) Department of Nuclear Safety, Use of X-rays in the Healing Arts Including Medical, Dental, Podiatry, and Veterinary Medicine (32 Ill. Adm. Code 360).

(Source: Amended at 27 Ill. Reg. 1547, effective January 15, 2003)

## SUBPART C: THE MEDICAL STAFF

## Section 250.320 Admission and Supervision of Patients

All persons admitted to the hospital shall be under the professional care of a member of the

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medical staff. Patients admitted by a podiatrist or a dentist shall be under the care of both the admitting medical staff member and a physician who is also a medical staff member. The podiatrist or the dentist shall be responsible for all care within the limits of the privileges granted to them; the physician shall be responsible for all aspects of general medical care. Patients admitted by a dentist or a podiatrist may have their histories and physical examinations ~~examination~~ performed by the admitting dentist or podiatrist, provided that the dentist or podiatrist is a member of the hospital medical staff, that the dentist or podiatrist has been approved to perform histories ~~history~~ and physical examinations by the hospital governing board and that the history and physical examination are directly related or incident to the dental or podiatrist service, operation, or surgery for which the patient is being admitted.

(Source: Amended at 27 Ill. Reg. 1547, effective January 15, 2003)

## SUBPART I: NURSING SERVICE AND ADMINISTRATION

Section 250.1035 Domestic Violence Standards

A hospital licensed under the Act shall comply with the following standards relating to domestic violence (Section 6.01 of the Act) (see Hospital Accreditation Standards (HAS) of the Joint Commission on Accreditation of Healthcare Organizations, Section 250.160):

- a) Hospitals shall have policies regarding the identification of possible victims of abuse.
- b) Hospital policies regarding possible victims of alleged or suspected abuse or neglect shall address patients' special needs relative to the patient assessment process, including consent, evidence collection, notification and release of information to authorities, and referrals to community agencies.
- c) Nothing in this Section requires hospitals to adopt new policies regarding domestic violence if their existing hospital policies meet the requirements of this Section.

(Source: Added at 27 Ill. Reg. 1547, effective January 15, 2003)

## SUBPART L: RECORDS AND REPORTS

## Section 250.1520 Reports

- a) Each hospital shall submit reports containing such pertinent data as may reasonably be required by the Department.
- b) In the reporting of communicable disease cases the hospital shall comply with ~~77~~

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~~Ill. Adm. Code 690~~, the "Control of Communicable Diseases Code" (77 Ill. Adm. Code 690).

- c) See Subpart O, Section 250.1830 and Section 250.1840 of this Part, regarding reports pertaining to mothers and infants, and regarding children to be discharged to a person other than a natural parent.
- d) See Subpart O, Section 250.1830 of this Part, regarding birth, stillbirth, and death reports.
- e) The death of a pregnant woman or the death of a woman within one year 90 days following the termination of a pregnancy shall be reported to the Department as required by the Department's rules titled Maternal Death Review (77 Ill. Adm. Code 657) and in Section 250.1830(i)(2) of this Part. This is required regardless of the type of hospital or the reason for the patient's admission.
- f) Any incident or occurrence in a hospital that could be considered a catastrophe or creates an immediate jeopardy and/or dangerous threat and that requires the transfer of patients to other parts of the facility or other facilities, including but not limited to fire, flood, or power failure, shall be reported to the Department within two working days after its occurrence.

(Source: Amended at 27 Ill. Reg. 1547, effective January 15, 2003)

## Section 250.2470 Structural

- a) In addition to compliance with the standards ~~Standards~~ set forth in this Subpart, all applicable local or State building codes and regulations must be observed.
- b) The buildings and all parts thereof shall be of sufficient strength to support all dead, live, and lateral loads without exceeding the working stresses permitted for the materials of their construction in generally accepted good engineering practice.
- c) Special provision shall be made for machines or apparatus loads that would cause a greater load than the specified minimum live load.
- d) Consideration shall be given to structural members and connections of structures that may be subject to earthquakes or tornadoes. (See Section 250.2450(z).) Floor areas where partition locations are subject to change shall be designed to support for the partition, a uniformly distributed load of 25 p.s.f.
- e) Construction. Construction shall be in accordance with the requirements of National Fire Protection Association Standard No. 101 (2000+1997); "Life Safety Code," and the minimum requirements contained in this subsection (e).
  - 1) Foundations shall rest on natural solid ground and shall be carried to a depth of not less than one foot below the estimated frost line or shall rest

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on leveled rock or load-bearing piles or caissons when solid ground is not encountered. Footings, piers, and foundation walls shall be adequately protected against deterioration from the action of ground water. Test borings shall be taken to establish proper soil-bearing values for the soil at the building site.

- 2) Assumed live loads shall be in accordance with the BOCA ~~International National~~ Building Code.
- 3) All hospitals of any height shall be of Type I or Type II construction as established by NFPA 101 (2000) and NFPA 220 (1999). ~~fire resistive construction. The fire resistance rating of the structural members shall be as established by NFPA 220 (1995), "Standard Types of Building Construction," for Type I (332) construction.~~
- 4) ~~Any additions to existing hospitals that are one story in height and of protected non-combustible construction may be constructed of protected non-combustible construction. The resistance rating of the structural members shall be as established by NFPA Standard No. 220 (1995), "Standard Types of Building Construction" for Type II (222).~~

(Source: Amended at 27 Ill. Reg. 1547, effective January 15, 2003)

## Section 250.2620 Codes and Standards

- a) The National Fire Protection Association (NFPA) Standard No. 101 (~~2000~~1994); ~~;~~ "Life Safety Code," for existing structures and all appropriate references under Appendix "B" applies to and is part of these standards.
- b) The National Fire Protection Association (NFPA) Standard No.101-~~AM~~ (~~2001~~1992); ~~;~~ "Guide on Alternative Approaches to Life Safety," applies to and is part of these standards.
- c) All existing hospitals of any height shall be of Type I or Type II construction as established by NFPA 101 (2000) and NFPA 220 (1999). ~~Existing building construction shall be in accordance with the following requirements:~~
  - 1) ~~Multi-story buildings shall be of Type I (332) as established in NFPA Standard No.220 (1992), "Standard Types of Building Construction."~~
  - 2) ~~Buildings of only one story in height may be of Type II (222) construction as established in NFPA Standard No.220 (1992), "Standard Types of Building Construction."~~

(Source: Amended at 27 Ill. Reg. 1547, effective January 15, 2003)

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- 1) Heading of the Part:  
Sexual Assault Survivors Emergency Treatment Code
- 2) Code Citation:  
77 Ill. Adm. Code 545
- 3) Section Numbers:

<u>Section Numbers:</u>	<u>Adopted Action:</u>
545.10	Amended
545.20	Amended
545.25	Amended
545.30	Repealed
545.35	New Section
545.40	Repealed
545.50	Amended
545.60	Amended
545.65	Amended
545.67	New Section
545.80	Repealed
545.90	Repealed
545.95	New Section
545.100	Amended
545.Appendix A	Amended
545.Appendix B	Amended
545.Appendix C	New Section
- 4) Statutory Authority:  
Sexual Assault Survivors Emergency Treatment Act  
[410 ILCS 70]
- 5) Effective date of amendments: January 15, 2003
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? Yes

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9) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.

9) Notice(s) of Proposal was Published in Illinois Register:

June 7, 2002 – 26 Ill. Reg. 8260

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Difference between proposal and final version:

The following changes were made in response to comments received during the first notice or public comment period:

1. In the definition of "Community or areawide sexual assault treatment plan", "and health care facilities" was added after "hospitals".
2. In the definition of "Evidence collection kit", "Evidence" was stricken; Acollection kit" was deleted, and "Illinois State Police sexual assault evidence collection kit" was added.
3. In the definition of "Sexual assault", "nonconsensual" was added before "forced".
4. The definition of "Sexual Assault Transfer Plan" was reinstated; ", as part of a community or areawide plan," was added after "procedures".
5. In the definition of "Sexual Assault Treatment Plan", "services" was added after "treatment".
6. In the definition of "Transfer facility", "or health care facility" was added after "hospital".
7. In the definition of "Treatment facility", "hospital" was added after "provides"; "services" was added after "treatment".
8. In Section 545.25(b)(1), A1998" was changed to "2002"; "January 23, 1998" was changed to "May 10, 2002"; "47" was changed to "51"; "RR-1" was changed to "RR-6".

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- 9 The following was added in Section 545.25(b):
- 2) [Association standards](#)  
“[Evaluation and Management of the Sexually Assaulted or Sexually Abused Patient, American College of Emergency Physicians, June 1999. Available from the American College of Emergency Physicians, Post Office Box 619911, Dallas, Texas 75261-9911.](#)”
  10. In Section 545.25(c), “[and association standards](#)” was added after “[guidelines](#)”; “[and standards](#)” was added after “[guidelines](#)”.
  11. In Section 545.35(a), “[surgical](#)” was added before “[hospital](#)”; “[except those designated as transfer hospitals](#)” was added after “[services](#)”.
  12. In Section 545.35(b), “[as transfer hospitals](#)” was added after “[participating](#)”.
  13. In Section 545.35(d), “[for . . . survivors](#)” was deleted.
  14. Subsection 545.35(e) was deleted; “[f](#)” was changed to “[e](#)”; “[treatment, transfer, or areawide](#)” was added after “[updated](#)”.
  15. In Section 545.35(g), “[g](#)” was changed to “[f](#)”; “[A](#)” was changed to “[a](#)”; “[A To provide hospital emergency services](#)” was added.
  16. In Section 545.50(a), “[or transfer services](#)” was added after “[services](#)”.
  17. In Section 545.50(b), “[and transfer services](#)” was added after “[services](#)”; “[and health care facilities](#)” was added after “[hospitals](#)”.
  18. In Section 545.50(d), “[the people](#)” was changed to “[alleged sexual assault survivors](#)”.
  19. In Section 545.60(a)(1)(B), “[and/or treatment](#)” was added after “[Evaluation](#)”; “[guidelines of the](#)” was added before “[Centers](#)”; “[Guidelines . . . of](#)” was deleted and “[titled](#)” was added; “[Treatment Guidelines, or the standards of the American College of Emergency Physicians titled Evaluation and Management of the Sexually Assaulted or Sexually Abused Patient \(see Section 545.25\)](#)” was added after

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“Diseases”.

20. In Section 545.60(a)(1)(C), “Urine . . .” was deleted and the following was added:  
“Evaluation and possible treatment for HIV exposure in accordance with the guidelines of the Centers for Disease Control and Prevention titled Sexually Transmitted Diseases Treatment Guidelines, or the standards of the American College of Emergency Physicians titled Evaluation and Management of the Sexually Assaulted or Sexually Abuse Patient”.
21. Subsection 545.60(a)(6) was deleted.
22. In Section 545.60(b)(2), “only” was stricken.
23. In Section 545.60(b), a new (9) was added:  
9) “The medical record shall indicate whether an evidence collection kit was completed.”
24. In Section 545.60(c)(1), “With the survivor’s consent.” was added; “The” was changed to “the”; “victim” was changed to “survivor”; “himself/herself” was added after “presents”; “up” was deleted.; “to” was deleted; “the sexual” was added after “after”.
25. In Section 545.60(c)(2), “at least two weeks” was added after “location”.
26. In Section 545.60(d)(1), “and shall refer to such patients by code to avoid embarrassment” was added after “privacy”.
27. In Section 545.60(d) a new (4) was added:  
”4) The hospital shall offer to call a friend, family member, or rape crisis advocate to accompany the survivor.”
28. In Section 545.65(d), “Law . . . Section” was deleted and the following was added:  
“All unauthorized personnel, including law enforcement personnel, shall remain outside the examination room during the medical examination. If a patient who is in the custody of law enforcement officers exhibits behavior that may cause physical harm to herself/himself or hospital staff, the staff shall request that law enforcement officers be posted outside the treatment room door.”

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29. In Section 545.65(k), “evidence” was stricken and “[custody](#)” was added.
30. In Section 545.65(n), strikeouts were removed from “If. . . survivor.” and “other”.; “survivor” was stricken and “[rape crisis](#)” was added.
31. In Section 545.95(b), the following was added after “[following](#)”: “[as soon as possible and, in any event, no later than 12 hours after the alleged sexual assault survivor presents herself/himself at the hospital for emergency care](#)”.
32. In Section 545.Appendix A, Part B5., “Examining Physician” was stricken and “[Forensic Examiner](#)” was added.
33. In Section 545.Appendix B, Part C 6., “accounting . . . audit.” was stricken and the following was added: “[in a manner and for a duration established by hospital policy and for not less than 10 years, in accordance with Section 6.17 of the Hospital Licensing Act.](#)”
34. The following was added in Section Appendix B, Part C:  
“7) [The hospital shall maintain all business and professional records in accordance with acceptable business and accounting practices, and all records shall be legible. Records shall be retained for a period of not less than three years after the date of service or as required by State law, whichever period is longer, except that if an audit is initiated within the required retention period, the records shall be retained until the audit is completed and every exception is resolved.](#)”
35. In Section 545.Appendix C, Sample Protocol I A and Sample Protocol II A, the following was added after “[contraception](#)”: “[as soon as possible and, in any event, no later than 12 hours after the alleged sexual assault survivor presents herself/himself at the hospital for emergency treatment services.](#)”
36. In Section 545.Appendix C, Sample Protocol II A, “[suggested](#)” was changed to “[appropriate](#)”; “[visit](#)” was changed to “[care](#)”.
37. In Section 545.Appendix C, Sample Protocol I, “[victims](#)” was changed to “[alleged survivors](#)”; “[while the alleged survivor is in emergency care](#)” was added after “[reasons](#)”.

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38. In Section 545. Appendix C, Sample Protocol II, the following was added after “contraception”: “as soon as possible and, in any event, no later than 12 hours after the alleged sexual assault survivor presents himself/herself at the hospital for emergency treatment services.”; “suggested” was changed to “appropriate”; “visit” was changed to “care”.
39. In Section 545.35(a), “medical” was changed to “hospital”.
40. In Section 545.50(a), “hospital” was deleted; “emergency” was deleted.
41. In Section 545.60(a)(5), the following was added after “medication” “dispensed at the time of service, including, but not limited to, HIV and STD prophylaxis.”.

The following changes were made in response to comments and suggestions of the JCAR:

1. In Section 545.60(a)(1)(B), “Guidelines for Treatment of” was added after “titled”; “Treatment Guidelines” was deleted.
2. In Section 545.60(a)(5) “prophylaxis” was changed to “prophylaxis”.
3. In Section 545. Appendix A, Part B 5, “Sheet” was added after “Examiner”; “sheet” was stricken after “Physician”.

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these amendments replace emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and purpose of the amendments:

Part 545 implements the Sexual Assault Survivors Emergency Treatment Act (the Act) which requires hospitals to provide emergency hospital service to all alleged sexual

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assault survivors who apply for such services in relation to injuries or trauma resulting from the sexual assault. These amendments update existing provisions and implement Public Act 92-0156, which amended the Act to require every hospital providing services to alleged sexual assault survivors in accordance with a plan approved under Section 2 of the Act to develop a protocol that ensures that each survivor of sexual assault will receive medically and factually accurate and written and oral information about emergency contraception. Protocols were to be developed and submitted to the Department under emergency amendments effective April, 2002.

Sections concerning Applicability, Definitions, Incorporated Materials, Development of Plans, Treatment, Transfer, Reimbursement and the Treatment Form and Transfer Form are being amended to update existing provision, practices and language. Sections governing Application of Rules, Programs Administration, and Approval of a Sexual Assault Treatment Plan and Approval of a Sexual Assault Transfer Plan are being repealed. New Sections regarding Development and Approval of Plans, Compliance Review, Emergency Contraception, and an appendix containing Emergency Contraception Protocols are being added.

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

Peggy Snyder  
Division of Legal Services  
Department of Public Health  
535 West Jefferson, Fifth Floor  
Springfield, Illinois 62761  
217/782-2043  
e-mail: [rules@idph.state.il.us](mailto:rules@idph.state.il.us)

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

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TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER f: EMERGENCY SERVICES AND HIGHWAY SAFETYPART 545  
SEXUAL ASSAULT SURVIVORS  
EMERGENCY TREATMENT CODE

## Section

545.10	Applicability
545.20	Definitions
545.25	Incorporated <a href="#">and Referenced</a> Materials
545.30	Application of Rules ( <a href="#">Repealed</a> )
<a href="#">545.35</a>	<a href="#">Development and Approval of Plans</a>
545.40	Program Administration ( <a href="#">Repealed</a> )
545.50	<a href="#">Community or Areawide Plans</a> <del>Development of Plans</del>
545.60	<del>Minimum Standards for the</del> Treatment of Alleged Sexual Assault Survivors
545.65	<del>Minimum Standards for the</del> Transfer of Alleged Sexual Assault Survivors
<a href="#">545.67</a>	<a href="#">Compliance Review</a>
545.70	Requirements of Sexual Assault Transfer Plans ( <a href="#">Repealed</a> )
545.80	Approval of a Sexual Assault Treatment Plan ( <a href="#">Repealed</a> )
545.90	Approval of a Sexual Assault Transfer Plan ( <a href="#">Repealed</a> )
<a href="#">545.95</a>	<a href="#">Emergency Contraception</a>
545.100	<a href="#">Hospital Charges and</a> Reimbursement
APPENDIX A	Sexual Assault Treatment Plan Form
APPENDIX B	Sexual Assault Transfer Plan Form
<a href="#">APPENDIX C</a>	<a href="#">Emergency Contraception Protocols</a>

AUTHORITY: Implementing and authorized by the Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70].

SOURCE: Filed December 30, 1977; rules repealed and new rules adopted at 5 Ill. Reg. 1139, effective January 23, 1981; codified at 8 Ill. Reg. 16334; amended at 11 Ill. Reg. 1589, effective February 1, 1987; amended at 12 Ill. Reg. 20790, effective December 1, 1988; emergency amendment at 26 Ill. Reg. 5151, effective April 1, 2002, for a maximum of 150 days; amended at 27 Ill. Reg. [1567](#), effective [January 15, 2003](#).

Section 545.10 Applicability

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~~This Part establishes requirements for the The Rules promulgated by the Department of Public Health establish minimum standards for treatment of alleged sexual assault survivors in hospital emergency departments, including requirements for plans for furnishing hospital services to alleged sexual assault survivors on a community or areawide basis, rooms including those support services needed for transfer in order to provide adequate services for the people of each area or community.~~

(Source: Amended at 27 Ill. Reg. 1567, effective January 15, 2003)

## Section 545.20 Definitions

~~Act – the Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70]. "ACT" shall mean the sexual assault survivors emergency treatment Act (Ill. Rev. Stat. 1987, ch. 111½, pars. 87-1 et seq.~~

~~"Alleged sexual assault survivor Sexual Assault Survivor" shall mean – a person who applies for hospital emergency services in relation to injuries or trauma resulting from an alleged sexual assault, act of forced sexual penetration or sexual conduct, as defined in Section 12-12 of the Criminal Code (Ill. Rev. Stat. 1987, ch. 38, par. 12-12), including acts prohibited under Sections 12-13 through 12-16 of the Criminal Code of 1961, as amended (Ill. Rev. Stat. 1987, ch. 38, pars. 12-13 to 12-16) (Sections 1a and 2 of the Act).~~

~~"Ambulance provider Provider" shall mean – an individual or entity that owns and operates a business or an ambulance service using ambulances or emergency medical services vehicles to transport emergency patients, providing transportation to alleged sexual assault survivors.~~

~~"Caregiver" shall mean – any person who is legally responsible for providing care to the patient or who renders support to the patient.~~

~~"Community or areawide sexual assault treatment plan" shall mean – a plan, developed by the hospitals or other health care facilities in the community or area to be served, that provides for the hospital emergency services to alleged sexual assault survivors that shall be made available by each of the participating hospitals and health care facilities. (Section 4 of the Act) developed by one or more hospitals or other health care facilities in the community or area to be served which provides for adequate hospital emergency services for alleged sexual assault survivors and has been approved by the Department (Sections 3 and 4 of the Act).~~

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Date rape drug – as used in this Part, a controlled substance, given without consent of the victim, that produces relaxant effects, including blackouts, coma, impaired judgement and/or loss of coordination.

"Department" ~~shall mean~~ – the Illinois Department of Public Health.

Emergency contraception – medication as approved by the federal Food and Drug Administration (FDA) that can significantly reduce the risk of pregnancy if taken within 72 hours after sexual assault. (Section 2.2(a)(3) of the Act)

Health care facility – a location that provides emergency treatment services 24 hours per day but is not required to be licensed as a hospital, and that participates in a community or areawide plan.

"Hospital" ~~shall mean~~ – a facility licensed as a hospital by the Department pursuant to the Hospital Licensing Act [210 ILCS 85]. ~~(Ill. Rev. Stat. 1987, ch. 111½, pars. 142 et seq.) or which meets both the definition of a hospital and the licensure exemption provisions of the Hospital Licensing Act.~~

"Hospital ~~emergency services~~ Emergency Services" ~~shall mean~~ – health care delivered to outpatients within or under the care and supervision of personnel working in a designated emergency department ~~or emergency room~~ of a hospital.

"Illinois State Police Sexual Assault Evidence Collection Kit" ~~shall mean~~ – a prepackaged set of materials and forms to be used for the collection of evidence relating to sexual assault. The standardized evidence collection kit for the State of Illinois shall be the State Police Sexual Assault Evidence Collection Kit (Section 6.4 of the Act). The standardized evidence collection kit to be used in the city of Chicago shall be the Chicago version of the vitullo kit. The standardized evidence collection kit for all other parts of the state shall be the Illinois Department of State Police evidence collection kit also known as "I.D.S.P.E.C.K" (Section 6.4 of the Act).

"Licensed General Hospital" shall mean a facility licensed as a hospital by the Department pursuant to the Hospital Licensing Act, which provides general medical and surgical hospital services.

Nurse – a registered nurse, an advanced practice nurse, or a licensed practical nurse as defined in the Nursing and Advanced Practice Nursing Act [225 ILCS 65].

"Patient" ~~shall mean~~ – an alleged sexual assault survivor.

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Physician – a person licensed to practice medicine in all its branches as provided in the Medical Practice Act of 1987 [225 ILCS 60].

Sexual assault – an act of nonconsensual forced sexual penetration or sexual conduct, as defined in Section 12-12 of the Criminal Code of 1961 [720 ILCS 5], including, without limitation, acts prohibited under Sections 12-13 through 12-16 of the Criminal Code of 1961. (Section 1a of the Act)

"Sexual Assault Transfer Plan" ~~shall mean~~ – a written plan, developed by a hospital and approved by the Department, which describes the hospital's procedures, as part of a community or areawide plan, for transferring alleged sexual assault survivors to another hospital in order to receive emergency treatment.

"Sexual Assault Treatment Plan" ~~shall mean~~ – a written plan, developed by a hospital ~~that and approved by the Department, which~~ describes the hospital's procedures and protocols for ~~providing-rendering~~ hospital emergency treatment services and forensic evidence collection to alleged sexual assault survivors who present themselves for such services, either directly or through transfer from another hospital.

"Transfer ~~facility~~ Facility" ~~shall mean~~ – a hospital or health care facility that ~~which~~ provides only transfer services to alleged sexual assault survivors, pursuant to ~~a-an approved Sexual Assault Transfer Plan or~~ Community or Areawide Sexual Assault Treatment Plan.

"Treatment ~~facility~~ Facility" ~~shall mean~~ – a hospital that provides hospital ~~which renders~~ emergency treatment services and forensic evidence collection to alleged sexual assault survivors, pursuant to ~~a-an approved~~ Sexual Assault Treatment Plan or Community or Areawide Sexual Assault Treatment Plan.

"Unauthorized ~~personnel~~ Personnel" ~~shall mean~~ – all individuals whose presence in the examination room is not desired or required ~~to be present~~ either by the hospital and/or by the patient (e.g., the such as media), etc.

(Source: Amended at 27 Ill. Reg. 1567, effective January 15, 2003)

Section 545.25 Incorporated and Referenced Materials

- a) The following materials are ~~incorporated or~~ referenced in this Part:  
1)a) State of Illinois Statutes:

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- ~~A)1) Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70]. (Ill. Rev. Stat. 1985, ch. 111½, par. 87-1.) (See Sections 545.40, 545.50, 545.100 of this Part).~~
- ~~B)2) Hospital Licensing Act [210 ILCS 85]. (Ill. Rev. Stat. 1985, ch. 111½, par. 142 et seq.) (See Section 545.20 of this Part, definitions of "Hospital Emergency Services", "Hospital", "Licensed General Hospital").~~
- ~~C)3) The Criminal Code of 1961 [720 ILCS 5]. (Ill. Rev. Stat. 1987, ch. 38, par. 1-1 et seq.) (See Section 545.20 of this Part, definition of "Alleged Sexual Assault Survivor").~~
- ~~D)4) Crime Victims Compensation Act [740 ILCS 45]. (Ill. Rev. Stat. 1987, ch. 70, par. 71 et seq.) (See Sections 545.30(e), 545.60(d)(6)(D) of this Part).~~
- ~~E)5) AN ACT in relation to Criminal Identification Act [20 ILCS 2630]. and Investigation, (Ill. Rev. Stat. 1987, ch. 38, par. 206-3.2.) (See Section 545.30(d) and Appendix A, Part C(5) of this Part).~~
- ~~F)6) Section 115-7, Code of Criminal Procedure of 1963 [725 ILCS 5]. (Ill. Rev. Stat. 1987, ch. 38, par. 115-7.) (See Section 545.60(d)(6)(D) of this Part).~~
- ~~G)7) Illinois Public Aid Code [305 ILCS 5]. (Ill. Rev. Stat. 1987, ch. 23, par. 1-1 et seq.) (See Section 545.100, Appendix A, Part C(2) and Appendix B, Part C(3) of this Part).~~
- ~~H)8) Illinois Insurance Code [215 ILCS 5]. (Ill. Rev. Stat. 1987, ch. 73, par. 613 et seq.) (See Section 545.100, Appendix A, Part C(2) and Appendix B, Part C(3) of this Part).~~
- ~~D) Medical Practice Act of 1987 [225 ILCS 60].~~
- ~~J) Emergency Medical Treatment Act [210 ILCS 70].~~
- ~~K) Nursing and Advanced Practice Nursing Act [225 ILCS 65].~~
- ~~L) Consent by Minors to Medical Procedures Act [410 ILCS 210].~~
- 2) State of Illinois Rules  
Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100).
- 3) Federal Statutes
  - A) Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (26 USC 4980B).
  - B) Emergency Medical Treatment and Active Labor Act (EMTALA)(42 USC 1395dd).
- b) Other Materials

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- 1) ~~"After Sexual Assault" written and published by Illinois Coalition Against Sexual Assault and the Illinois Department of Public Health. (See Section 545.60(d)(6)(D) of this Part).~~
- 2) ~~"Crime Victims . . . Financial Aid in Illinois" pamphlet published by the Office of the Illinois Attorney General. (See Sections 545.30(e) and 545.60(d)(6)(D) of this Part).~~
- b) The following materials are incorporated in this Part:
  - 1) Federal Guidelines  
2002 Guidelines for Treatment of Sexually Transmitted Diseases, Centers for Disease Control and Prevention, Morbidity and Mortality Weekly Report (MMWR), May 10, 2002; vol. 51, no. RR-6. Available from the Centers for Disease Control and Prevention, 1600 Clifton Rd., Atlanta, Georgia 30333.
  - 2) Association Standards  
Evaluation and Management of the Sexually Assaulted or Sexually Abused Patient, American College of Emergency Physicians, June 1999. Available from the American College of Emergency Physicians, Post Office Box 619911, Dallas, Texas 75261-9911.
- c) All incorporations by reference of federal guidelines and association standards refer to the guidelines and standards in effect on the date specified and do not include any later editions or amendments.

(Source: Amended at 27 Ill. Reg. 1567, effective January 15, 2003)

Section 545.30 Application of Rules (Repealed)

- a) All licensed general hospitals in Illinois shall provide hospital emergency services to alleged sexual assault survivors as defined in this Part, in accordance with a Department-approved sexual assault treatment plan, sexual assault transfer plan, or community or areawide sexual assault treatment plan.
- b) All hospitals and ambulance providers which furnish emergency services to alleged sexual assault survivors shall be eligible for reimbursement of billed charges in accordance with the provisions of Section 545.100 of this Part.
- c) All hospitals which provide emergency medical services shall comply with the Crime Victims Compensation Act, (Ill. Rev. Stat. 1987, ch. 70, par. 71, et seq.) and any local ordinances, municipal codes, rules or regulations which may apply to the health of sexual assault survivors.
- d) All hospitals shall comply with the reporting procedures for sexual assault survivors as required by Section 3.2 of AN ACT in relation to criminal

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identification and investigation" (Ill. Rev. Stat. 1985, ch. 38, par. 206-3.2) which reads as follows:

- 1) *It is the duty of any person conducting or operating a medical facility, or any physician or nurse as soon as treatment permits to notify the local law enforcement agency of that jurisdiction, upon the application for treatment of a person who is not accompanied by a law enforcement officer, when it reasonably appears that the person requesting treatment has received:*
  - A) *any injury resulting from a discharge of a firearm.*
  - B) *any injury sustained in the commission of or as a victim of a criminal offense.*
- 2) *Any hospital physician or nurse shall be forever held harmless from any civil liability for their reasonable compliance with the provisions of this section. Reporting compliance shall be interpreted to mean only that information which describes the alleged criminal offense, i.e., site, description of assailant, identification, etc. Medical information and evidence collection shall not be released without the consent of the victim.*

(Source: Amended at 27 Ill. Reg. 1567, effective January 15, 2003)

Section 545.35 Development and Approval of Plans

- a) *Every hospital required to be licensed by the Department of Public Health, pursuant to the Hospital Licensing Act, which provides general medical and surgical hospital services, except those designated as transfer hospitals, shall provide emergency hospital service, in accordance with this Part, to all alleged sexual assault survivors who apply for such hospital emergency services in relation to injuries or trauma resulting from the sexual assault. (Section 2 of the Act)*
- b) *Every such hospital, regardless of whether or not a request is made for reimbursement, except hospitals participating as transfer hospitals in community or areawide plans in compliance with Section 4 of the Act and Section 545.50 of this Part, shall submit to the Department a plan to provide hospital emergency services, including a protocol to provide emergency contraception information and treatment, as required in Section 545.90, to alleged sexual assault survivors, which shall be made available by such hospital. (Section 2 of the Act)*
- c) *Such plan shall be submitted to the Department for approval within 60 days after receipt of the Department's request for the plan. (Section 2 of the Act)*
- d) *A sexual assault treatment plan shall be completed using the form provided in Appendix A of this Part. A protocol consistent with the sample protocols in*

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Appendix C shall be completed. The Department shall approve such plan if it finds that the implementation of the proposed plan would provide adequate hospital emergency service for alleged sexual assault survivors. (Section 2 of the Act)

- e) Every hospital shall submit an updated treatment, transfer, or areawide plan to the Department every three years.
- f) To provide hospital emergency services, a hospital shall have an approved plan to provide emergency medical services to sexual assault survivors.
- g) If the Department disapproves the plan because the plan does not provide adequate hospital emergency services for the alleged sexual assault survivor, the Department shall send notice of the rejection and the reason for the rejection to the hospital. The hospital shall have 10 days after receipt of the notice of rejection in which to submit a modified plan.
- h) Questions regarding the certification process and compliance by a hospital with its approved plan and this Part should be directed to:

Illinois Department of Public Health  
Division of Health Care Facilities and Programs  
525 West Jefferson St., 4th Floor  
Springfield, Illinois 62761  
(217) 782-7412

(Source: Added at 27 Ill. Reg1567, effective January 15, 2003)

Section 545.40 Program Administration (Repealed)

- a) All initial plans and amendments to existing plans for hospital emergency care of alleged sexual assault patients shall be submitted for approval *within 60 days of receipt of the Department's request for this plan* (Section 2 of the Act).
- b) *The Department shall periodically conduct on site reviews of such approved plans with hospital personnel to insure that the established procedures are being followed* (Section 2 of the Act).
- c) *If the Department surveyor determines that the hospital is not in compliance with its approved plan, the surveyor shall provide the hospital with a written list of the specific items of noncompliance within 2 weeks of the conclusion of the site review. The hospital shall have 14 working days to submit to the Department a plan of correction which contains the hospital's specific proposals for correcting the items of noncompliance. The Department shall review the plan of correction and notify the hospital in writing as to whether the plan is acceptable or*

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*nonacceptable* (Section 2.1 of the Act). Specific proposals for correcting the items must include the following information in order to be acceptable:

- 1) timeframe for implementing corrections;
  - 2) A description of the activity that will be undertaken to correct the items of noncompliance;
  - 3) identification of the person or persons responsible for implementing the corrections, and
  - 4) A clear description of how the standards set forth in this Part will be met.
- d) *If the Department finds the plan of correction nonacceptable, the hospital shall have 7 working days to resubmit an acceptable plan of correction. Upon notification that its plan of correction is acceptable, a hospital shall implement the plan of correction within 60 days.* (Section 2.1 of the Act).
- e) The failure to submit an acceptable plan of correction or to implement the plan of correction, within the time frames required in this Section, will subject a hospital to the imposition of a fine by the Department. The Department shall impose a fine of \$100.00 per day until a hospital complies with the requirements of this Section. (Section 2.1 of the Act).
- f) *Before imposing a fine pursuant to this Section, the Department shall provide the hospital via certified mail with written notice and an opportunity for an administrative hearing. Such hearing must be requested within 10 working days of receipt of the Department's notice. All hearings shall be conducted in accordance with the Department's rules in administrative hearings.* (77 Ill. Adm. Code 100) (Section 2.1 of the Act).
- g) The Department shall strictly maintain the confidentiality of all patient identities and medical information provided during a site survey or otherwise received by the Department pursuant to this Part.

(Source: Repealed at 27 Ill. Reg. 1567, effective January 15, 2003)

Section 545.50 Community or Areawide Plans Development of Plans

- a) *A hospital is authorized to participate, in conjunction with one or more other hospitals or health care facilities, in a community or areawide plan for the furnishing of hospital emergency service to alleged sexual assault survivors on a community or areawide basis, provided that each hospital participating in such a plan shall furnish such hospital emergency services or transfer services as it is designated to provide in the plan agreed upon by the participating hospitals to any alleged sexual assault survivor who applies for such services in relation to injuries or trauma resulting from the sexual assault.* (Section 3 of the Act)

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- b) Community or areawide plans may be developed by the hospitals or other health care facilities in the community or area to be served, and shall provide for the hospital emergency services and transfer services to alleged sexual assault survivors that shall be made available by each of the participating hospitals and health care facilities. (Section 4 of the Act)
- c) All such plans shall be submitted to the Department for prior approval before becoming effective. (Section 4 of the Act)
- d) The Department shall approve such plan for community or areawide hospital emergency service to alleged sexual assault survivors if it finds that the implementation of the proposed plan would provide an adequate and appropriate hospital emergency services for alleged sexual assault survivors of the community or area to be served. (Section 4 of the Act)
- e) Each plan shall include a description of the role of each hospital or health care facility participating in the plan, as well as individual treatment or transfer plans for each hospital, in accordance with Section 545.60 or Section 545.65 of this Part.
- f) Community or areawide plans shall conform to the requirements of the federal Emergency Medical Treatment and Active Labor Act.
- a) ~~A hospital is authorized to participate, in conjunction with one or more other hospitals or health care facilities, in a community or areawide plan for the furnishing of hospital emergency services to alleged sexual assault survivors on a community or areawide basis provided each hospital participating in such a plan shall furnish such hospital emergency services as it is designated to provide in the plan agreed upon by the participating hospitals to any alleged sexual assault survivor who applies for such hospital emergency services in relation to injuries or trauma resulting from the sexual assault. (Section 3 of the Act).~~
- b) ~~All such plans shall be submitted to the Department for approval prior to such plan becoming effective. The Department shall approve such plan if it finds that the implementation of the proposed plan would provide an adequate hospital emergency service for the people of the community or area to be served (Section 4 of the Act).~~
- e) ~~a community or areawide plan shall be considered adequate if it includes a narrative description of the role of each participating hospital or health care facility, as well as individual treatment or transfer plans for each hospital which contain the information required by Sections 545.80 and 545.90 of this Part.~~
- d) ~~All licensed general hospitals which do not participate in a Department approved community or areawide plan shall develop, and submit to the Department for approval, a Sexual Assault Treatment Plan or a Sexual Assault Transfer Plan (See, Sections 545.80, 545.90 of this Part).~~

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(Source: Amended at 27 Ill. Reg. 1567, effective January 15, 2003)

Section 545.60 ~~Minimum Standards for the~~ Treatment of Alleged Sexual Assault Survivors

- a) Every hospital providing appropriate emergency hospital services to an alleged sexual assault survivor shall conform to the requirements of the federal Emergency Medical Treatment and Active Labor Act (42 USC 1395dd) and, as minimum requirements for such services, provide, with the consent of the alleged sexual assault survivor, and as ordered by the attending physician, the following:
- 1) Appropriate medical examinations and laboratory tests required to ensure the health, safety, and welfare of an alleged sexual assault survivor or which may be used as evidence in a criminal proceeding against a person accused of the sexual assault, or both. Records of the results of such examinations and tests shall be maintained by the hospital and made available to law enforcement officials upon the request of the alleged sexual assault survivor. (Section 5(a) of the Act) Examinations and tests shall include, but not be limited to:
    - A) General physical examination;
    - B) Evaluation and/or treatment for sexually transmitted infections in accordance with the guidelines of the Centers for Disease Control and Prevention titled Guidelines for Treatment of Sexually Transmitted Diseases, or the standards of the American College of Emergency Physicians titled Evaluation and Management of the Sexually Assaulted or Sexually Abused Patient (see Section 545.25);
    - C) Evaluation and possible treatment for HIV exposure in accordance with the guidelines of the Centers for Disease Control and Prevention titled Sexually Transmitted Diseases Treatment Guidelines, or the standards of the American College of Emergency Physicians titled Evaluation and Management of the Sexually Assaulted or Sexually Abused Patient; and
    - D) Pregnancy test for all females of childbearing age;
  - 2) Appropriate oral and written information concerning the possibility of infection, sexually transmitted disease and pregnancy resulting from sexual assault (Section 5(a) of the Act);
  - 3) Medically and factually accurate written and oral information about emergency contraception; the indications and counter-indications and risks associated with the use of emergency contraception; and a

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- description of how and when victims may be provided emergency contraception upon the written order of a physician (Section 2.2(b) of the Act);
- 4) Appropriate oral and written information concerning accepted medical procedures, medication, and possible contraindications of such medication available for the prevention or treatment of infection or disease resulting from sexual assault (Section 5(a) of the Act);
  - 5) Such medication, dispensed at the time of service, including, but not limited to, HIV and STD prophylaxis, as deemed appropriate by the attending physician, for treatment at the hospital and after discharge (Section 5(a) of the Act);
  - 6) Written and oral instructions indicating the need for a follow-up appointment two weeks after the sexual assault (Section 5(a) of the Act);
  - 7) Appropriate referral to a physician licensed to practice medicine in all of its branches as provided in the Medical Practice Act of 1987;
  - 8) Appropriate counseling that provides:
    - A) Emotional support;
    - B) Confidentiality;
    - C) Explanations of treatment and related questioning to ensure that the patient understands that such procedures are necessary for his/her health, safety and welfare and for the collection of forensic evidence;
    - D) Distribution of the brochure "After Sexual Assault" (1982, updated 1989 and 1998), published by the Illinois Coalition Against Sexual Assault and the Illinois Department of Public Health, and the pamphlet "Financial Aid for Crime Victims", published by the Illinois Office of the Attorney General; and
    - E) Referrals, which may include rape crisis or other counseling services;
  - 9) Information on date rape drug testing, including an explanation of the comprehensive scope of a drug screen and the limited time frame within which such evidence can be collected; and
  - 10) Information regarding evidence collection, and the process and use of evidence in criminal investigation/cases.
- b) The hospital shall develop a uniform system for recording results of medical examinations and all diagnostic tests performed in connection with the examination to determine the condition and necessary treatment of alleged sexual assault survivors. Such results shall be preserved in a confidential manner as part

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~~*of the hospital record of the patient. (Section 6.1 of the Act) A medical record shall include, but not be limited to, the following information:*~~

- a) ~~appropriate medical examination shall be performed and shall include but not be limited to the following:~~
- ~~1) General physical examination;~~
  - ~~2) Serological test for syphilis;~~
  - ~~3) Appropriate stains and cultures for sexually transmitted diseases including but not limited to culture for gonorrhea, wet mount test for trichomoniasis, and test for chlamydia when available. Cultures for gonorrhea and chlamydia shall be collected from vagina, cervix, penile urethra, anus and/or oropharynx as dictated by the nature of the alleged assault;~~
  - ~~4) Urine Analysis (for purposes of identifying sperm, trichomoniasis or fungus);~~
  - ~~5) Pregnancy test for all females of childbearing age.~~
- b) ~~An appropriate medical record shall be developed and shall include, but not be limited to the following information:~~
- 1) The medical record shall show if the patient changed clothes, bathed or douched, defecated, urinated, ate, smoked, or performed oral hygiene between the time of the alleged assault and the time of the examination.
  - 2) The medical record shall indicate presence of all trauma, major or minor, ~~that which~~ may be used in a criminal proceeding (i.e., cuts, scratches, bruises, red marks, any minor signs of trauma). Photographs of incidence of trauma may be taken for evidentiary purposes with the written consent of the patient or the patient's parent or guardian if the patient is under 13 years of age a minor. ~~If in the event~~ the patient is under 13 years of age a minor and the parent or guardian is not immediately available, photographs may be taken and but shall be released to law enforcement personnel and State's Attorney staff ~~only~~ with written consent of parent, ~~or guardian, law enforcement officer or Department of Children and Family Services. If consent is refused, all photographs and negatives shall be given to the parent or guardian without charge.~~
  - 3) The medical record shall not reflect any conclusions regarding whether a crime (e.g., criminal sexual assault, criminal sexual abuse) occurred. ~~Merely record alleged rape, alleged sexual assault, or "patient states...."~~
  - 4) Medical history shall include brief, general information concerning possible injury and; drug allergies, and for female patients a detailed gynecological history must be obtained including: Menstrual history (last menstrual period LMP, PMP), whether the patient knows or believes that she is pregnant, history of prior gynecological surgery such as

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hysterectomy or tubal ligation, history of contraceptive use, history of cancer and any prior genital injury or trauma.

- 5) The medical record shall indicate the presence of any and all persons during the examination process.
  - 6) The medical record shall document the compliance with each procedure required by subsection (d) of this Section. Section 545.60(d) of this Part.
  - 7) The medical record shall indicate whether a report was filed with the Department of Children and Family Services, or whether the Department on Aging or the Department of Public Health was contacted.
  - 8) The medical record shall include a completed emergency department recordroom admission form.
  - 9) The medical record shall indicate whether an evidence collection kit was completed.
  - 109) All medical records for alleged sexual assault survivors shall be maintained through a filing system that which allows for immediate accessibility during Department surveys.
- c) The appropriate evidence collection kit ~~Evidence Collection Kit~~ shall be used, in the manner prescribed by the information Instruction Sheet and Notes to the Physician contained in the kit. ~~Release of evidence and information concerning the alleged sexual assault requires the signature of the parent or legal guardian in the case of a minor.~~
- 1) With the survivor's consent, the kit shall be completed if the survivor presents himself/herself within seven days after the sexual assault.
  - 2) If the evidence collection kit is not collected by law enforcement promptly after completion, hospital staff shall store it in a safe location for at least two weeks.
- d) ~~Appropriate minimum standards to insure~~ Procedures to ensure the welfare and privacy of the patient shall be followed and shall include, but not be limited to, the following ~~procedures~~:
- 1) A member of the health care team shall respond within minutes to move the patient to a closed environment to ensure insure privacy and shall refer to such patients by code to avoid embarrassment.
  - 2) ~~The patient shall receive oral and written information concerning the possibility of infection and sexually transmitted disease together with a description of the more common symptoms, signs and compliance of these diseases. The patient shall also receive oral and written information on the need for a second blood test six weeks later to determine the presence or absence of sexually transmitted disease.~~

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- ~~3)~~ The patient shall receive oral and written information concerning pregnancy resulting from the assault as determined by physical findings and fertility status, available types of prevention of unwanted pregnancy, and side effects, significant contraindications, complications and limitations of the method employed.
- ~~4)~~ The patient shall receive oral and written information concerning accepted medical procedures, medication and significant contraindications of such medications.
- ~~25)~~ If, for any reason, the patient is incapable of receiving ~~such~~ oral and written information required in subsection (a) of this Section, the, said information shall be given to the caregiver/guardian.
- ~~6)~~ ~~he patient shall receive appropriate counseling which provides:~~
- ~~A) Emotional support,~~
  - ~~B) Confidentiality,~~
  - ~~C) Explanations of treatment and related questioning to insure that the patient understands such procedures are necessary for his/her health, safety and welfare,~~
  - ~~D) Distribution of the Department's brochure "After Sexual Assault" and the Illinois Attorney General's pamphlet "Crime Victims— .Financial Aid in Illinois" (See, Section 545.25(b) of this Part), and~~
  - ~~E) Referrals which may include counseling centers, consultation with social and law enforcement agencies and volunteer services.~~
- ~~3)7)~~ All unauthorized personnel, including law enforcement personnel, shall ~~must~~ remain outside the examination room during the medical examination. If a patient who is in the custody of law enforcement officers exhibits behavior that may cause physical harm to herself/himself or hospital staff, the staff shall request that law enforcement officers be posted outside the treatment room door. ~~For the alleged sexual assault survivor who is, at the time of the examination and treatment, in custody or under arrest, if the staff is in jeopardy due to violent behavior of the client or if there is evidence the client would attempt to flee, local law enforcement officers should be posted outside the emergency treatment room door to facilitate prompt response if beckoned by the Emergency Room staff.~~
- ~~4)~~ The hospital shall offer to call a friend, family member, or rape crisis advocate to accompany the survivor.
- ~~e)~~ Where a minor is the victim of a predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse or criminal sexual abuse, as provided in Sections 12-13 through 12-

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16 of the Criminal Code of 1961 [720 ILCS 5/12-13 to 12-16], the consent of the minor's parent or legal guardian need not be obtained to authorize a hospital, physician or other medical personnel to furnish medical care or counseling related to the diagnosis or treatment of any disease or injury arising from such offense. The minor may consent to such counseling, diagnosis or treatment as if the minor had reached his or her age of majority. Such consent shall not be voidable, nor subject to later disaffirmance, because of minority. (Section 3 of the Consent by Minors to Medical Procedures Act [410 ILCS 210/3])

- f) A sexual assault evidence collection kit may not be released by a hospital without the written consent of the sexual assault survivor. In the case of a survivor who is a minor 13 years of age or older, evidence and information concerning the alleged sexual assault may be released at the written request of the minor. If the survivor is a minor who is under 13 years of age, evidence and information concerning the alleged sexual assault may be released at the written request of the parent, guardian, investigating law enforcement officer, or Department of Children and Family Services. Any health care professional, including any physician or nurse, and any health care institution, including any hospital, who provides evidence or information to a law enforcement officer pursuant to a written request as specified in this subsection (f) is immune from any civil or professional liability that might arise from those actions, with the exception of willful or wanton misconduct. The immunity provision applies only if all the requirements of this Section are met. (Section 6.4 of the Act)
- g) All hospitals that provide emergency medical services to alleged sexual assault survivors shall comply with the Crime Victims Compensation Act [740 ILCS 85], the Consent by Minors to Medical Procedures Act [410 ILCS 210] and any local ordinances, municipal codes, rules, or regulations that may apply to the health of sexual assault survivors.
- h) All hospitals shall comply with the reporting procedures for sexual assault survivors as required by Section 3.2 of the Criminal Identification Act [20 ILCS 2630].
- i) All treatment hospitals are strongly encouraged to enter into a networking agreement with a community-based rape crisis center, to assist the victim in receiving ongoing support, information, counseling and advocacy.
- j) The hospital shall take all reasonable steps to secure the patient's written informed consent to or refusal of such examination and treatment.

(Source: Amended at 27 Ill. Reg. 1567, effective January 15, 2003)

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- a) All transfers shall conform to the requirements of the federal Emergency Medical Treatment and Active Labor Act.
- b) Alleged sexual assault survivors may be transferred to another hospital, in accordance with the requirements of this Section, as part of a community or areawide plan. Appropriate emergency services shall be provided if the alleged sexual assault survivor requires initial resuscitation or other emergency care, including but not limited to maintenance of a patent airway, adequate respiration, control of hemorrhage, maintenance of adequate circulation, spinal stabilization, splinting of fractures, and establishment of an intravenous route, if indicated, so that the survivor can be safely transported to another hospital. Emergency services shall be rendered only for those injuries that the physician deems medically unsafe to postpone until transfer to another facility. Law enforcement personnel, regardless of gender, shall not be present during any physical examination conducted pursuant to this Section.
- c) The hospital shall provide an appropriate medical screening examination and necessary stabilizing treatment prior to transfer of the patient. If a patient has an emergency medical condition that has not stabilized, the requirements of the federal Emergency Medical Treatment and Active Labor Act shall be met.
- d) All unauthorized personnel, including law enforcement personnel, shall remain outside the examination room during the medical examination. If a patient who is in the custody of law enforcement officers exhibits behavior that may cause physical harm to herself/himself or hospital staff, the staff shall request that law enforcement officers be posted outside the treatment room door.
- e)b) A member of the health care team shall respond within minutes to ~~ensure~~ insure privacy, shall refer to such patients by code to avoid embarrassment (~~e.g., Code A~~), and shall offer a private room ~~if should~~ a short wait ~~is be~~ unavoidable.
- f)e) The alleged sexual assault survivor shall be given a tactful and humane explanation concerning the reason for the referral to another hospital for treatment.
- g)d) The emergency ~~department room~~ personnel shall notify the receiving hospital of the referral of the alleged sexual assault survivor.
- h) The receiving treatment facility shall:
- 1) Have the available space and qualified personnel for the treatment of the alleged sexual assault survivor; and
  - 2) Agree to accept the transfer of the alleged sexual assault survivor and to provide appropriate medical treatment.
- i)e) An emergency ~~department room treatment~~ record shall be completed and a copy transported with the patient to the receiving treatment facility. This record shall include:

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- 1) A completed emergency ~~department room~~-admission form;
  - 2) Physicians' findings, if any;
  - 3) Nurses' notes;
  - 4) The name and relationship to the patient, if known, of any person present during an examination conducted pursuant to this Section; ~~and~~
  - 5) ~~Observations of signs and symptoms and the~~ Observations of signs and symptoms and the ~~If any examination was conducted or treatment rendered pursuant to subsection (a) of this Section, the record shall indicate the~~ presence of any trauma or injury (e.g., cuts, scratches, bruises, red marks, and broken bones, ~~etc.~~); ~~if any examination was conducted or treatment rendered pursuant to subsection (a) of this Section; and~~
  - 6) The results of any tests.
- ~~j)Ⓔ~~ The emergency department record shall not reflect any conclusions regarding whether a crime (e.g., criminal sexual assault, criminal sexual abuse) occurred. ~~Merely record "alleged sexual assault", or "patient states..."~~
- ~~k)Ⓕ~~ The hospital shall maintain a chain of custody evidence in the handling of the alleged sexual assault survivor and his or her clothing.
- 1) The hospital shall handle the patient and clothing as minimally as possible.
  - 2) The hospital shall not attempt to obtain any specimens for evidentiary purposes (e.g., blood, saliva, hair samples, etc.).
  - 3) If it is necessary to remove any clothing in order to render emergency services as described in subsection (a) of this Section, Section 545.65(a) of this Part, removal should be attempted without cutting, tearing or shaking the garments.
  - 4) All loose or removed articles of clothing or other possessions of the patient shall be left to dry if possible, placed in separate paper bags, and then placed in one larger paper bag. The bag shall be sealed and labeled with the patient's name, the names of the health care personnel in attendance, the contents, the date, and the time collected. The bag shall be transported with the patient to the receiving treatment facility.
- ~~l)Ⓖ~~ If the alleged sexual assault survivor was brought to the transfer facility by the police, a friend, or family member, and has no life-threatening conditions, the survivor may be transported by the police or by the friend or family member to a treatment facility, with the consent of the survivor. All other transfers shall be by ambulance.
- ~~m)Ⓗ~~ A transfer facility shall transport or refer an alleged sexual assault survivor only to a treatment facility designated in its approved transfer plan.
- ~~n)Ⓙ~~ The hospital shall offer to call a friend, family member or rape crisis survivor advocate to accompany the ~~patientsurvivor for emotional support~~.

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- o) The hospital shall take all reasonable steps to secure the alleged sexual assault survivor's written informed consent to refuse a transfer to another facility.
- p) The hospital shall comply with the Emergency Medical Treatment Act [210 ILCS 70], COBRA requirements (26 USC 4980B), and the federal Emergency Medical Treatment and Active Labor Act.

(Source: Amended at 27 Ill. Reg. 1567, effective January 15, 2003)

Section 545.67 Compliance Review

- a) The Department shall conduct on-site reviews of approved plans with hospital personnel at least once during each three-year approval period to ensure that the established procedures are being followed. (Section 2 of the Act)
- b) If the Department determines that the hospital is not in compliance with its approved plan, the Department shall provide the hospital with a written list of the specific items of noncompliance within 2 weeks after the conclusion of the site review. The hospital shall have 14 working days to submit to the Department a plan of correction that contains the hospital's specific proposals for correcting the items of noncompliance. The Department shall review the plan of correction and notify the hospital in writing as to whether the plan is acceptable or unacceptable. (Section 2.1 of the Act)
- c) Specific proposals for correcting items of noncompliance shall include:
  - 1) A time frame for implementing corrections;
  - 2) A description of the activity that will be undertaken to correct the items of noncompliance;
  - 3) Identification of the person or persons responsible for implementing the corrections; and
  - 4) A description of how the requirements of this Part will be met.
- d) If the Department finds the plan of correction unacceptable, the hospital shall have 7 working days to resubmit an acceptable plan of correction. Upon notification that its plan of correction is acceptable, a hospital shall implement the plan of correction within 60 days. (Section 2.1 of the Act)
- e) The failure to submit an acceptable plan of correction or to implement the plan of correction, within the time frames required in this Section, will subject a hospital to the imposition of a fine by the Department. The Department shall impose a fine of up to \$100 per day until a hospital complies with the requirements of this Section. (Section 2.1 of the Act)
- f) Before imposing a fine pursuant to this Section, the Department shall provide the hospital via certified mail with written notice and an opportunity for an

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- administrative hearing. Such hearings must be requested within 10 working days after receipt of the Department's notice. All hearings shall be conducted in accordance with the Department's Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100). (Section 2.1 of the Act)*
- g) The Department shall maintain the confidentiality of all patient identities and medical information provided during a site survey or otherwise received by the Department pursuant to this Part.

(Source: Added at 27 Ill. Reg1567, effective January 15, 2003)

Section 545.80 Approval of a Sexual Assault Treatment Plan (Repealed)

In order to be approved by the Department, a Sexual Assault Treatment Plan shall be completed using the form provided in Appendix A of this Part.

(Source: Repealed at 27 Ill. Reg1567, effective January 15, 2003)

Section 545.90 Approval of a Sexual Assault Transfer Plan (Repealed)

In order to be approved by the Department, a Sexual Assault Transfer Plan shall be completed using the form provided in Appendix B of this Part.

(Source: Repealed at 27 Ill. Reg. 1567, effective January 15, 2003)

Section 545.95 Emergency Contraception

- a) By April 30, 2002, every hospital providing services to alleged sexual assault survivors in accordance with a plan approved under Section 545.35 of this Part must develop a protocol for providing emergency contraception information and treatment to alleged sexual assault survivors. (Section 2.2(b) of the Act)
- b) The Department shall request a plan that complies with the requirements of this Section by April 1, 2002. The Department will approve the protocol if it finds that the implementation of the protocol would provide sufficient protection for survivors of an alleged sexual assault and if the protocol provides for the following as soon as possible and, in any event, no later than 12 hours after the alleged sexual assault survivor presents herself/himself at the hospital for emergency care:
- 1) medically and factually accurate written and oral information about emergency contraception;

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- 2) *the indications and counter-indications and risks associated with the use of emergency contraception;*
- 3) *a description of how and when victims may be provided emergency contraception upon the written order of a physician (Section 2.2(b) of the Act);*
- 4) *appropriate referral to a physician licensed to practice medicine in all its branches as provided in the Medical Practice Act of 1987.*
- c) *The hospital shall implement the protocol upon approval by the Department. (Section 2.2(b) of the Act)*
- d) *The Department shall produce medically and factually accurate written materials that all treatment hospitals shall provide to each female sexual assault survivor of childbearing age.*

(Source: Added at 27 Ill. Reg. 1567, effective January 15, 2003)

Section 545.100 Hospital Charges and Reimbursement

*When any hospital or ambulance provider furnishes emergency services to any alleged sexual assault survivor, as defined by the Department of Public Aid pursuant to Section 6.3 of the Act, who is neither eligible to receive such services under the Illinois Public Aid Code [305 ILCS 5] nor covered as to such services by a policy of insurance, as defined in the Illinois Insurance Code [215 ILCS 5], the hospital and ambulance provider shall furnish such services to that person without charge and shall be entitled to be reimbursed for its billed charges in providing such services by the Department of Public Aid. (Section 7 of the Act)* ~~*When any hospital or ambulance provider furnishes emergency services to any alleged sexual assault survivor who is neither eligible to receive such services under the Illinois Public Aid Code (Ill. Rev. Stat. 1987, ch. 23, pars 1-1 et seq., as amended) nor covered as to such services by a policy of insurance, as defined in the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, pars. 613 et seq., as amended), the hospital and ambulance provider shall furnish such services to that person without charge, and shall be entitled to be reimbursed by the Department for its billed charges in providing such services, under the following conditions (Sections 6.3 and 7 of the Act):*~~

- a) ~~*A hospital, regardless of whether it is licensed by the Department, shall be eligible for reimbursements only after receiving Department approval for its Sexual Assault Treatment or Transfer Plan (See, Section 545.80 and 545.90), or its participation in an approved Community or Areawide Sexual Assault Treatment Plan (See, Section 545.50).*~~
- b) ~~*Charges for outpatient emergency care and ambulance transportation shall be reimbursed only through the hospital outpatient billing department.*~~

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- 1) ~~Patients, physicians and ambulance providers shall not be directly reimbursed by the Department.~~
  - 2) ~~Charges for inpatient care shall not be reimbursed.~~
  - 3) ~~Charges must be directly related to emergency care rendered for injuries or trauma resulting from an alleged sexual assault and/or completion of the Evidence Collection Kit.~~
  - 4) ~~Such services shall have been provided within the hospital emergency department (room), under the direction of an attending physician at the facility who supervised or provided the hospital emergency care of the patient, or during the ambulance transport of the patient.~~
  - 5) ~~Charges may include, but not be limited to, physician, laboratory, x-ray, pharmacy and ambulance services, including laboratory charges for the six week follow-up blood test.~~
  - 6) ~~The billed charges for services to alleged sexual assault survivors shall be no greater than the hospital's or ambulance provider's customary charges to the general public for those types of services. Physician fees shall be no greater than those considered usual and customary in the community. All billed charges shall be reconciled with the hospital's annual cost statements.~~
- e) ~~The hospital shall maintain sufficient records to document its charges for services to each patient. Such records shall be available for the Department review upon its request and shall contain at least the following:~~
- 1) ~~Patient name, address, date of birth, social security number, marital status, sex, employer, name of parent or guardian (if minor patient),~~
  - 2) ~~Date of Service,~~
  - 3) ~~Hospital patient number, name of attending physician,~~
  - 4) ~~List of services provided,~~
  - 5) ~~Charges for each service,~~
  - 6) ~~Any documentation concerning the patient's lack of insurance coverage, and~~
  - 7) ~~An annual cost statement covering each service provided or available to alleged sexual assault survivors.~~
- d) ~~The hospital outpatient billing shall submit the following documentation in order to be considered for reimbursement:~~
- 1) ~~The Illinois Department of Public Health Sexual Assault Survivor Program Outpatient Hospital Billing Form to be completed for each patient,~~
  - 2) ~~A State of Illinois Invoice Voucher, (Form C-13-7 Part (Rev. 3-83)), which may include the required information on multiple patients if more than one reimbursement is being sought through a single request. The voucher shall be completed as follows:~~
    - A) ~~Item 2: Federal identification number,~~

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- ~~B) Item 3: Hospital name, address,~~
- ~~C) Item 10: Number of alleged sexual assault survivors for whom services were rendered, hospital patient number for each patient, date of alleged sexual assault for each patient (if known),~~
- ~~D) Item 14: Total amount of charges for each patient, and~~
- ~~E) Item 17: Total amount of reimbursement being sought.~~
- ~~3) A legible copy of the emergency room admission form.~~
- ~~e) Under no circumstances shall an alleged sexual assault survivor be billed for outpatient hospital or ambulance emergency care or transportation.~~
- ~~f) A request for reimbursement which has been rejected by the Department shall be returned via certified mail accompanied by an explanation which specifies the basis for rejection. Corrected or amended requests may be resubmitted to the Department.~~

(Source: Amended at 27 Ill. Reg. 1567, effective January 15, 2003)

Section 545.APPENDIX A Sexual Assault Treatment Plan Form

Sexual Assault Treatment Plan

Instructions: This form describes the minimum components of a Sexual Assault Treatment Plan. References to the "Regulations" mean the Illinois Department of Public Health ~~Rules and Regulations for the~~ Sexual Assault Survivors Emergency Treatment Code (77 Ill. Adm. Code 545). All responses shall be written as clearly and succinctly as possible. If additional sheets are necessary, attach those sheets to the page on which the information is originally requested. A completed copy of the ~~plan~~ Plan shall be retained by the ~~hospital~~ Hospital. The completed ~~plan~~ Plan shall be sent to:

Illinois Department of Public Health  
Division of ~~Health Facilities and Programs~~ Emergency Medical Services and Highway Safety  
525 West Jefferson Street, ~~4<sup>th</sup>~~ 3<sup>rd</sup> Floor  
Springfield, Illinois 62761-~~0001~~ 0001

PART A

Name of Treatment Hospital: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Contact Person for Program: \_\_\_\_\_

(Name)

(Job Title)

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\_\_\_\_\_  
 (Telephone Number) (Fax Number)

Contact Person for Billing: \_\_\_\_\_  
 (Name) (Job Title)

\_\_\_\_\_  
 (Telephone Number) (Fax Number)

Estimated number of patients served in coming FY: \_\_\_\_\_

~~Estimated costs of patients served in coming FY: \_\_\_\_\_~~

Community or Area-wide Plan:  Yes  No

If yes, names of participating transfer facilities: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## PART B

1. Describe the geographic area to be covered by the treatment facility, procedures ~~that which~~ will be adopted that are compatible with the needs of alleged sexual assault survivors, type of staff available, and steps ~~that which~~ will be taken for public education at least annually to ~~ensure insure~~ that such a program is understood by other medical facilities, police, State's Attorneys, local sexual assault crisis centers, social services agencies, and citizens groups. If the treatment facility is part of a community or areawide plan, the hospital shall formalize the arrangements by contracts, letters of agreement or standard operating procedures. (See Section 545.60 of the Regulations and attach any agreements to the plan).
- ~~2. Describe the reimbursement mechanism utilized for physicians, ambulance services, etc. (See Section 545.100 of the Regulations).~~
- ~~2.3.~~ Describe any local ordinance, municipal codes, rules or regulations ~~that which~~ apply to the health care or reporting procedures for alleged sexual assault survivors in the hospital's area.

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- 3.4. State ~~that whether~~ the Evidence Collection Kit Medical Report Form for Sexual Assault Cases is used as a permanent medical record and approved by your Records Review Committee. ~~If it is used only as a worksheet, insure that the permanent medical record sheet contains all information described on the Medical Report Form and attach copy.~~ (See Section 545.60(b) of the Regulations).
- 4.5. Attach copies of appropriate forms distributed to alleged sexual assault survivors ~~that which~~ describe:
- a) Risk of sexually transmitted diseases and infections.
  - b) Types of medication for sexually transmitted diseases and side effects.
  - c) Medical procedures, medication given, and possible contraindications of such medication.
  - d) Necessity of two week ~~six weeks~~ follow-up visit ~~test to prevent syphilis~~.
  - e) Information concerning emergency contraception in accordance with Section 545.95 of the Regulations. ~~Information which describes fertility status, available types of prevention of unwanted pregnancy and side effects, contraindications, complications, etc. If hospital does not provide such counseling because of religious preferences, this requirement may be met by listing various sexual assault counseling centers available in the area.~~ The Evidence Collection Kit Patient Information Sheet shall be used as a component of written information distribution. (See Section 545.60(d)~~(2),(3),(4)~~ of the Regulations.)
  - f) Date rape drug testing information, including an explanation of the comprehensive scope of drug screen and the limited time frame within which such evidence can be collected.
- 5.6. Describe evidence collection procedures to be taken. The Illinois State Police Evidence Collection Instruction Sheet and Notes to Forensic Examiner Sheet Examining Physician sheet may be used and attached. ~~If this is not used, the description must contain all information described on the Instruction Sheet, to insure standardized collection for analysis at the State Crime Lab(s).~~
- 6.7. Describe counseling available for sexual assault survivors. Counseling services shall comply with Section 545.60(d)~~(1),(6)~~ of the Regulations.

## PART C

Review and sign the Conditions ~~conditions~~ of Approval ~~approval~~:

## CONDITIONS OF APPROVAL

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The following conditions of approval shall apply to all Sexual Assault Emergency Treatment Programs. These conditions are enumerated below to ~~ensure insure~~ that all treatment facilities are informed and aware of their responsibilities in accordance with the Sexual Assault Survivors Emergency Treatment Code Rules and Regulations (77 Ill. Adm. Code 545) and the Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70] (~~Ill. Rev. Stat. 1987, ch. 111½, pars. 87-1 et seq.~~)

1. The ~~hospital Hospital~~ shall provide hospital emergency services to alleged sexual assault survivors, with the consent of the sexual assault survivor and as ordered by the attending physician, in accordance with the ~~minimum standards of the~~ Sexual Assault Survivors Emergency Treatment Act and with the Sexual Assault Survivors Emergency Treatment Code Rules and Regulations prescribed by the Department (see See, Section 545.60 of the Regulations).
2. The ~~hospital Hospital~~ shall provide such services at no direct charge to the patient. If the patient is neither eligible to receive such services under the Illinois Public Aid Code nor is covered by a policy of insurance, the ~~hospital Hospital~~ shall seek reimbursement only from the Illinois Department of Public Aid (IDPA).
3. The ~~hospital Hospital~~ shall submit billings to IDPA the Department on properly authenticated vouchers supplied by IDPA the Department for all eligible patients for whom hospital emergency services were provided pursuant to its approved Treatment Plan.
4. The ~~hospital Hospital~~ shall maintain and preserve all patient medical records in a manner and for a duration established by hospital policy and for not less than 10 years, in accordance with Section 6.17 of the Hospital Licensing Act., accounting records, or other evidence pertaining to the cost incurred and make such materials available for three (3) years or until completion of any outstanding audit.
5. The hospital shall maintain all business and professional records in accordance with acceptable business and accounting practices, and all records shall be legible. Records shall be retained for a period of not less than three years after the date of service or as required by State law, whichever period is longer, except that if an audit is initiated within the required retention period, the records shall be retained until the audit is completed and every exception is resolved.
- 6.5. The ~~hospital Hospital~~ shall comply with the reporting procedures for sexual assault survivors as required by Section 3.2 of the Criminal Identification Act [20 ILCS 2630]. "AN ACT in relation to criminal identification and investigation" (~~Ill. Rev. Stat. 1987, ch. 38, par. 206-3.2~~) which reads as follows:  
It is the duty on any person conducting or operating a medical facility, or any physician or nurse as soon as treatment permits to notify the local law enforcement agency of that jurisdiction, upon the application for treatment of a

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~~person who is not accompanied by a law enforcement officer, when it reasonably appears that the person requesting treatment has received:~~

- (1) ~~Any injury resulting from a discharge of a firearm.~~
- (2) ~~Any injury sustained in the commission of or as a victim of a criminal offense. Any hospital physician or nurse shall be forever held harmless from any civil liability for their reasonable compliance with the provision of this Section reporting compliance shall be interpreted to mean only that information which describes the alleged criminal offense, i.e., site, description of assailant, identification, etc. medical information and evidence collection shall not be released without the consent of the victim.~~
- 7.6. The ~~hospital~~ Hospital shall post information in the emergency ~~department room~~ concerning crime victim compensation to comply with the Crime Victims ~~Victim~~ Compensation Act [740 ILCS 45] (~~Ill. Rev. Stat. 1987, ch. 70, pars. 71 et seq.~~).

FOR THE HOSPITAL:

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 Administrator

(Source: Amended at 27 Ill. Reg. 1567, effective January 15, 2003)

## Section 545.APPENDIX B Sexual Assault Transfer Plan Form

## Sexual Assault Transfer Plan

Note: All transfer plans shall conform to the requirements of the federal Emergency Medical Treatment and Active Labor Act (42 USC 1395dd).

Instructions: This form describes the minimum components of a Sexual Assault Transfer Plan as part of a community-based or areawide plan. References to the "Regulations" mean the Illinois Department of Public Health ~~Rules and Regulations for the Treatment of~~ Sexual Assault Survivors Emergency Treatment Code (77 Ill. Adm. Code 545). All responses shall be written as clearly and succinctly as possible. If additional sheets are necessary, attach those sheets to the page on which the information is originally requested. A completed copy of the plan ~~Plan~~ shall be retained by the ~~hospital~~ Hospital. The completed plan ~~Plan~~ shall be sent to:

Illinois Department of Public Health  
 Division of Health Care Facilities and Programs ~~Emergency Medical Services and Highway Safety~~  
 525 West Jefferson Street, 4<sup>th</sup> ~~3<sup>rd</sup>~~ Floor

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Springfield, Illinois 62761-~~0001~~

## PART A

Name of Transfer Hospital: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Contact Person for Program: \_\_\_\_\_

(Name)

(Job Title)

\_\_\_\_\_  
(Telephone Number)\_\_\_\_\_  
(Fax Number)

Contact Person for Billing: \_\_\_\_\_

(Name)

(Job Title)

\_\_\_\_\_  
(Telephone Number)\_\_\_\_\_  
(Fax Number)

Estimated number of patients transferred in coming FY: \_\_\_\_\_

~~Estimated costs of patients transferred in coming FY:~~

Name of affiliated Treatment Facility: \_\_\_\_\_

Distance of Transfer Hospital from affiliated Treatment Facility: \_\_\_\_\_

Estimate of maximum distance patient may have to travel to receive treatment: \_\_\_\_\_

Name, telephone number and address of ambulance provider(s): \_\_\_\_\_

## PART B

- Describe the geographic area to be covered by the transfer facility, procedures ~~that which~~ will be adopted that are compatible with the needs of alleged assault survivors, type of staff available, and steps ~~that which~~ will be taken for public education at least annually to ~~ensure insure~~ that such a program is understood by other medical facilities, police, State's Attorneys, local sexual assault crisis centers, social services agencies, and ~~citizen's citizens~~ groups. The hospital shall formalize transfer arrangements with one or more treatment facilities by contracts,

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- letters of agreement or standard operating procedures as part of a community-based or areawide plan. (See Section 545.65 of the Regulations and attach any jointly-signed agreements to the plan.)
2. Describe the hospital's reasons for electing to provide services to alleged sexual assault survivors as a transfer facility rather than a treatment facility. Factors that which should be discussed include accessibility to the community, existing hospital facilities and services, availability and location of nearby treatment facilities, and any other relevant community health planning considerations.
  - ~~3. Describe the reimbursement mechanism utilized for physicians, ambulance services, etc. (See Section 545.100 of the Regulations).~~
  - 3.4. Describe any local ordinances, municipal codes, rules or regulations thatwhich apply to the health care or reporting procedures for alleged sexual assault survivors in the hospital's area.
  - 4.5. Describe the procedures that which will be taken to ensure insure privacy and support for the survivor. Services shall be in accordance with Section 545.65(b), (c), (g) and (i) of the Regulations.
  - 5.6. Attach a copy of the emergency department room-treatment record that which shall be used as required by Section 545.65(e) of the Regulations.

## PART C

Review and sign the Conditions conditions of Approval:

## CONDITIONS OF APPROVAL

The following conditions of approval shall apply to all Sexual Assault Emergency Transfer Programs. These conditions are enumerated below to ensure insure that all transfer facilities are informed and aware of their responsibilities in accordance with the Sexual Assault Survivors Emergency Treatment Code Rules and Regulations (77 Ill. Adm. Code 545) and the Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70] (Ill. Rev. Stat. 1987, ch. 111½, par. 87-1 et seq., as amended by Public Act 85-577, effective September 18, 1987).

1. The hospital Hospital shall provide an appropriate medical screening examination and initial stabilizing treatment. ~~emergency services if the alleged sexual assault survivor requires initial resuscitation or other emergency care so that the survivor can be safely transported to another hospital. Only those injuries should be treated that the physician deems medically unsafe to postpone until transfer to another facility.~~ (See Section 545.65(a) of the Regulations.)

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2. The ~~hospital Hospital~~ shall provide pre-transfer and transfer services to alleged sexual assault survivors in accordance with Section 545.65 of the ~~Rules and Regulations~~.
3. The ~~hospital Hospital~~ shall provide ~~such~~ services at no direct charge to the patient. If the patient is neither eligible to receive such services under the Illinois Public Aid Code nor is covered by a policy of insurance, the ~~hospital Hospital~~ shall seek reimbursement only from the Department ~~of Public Aid (IDPA)~~.
4. ~~The hospital shall comply with the Emergency Medical Treatment Act [210 ILCS 70] and the federal Emergency Medical Treatment and Active Labor Act (42 USC 1395dd).~~
- 5.4. The ~~hospital Hospital~~ shall submit billings to ~~IDPA the Department~~ on properly authenticated vouchers supplied by the ~~IDPA Department~~ for all eligible patients for whom hospital emergency services were provided pursuant to its Transfer Plan.
- 6.5. The ~~hospital Hospital~~ shall maintain all patient ~~medical~~ records in a manner and for a duration established by hospital policy and for not less than 10 years, in accordance with Section 6.17 of the Hospital Licensing Act, ~~accounting records, or other evidence pertaining to the cost incurred and make such materials available for three (3) years or until completion of any outstanding audit.~~
7. ~~The hospital shall maintain all business and professional records in accordance with acceptable business and accounting practices, and all records shall be legible. Records shall be retained for a period of not less than three years after the date of service or as required by State law, whichever period is longer, except that if an audit is initiated within the required retention period, the records shall be retained until the audit is completed and every exception is resolved.~~

FOR THE HOSPITAL:

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Administrator(Source: Amended at 27 Ill. Reg. 1567, effective January 15, 2003)Section 545.APPENDIX C Emergency Contraception ProtocolsCONTRACEPTIVE INTERVENTIONSAMPLE PROTOCOL IA. GENERAL

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Each survivor of sexual assault will receive medically and factually accurate written and oral information about emergency contraception as soon as possible and, in any event, no later than 12 hours after the alleged sexual assault survivor presents herself/himself at the hospital for emergency treatment services; the indications and counter-indications and risks associated with the use of emergency contraception; and a description of how and when alleged survivors will be provided emergency contraception upon the written order of a physician licensed to practice medicine in all its branches. If the alleged sexual assault survivor accepts this treatment, the physician will administer emergency contraception as approved by the federal Food and Drug Administration (FDA) unless contraindicated for medical reasons while the alleged survivor is in emergency care. Each survivor of sexual assault will be provided with an appropriate referral to a physician licensed to practice medicine in all its branches as provided in the Medical Practice Act of 1987.

CONTRACEPTIVE INTERVENTIONSAMPLE PROTOCOL II  
(CATHOLIC HOSPITAL ASSOCIATION)A. GENERAL

Each survivor of sexual assault will receive medically and factually accurate written and oral information about emergency contraception as soon as possible and, in any event, no later than 12 hours after the alleged sexual assault survivor presents herself/himself at the hospital for emergency treatment services; the indications and counter-indications and risks associated with the use of emergency contraception; and a description of how and when victims will be provided emergency contraception upon the written order of a physician licensed to practice medicine in all its branches. A female survivor of alleged sexual assault who shows a negative result for pregnancy on the blood test and a negative result with respect to the urine dip-stick test, and whose history corresponds to this, will be offered a contraceptive intervention of high dose Ovral (or equivalent). If the alleged sexual assault survivor accepts this treatment, the first dose will be provided in the emergency department to achieve the contraceptive effect.

If the alleged survivor presents a positive result on the tests, the survivor will be counseled that the emergency department will not offer the formulation. If the blood test is positive for pregnancy, the alleged sexual assault survivor will be counseled that this pregnancy is not of immediate or recent origin. If the urine test is positive and relates to

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the individual's history, it indicates that the LH surge is under way or that the woman is ovulating, and that a contraceptive formulation would not be effective in preventing ovulation, and contraceptive intervention will not be provided by the hospital.

Alleged sexual assault survivors will be referred to a physician for appropriate followup care.

B. CLINICAL APPLICATION

I. If a woman is determined to be in the preovulatory phase of her cycle, then Ovrал (or equivalent) will be immediately available for the most effective contraceptive intervention in the dosage of 2 pills at the present time, and 2 in 12 hours.

- 1) History: Compatible with preovulatory phase
- 2) Physical examination: Compatible with preovulatory phase
- 3) LH urine: Negative  
Progesterone level less than 1.5 ng/mL

II. If the woman is determined to be past the early postovulatory phase (LH urine: negative; progesterone: greater than or equal to 6 ng/mL), because the timing of the sexual assault could not have coincided with the presence of an ovum, Ovrал (or equivalent) may be prescribed for the psychological benefit of the woman who requests it.

III. If the woman is determined to be in the late postovulatory phase, because the timing of the sexual assault could not have coincided with the presence of an ovum, Ovrал (or equivalent) may be prescribed for the benefit of the woman who requests it:

- 1) Progesterone level: Less than 6 ng/mL
- 2) LH urine: Negative
- 3) Menstrual history: Anticipation of menses in less than 7 days (usually 3-5 days)

IV. If a woman is determined to be in (1) her midcycle LH surge phase or (2) early postovulatory phase, Ovrал (or equivalent) will not be given by the emergency department physician:

- 1) LH urine: Positive  
Progesterone level: Unnecessary to perform
- 2) LH urine: Negative  
Progesterone level: Greater than or equal to 1.5 or less than or equal to 5.9 ng/mL

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Menstrual history: Compatible with midcycle and early postovulatory phase  
(menses expected in greater than 7 days).

(Source: Added at 27 Ill. Reg. 1567, effective January 15, 2003)

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- 1) Heading of the Part: Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 150
- 3) Section Numbers: 150.1401                      Adopted Action:  
Amendment
- 4) Statutory Authority: 20 ILCS 2505/2505-795
- 5) Effective Date of Amendment(s): January 15, 2003
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register:  
May 31, 2002, 26 Ill. Reg. 8039
- 10) Has JCAR issued a Statement of Objections to these Amendments? 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? Yes
- 13) Will this amendment replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment(s): This rulemaking involves the unconditional repayment requirement of a claimant who files a claim for credit or refund of Use Tax. When tax has been paid to the Department that was the result of a mistake of fact or error of law, a claimant may only recover upon a claim for credit or refund when claimant bore

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the burden of the tax or repaid such tax unconditionally to his vendee from whom it was collected. See Section 19 of the Act. This rulemaking adds a provision to allow irrevocable credit memos or unconditional promissory notes to satisfy the unconditional repayment requirement of the claimant. This provision is being inserted because of an Illinois appellate court decision which held that unconditional promissory notes satisfied the unconditional repayment requirement, [Central Illinois Light Co. v. Department of Revenue](#), 117 Ill. App. 3d 911 (1983). The court held that the purpose of the unconditional repayment requirement was to prevent the claimant's unjust enrichment and where the claimant's customer has been provided an instrument upon which it could make a demand on the claimant for the taxes recovered if the claim is allowed, the unconditional repayment requirement was satisfied.

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

Karl W. Betz  
Associate Counsel  
Legal Services Office  
Illinois Department of Revenue  
101 West Jefferson  
Springfield, Illinois 62794  
Phone: (217) 782-2844

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

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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
150.315	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 Game Hunting Areas
150.336	Fuel Brought into Illinois in Locomotives

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150.337 Food, Drugs, Medicines and Medical Appliances When Purchased for Use by a Person Receiving Medical Assistance under the Illinois Public Aid Code

## 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 2-1/4% Rate of Tax (Repealed)  
150.415 Tax Collection Brackets for a 2-1/2% Rate of Tax (Repealed)  
150.420 Tax Collection Brackets for a 2-3/4% Rate of Tax (Repealed)  
150.425 Tax Collection Brackets for a 3% Rate of Tax (Repealed)  
150.430 Tax Collection Brackets for a 3-1/8% Rate of Tax (Repealed)  
150.435 Tax Collection Brackets for a 3-1/4% Rate of Tax (Repealed)  
150.440 Tax Collection Brackets for a 3-1/2% Rate of Tax (Repealed)  
150.445 Tax Collection Brackets for a 3-3/4% Rate of Tax (Repealed)  
150.450 Tax Collection Brackets for a 4% Rate of Tax (Repealed)  
150.455 Tax Collection Brackets for a 4-1/8% Rate of Tax (Repealed)  
150.460 Tax Collection Brackets for a 4-1/4% Rate of Tax (Repealed)  
150.465 Tax Collection Brackets for a 4-1/2% Rate of Tax (Repealed)  
150.470 Tax Collection Brackets for a 4-3/4% Rate of Tax (Repealed)  
150.475 Tax Collection Brackets for a 5% Rate of Tax (Repealed)  
150.480 Tax Collection Brackets for a 5-1/8% Rate of Tax (Repealed)  
150.485 Tax Collection Brackets for a 5-1/4% Rate of Tax (Repealed)  
150.490 Tax Collection Brackets for a 5-1/2% Rate of Tax (Repealed)  
150.495 Tax Collection Brackets for a 5-3/4% 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

## Section

150.601 Requirements

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## 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

## SUBPART J: TRADED-IN PROPERTY

## Section

- 150.1101 General Information

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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

## 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, 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

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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 26 Ill. Reg. 1607, effective January 15, 2003.

## SUBPART M: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

## Section 150.1401 Claims for Credit--Limitations--Procedure

## a) When Purchasers May File Claims

If it shall appear that an amount of tax or penalty or interest has been paid in error under the Use Tax Act to the Department by a purchaser, as distinguished from the retailer, whether the such amount be paid through a mistake of fact or an error of law, the such purchaser may file a claim for credit with the Department.

## b) When Retailers May File Claims--Unjust Enrichment Prohibited

1) If it shall appear that an amount of tax or penalty or interest has been paid in error to the Department under the Use Tax Act by a retailer who is required or authorized to collect and remit the Use Tax, whether the such amount be paid through a mistake of fact or an error of law, the such retailer may file a claim for credit with the Department, provided that no credit shall be allowed for any amount paid by any such retailer unless it shall appear that he bore the burden of the such amount and did not shift the burden thereof to anyone else (as in the case of a duplicated tax payment which the retailer made to the Department and did not collect from anyone else), or unless it shall appear that he or his legal representative has unconditionally repaid the such amount to his vendee:

- A) who bore the burden thereof and has not shifted the such burden directly or indirectly in any manner whatsoever;
- B) who, if he has shifted the such burden, has repaid unconditionally the such amount to his own vendee; ; and

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- C) who is not entitled to receive any reimbursement ~~therefor~~ from any other source than from his vendor, nor to be relieved of the such burden in any other manner whatsoever.
- 2) If it shall appear that an amount of tax has been paid in error under the Use Tax Act by the purchaser to a retailer, who retained the such tax as reimbursement for his tax liability on the same sale under the Retailers' Occupation Tax Act, and who remitted the amount involved to the Department under the Retailers' Occupation Tax Act, whether the such amount be paid through a mistake of fact or an error of law, the procedure for recovering the such tax shall be that prescribed in Sections 6, 6a, 6b and 6c of the Retailers' Occupation Tax Act.
- 3) The retailer will be considered to have satisfied the unconditional repayment requirement where it provides its purchaser with an instrument upon which the purchaser can make a demand upon the retailer/claimant for payment of the tax recovered if the claim is allowed. The retailer's provision of unconditional promissory notes or irrevocable credit memoranda to its purchasers who paid tax in error would satisfy this requirement. The purpose of requiring the retailer to make an unconditional repayment to its purchasers is to prevent unjust enrichment on the part of the retailer. Therefore, in order to establish that it was not unjustly enriched, the retailer filing a claim for credit must be able to demonstrate that it gave unconditional promissory notes or irrevocable credit memoranda to its purchasers who paid tax in error to the retailer.
- c) Time Limit On The Filing Of Claims
- As to any claim for credit filed with the Department on and after January 1 but on or before June 30 of any given year, no amount of tax or penalty or interest erroneously paid (either in total or partial liquidation of a tax or penalty or amount of interest under the Use Tax Act) more than 3 years prior to ~~such~~ January 1 shall be credited, and as to any ~~such~~ claim filed on and after July 1 but on or before December 31 of any given year, no amount of tax or penalty or interest erroneously paid (either in total or partial liquidation of a tax or penalty or amount of interest under the Use Tax Act) more than 3 years prior to ~~such~~ July 1 shall be credited *or refunded, except that if both the Department and the taxpayer have agreed to an extension of time to issue a notice of tax liability as provided in Section 4 of this Act, such claim may be filed at any time prior to the expiration of*

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*the period agreed upon.* [35 ILCS 120/4] No claim shall be allowed for any amount paid to the Department, whether paid voluntarily or involuntarily, if paid in total or partial liquidation of an assessment which had become final before the claim for credit to recover the amount so paid is filed with the Department, or if paid in total or partial liquidation of a judgment, order or decree of court.

## d) Procedure For Filing Of Claims

- 1) Claims for credit shall be prepared and filed upon forms provided by the Department. Where the claimant is a corporation, the claim filed on behalf of ~~the~~ ~~such~~ corporation shall be signed by the president, vice-president, secretary or treasurer or by the properly accredited agent of ~~the~~ ~~such~~ corporation.
- 2) A claim for credit shall be considered to have been filed with the Department on the date upon which it is received by the Department.
- 3) Upon receipt of any claim for credit filed under the Act, any officer or employee of the Department, authorized in writing by the Director of Revenue to acknowledge receipt of ~~the~~ ~~such~~ claims on behalf of the Department, shall execute on behalf of the Department, and shall deliver or mail to the claimant or his duly authorized agent, a written receipt, acknowledging that the claim has been filed with the Department, describing the claim in sufficient detail to identify it and stating the date upon which the claim was received by the Department.
- 4) ~~The~~ ~~Such~~ ~~The~~ written receipt shall be prima facie evidence that the Department received the claim described in ~~the~~ ~~such~~ receipt and shall be prima facie evidence of the date when ~~the~~ ~~such~~ claim was received by the Department.
- 5) In the absence of ~~such~~ a written receipt, the records of the Department as to when the claim was received by the Department, or as to whether or not the claim was received at all by the Department, shall be deemed to be prima facie correct upon these questions in the event of any dispute between the claimant (or his legal representative) and the Department concerning these questions. (See Section 19 of the Act.)

## e) Procedure After Filing Of Claims

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- 1) The Department will examine each claim for credit as soon as practicable after ~~the such~~ claim is filed and will notify the claimant (or his legal representative, if the claim is filed by ~~the such~~ legal representative, or if the claimant has died or become incompetent and ~~the such~~ legal representative has notified the Department of his appointment and qualification as ~~the such~~ legal representative, or if the Department, on its own motion, has substituted ~~the such~~ legal representative in the proceeding for the deceased or incompetent claimant) of its Tentative Determination of the amount of credit, if any, to which the claimant or his legal representative is entitled.
  - 2) If ~~the such~~ claimant, or the legal representative of a deceased or incompetent taxpayer, shall, within 60 days after the Department's Notice of Tentative Determination of Claim, file a protest ~~thereto~~ and request a hearing ~~thereon~~, the Department shall give notice to ~~the such~~ claimant, or to the legal representative of a deceased or incompetent taxpayer, of the time and place fixed for ~~the such~~ hearing, and shall hold a hearing in conformity with the provisions of the Act, and ~~pursuant thereto~~ shall issue its Final Determination of the amount of credit, if any, found to be due as a result of ~~the such~~ hearing, to ~~the such~~ claimant, or to the legal representative of a deceased or incompetent taxpayer.
  - 3) If a protest to the Department's Notice of Tentative Determination of Claim is not filed within 60 days and a request for a hearing thereon is not made as provided in subsection (e)(2), the ~~said~~ Notice shall ~~thereupon~~ become and operate as a Final Determination. (See Section 20 of the Act.)
- f) Use of Credit Memoranda to Satisfy Prior Rights of Department
- 1) If, following the above procedure, a credit is found to be due, ~~as evidence thereof~~ a credit memorandum for ~~the such~~ amount shall be issued in the name of the claimant. If there is an established unpaid assessment or an admitted unpaid liability under the Use Tax Act, the Retailers' Occupation Tax Act, the Service Occupation Tax Act, or the Service Use Tax Act, or under a local Retailers' Occupation Tax or Service Occupation Tax administered by the Department against the claimant, or unpaid penalty, or unpaid interest, the amount of the credit shall be credited against the tax or penalty or interest due. If the credit is in an amount less than that of the unpaid liability, it shall be applied pro tanto.

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- 2) If the amount of the credit exceeds that of the unpaid liability, after crediting an amount sufficient to liquidate or cancel out ~~the such~~ unpaid liability, a new credit memorandum shall be issued for an amount representing the difference between that of the original credit found to be due and that of the liability liquidated or paid ~~as aforesaid~~, and ~~the such~~ new credit memorandum shall be delivered to the person entitled to receive delivery thereof, provided that no proceeding is pending against the claimant to establish an unpaid liability under the Use Tax Act, the Retailers' Occupation Tax Act, the Service Occupation Tax Act, or the Service Use Tax Act, or under a local Retailers' Occupation Tax or Service Occupation Tax administered by the Department.
- 3) If a proceeding to establish ~~such~~ an unpaid liability is pending, the credit memorandum shall be held by the Department until ~~the such~~ proceeding is concluded; and if ~~the such~~ proceeding results in the issuance of an assessment which becomes final, the credit shall be applied by the Department, to the extent which may be necessary, in liquidation of ~~the such~~ assessment, or any interest that may accrue ~~thereon~~, and the balance of the credit, if any (after cancellation of the credit memorandum applied in liquidation of ~~the such~~ liability), shall be issued in the form of a new credit memorandum and delivered to the person entitled to receive delivery ~~thereof~~.
- 4) If a taxpayer is notified that due to overpayments, a verified credit balance is available, the taxpayer may file a claim for credit.

(Source: Amended at 27 Ill. Reg. 1607, effective January 15, 2003)

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- 1) Heading of the Part: Cigarette Tax Act
- 2) Code Citation: 86 Ill. Adm. Code 440
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
440.10	Amendment
440.20	Amendment
440.40	Amendment
440.50	Amendment
440.60	Amendment
440.90	Amendment
440.100	Amendment
440.110	Amendment
440.130	Amendment
440.170	Amendment
440.200	Amendment
440.220	Amendment
440.230	Amendment
440.240	Amendment
- 4) Statutory Authority: 35 ILCS 130/8; 20 ILCS 2505/2505-30
- 5) Effective Date of Amendment(s): January 15, 2003
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register:  
June 21, 2002, 26 Ill. Reg. 8760  
July 26, 2002, 26 Ill. Reg. 11408
- 10) Has JCAR issued a Statement of Objections to these Amendments? 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.

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No substantive changes were made. This is a consolidated rulemaking with 14 sections being amended.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace an emergency amendment currently in effect? Yes, Sections 440.10 and 440.20
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment(s): Section 440.10 is amended to specify that the tax is increased by 20 mills to a total rate of 49 mills per cigarette, or 98 cents per package of 20 cigarettes. Section 440.20 is amended to specify that beginning June 7, 2002 and through June 28, 2002, distributors may purchase cigarette tax stamps up to an amount equal to 115% of their average monthly cigarette tax stamp purchases over the prior 12 calendar months. Both of these amendments are required by the terms of Public Act 92-0536.

Various other regulations throughout Part 440 are being amended, primarily in response to Public Act 92-322 and Public Act 92-492. Section 440.90 is amended to reflect the provisions of PA 92-322, which provide that beginning January 1, 2003, distributors purchasing tax stamps by means of a 30-day draft must make payment of that draft by means of electronic funds transfer ("EFT"). The rules also implement the more general provisions of PA 92-492 which require taxpayers whose annual tax liability is \$200,000 or more to make payment by means of EFT. The rules also set out the manner in which the Department is implementing provisions in PA 92-322 which allow the Department to promulgate regulations requiring that returns be accompanied by computer-generated magnetic media supporting schedule data. Section 440.240 is amended to provide that requests for hearings must be written, and, pursuant to PA 92-322, to add hearing provisions for licensees protesting the Department's issuance of NTLs. Numerous changes have been made throughout to delete references to specific forms and to reflect current Department procedures. The latter amendments include changes reflecting the Department's policy of providing a credit memo, rather than physical replacement of stamps, in situations in which stamps are unused, damaged, destroyed, or in which packs are returned to the manufacturer. The regulations provide, pursuant to PA 92-322, that the Department may refuse to sell tax stamps to any person who does not comply with the Cigarette Tax Act, and add provisions reflecting the Department's authority to design "alternative tax indicia."

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DEPARTMENT OF REVENUE

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

Jerilynn T. Gorden  
Sr. Counsel, Sales & Excise Tax  
Legal Services Office  
Illinois Department of Revenue  
101 West Jefferson  
Springfield, Illinois 62794  
Phone: (217) 782-2844

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

## DEPARTMENT OF REVENUE

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TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUEPART 440  
CIGARETTE TAX ACT**Section**

- 440.10 Nature and Rate of Tax
- 440.20 Tax--How Paid
- 440.30 Tax--Who Liable For
- 440.40 Design
- 440.50 Tax Stamps--When and By Whom Affixed: License or Permit Required
- 440.60 Tax Stamps--How Affixed
- 440.70 Tax Stamps--Affixed Out of State
- 440.80 Transporter Permits
- 440.90 Tax Stamps--Purchase of: Cost: Discount
- 440.100 Returns Required: When Filed
- 440.110 Books and Records: Examination: Preservation
- 440.120 Unused Stamps and Meter Units: Sale of: Notice to Department
- 440.130 Mutilated Stamps
- 440.140 Tax Meters (Repealed)
- 440.150 Tax Meter Machine Settings (Repealed)
- 440.160 Vending Machines
- 440.170 Sales Out of Illinois
- 440.180 Sales to Governmental Bodies
- 440.190 Sample Packages of Cigarettes: Stamps or Other Evidence of Tax Payment  
Affixed
- 440.200 ~~Claim for Replacement~~ [Credit for Stamps that Are Damaged, Unused, Destroyed  
or on Packages Returned to the Manufacturer](#)
- 440.210 Sale of Forfeited Cigarettes and Vending Machines
- 440.220 Tax-Free Sales of Cigarettes for Use Aboard Ships Operating in Foreign  
Commerce Outside The Continental Limits of the United States
- 440.230 Claims for Credit or Refund
- 440.240 Protest Procedures

AUTHORITY: Implementing and authorized by the Cigarette Tax Act [35 ILCS 130].

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SOURCE: Filed and effective June 17, 1958; amended at 6 Ill. Reg. 2831 and 2834, effective March 3, 1982; codified at 8 Ill. Reg. 17912; amended at 13 Ill. Reg. 10678, effective June 16, 1989; amended at 14 Ill. Reg. 6794, effective April 19, 1990; amended at 15 Ill. Reg. 117, effective December 24, 1990; emergency amendment at 23 Ill. Reg. 9541, effective July 29, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 14748, effective December 8, 1999; amended at 24 Ill. Reg. 9903, effective June 23, 2000; emergency amendment at 24 Ill. Reg. 10752, effective July 6, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 17793, effective November 28, 2000; amended at 25 Ill. Reg. 933, effective January 8, 2001; emergency amendment at 26 Ill. Reg. 9021, effective June 10, 2002, for a maximum of 150 days; emergency expired November 5, 2002; amended at 27 Ill. Reg. 1618, effective January 15, 2003.

## Section 440.10 Nature and Rate of Tax

- a) The cigarette tax is imposed upon any person who exercises the privilege of engaging in business as a retailer of cigarettes in this State, and is at the rate of 5-1/2 mills per cigarette sold or otherwise disposed of in the course of such business in this State. The proceeds from this tax are paid into the General Revenue Fund of the State Treasury.
- b) In addition, the Cigarette Tax Act [35 ILCS 130] (the Act), imposes a tax upon any person engaged in business as a retailer of cigarettes in this State at the rate of 1/2 mill per cigarette sold or otherwise disposed of in the course of such business in this State on and after January 1, 1947, and shall be paid into the Service Recognition Bond, Interest and Retirement Fund until that Fund contains sufficient money to retire all bonds payable from that Fund. Thereafter, the proceeds from the 1/2 mill tax are to be paid into the Fair and Exposition Authority Reconstruction Fund.
- c) *Effective December 1, 1985, in addition to any other taxes imposed by the Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes in this State at a rate of 4 mills per cigarette sold or otherwise disposed of in the course of such business in this State. Of this additional tax, \$9,000,000 of the moneys received under the Act shall be paid each month into the Common School Fund. (Section 2(a) of the Act)*
- d) *Effective July 2, 1989, in addition to any other tax imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the*

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*rate of 5 mills per cigarette sold or otherwise disposed of in the course of such business in this State (Section 2(a) of the Act).*

- e) Effective July 14, 1993, *in addition to any other tax imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 7 mills per cigarette sold or otherwise disposed of in the course of such business in this State (Section 2(a) of the Act).*
- f) Effective *December 15, 1997, in addition to any other tax imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 7 mills per cigarette sold or otherwise disposed of in the course of such business in this State (Section 2(a) of the Act).* All of the monies received from this additional tax shall be paid into the Common School Fund.
- g) Effective July 1, 2002, in addition to any other tax imposed by the Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 20 mills per cigarette sold or otherwise disposed of in the course of such business in this State.
- hg) The total of these rates is 29 mills per cigarette; or 58¢ on a package of 20 cigarettes; except that, beginning July 1, 2002, the total of these rates is 49 mills per cigarette or 98¢ on a package of 20 cigarettes.
- ih) The impact of these taxes is declared by the Cigarette Tax Act to be imposed upon the retailer, with the taxes being required to be prepaid or pre-collected by the distributor for the purpose of convenience and facility only, and the amount of the tax shall be added to the price of the cigarettes sold by such distributor. Collection of the tax shall be evidenced by a stamp or stamps affixed to each original package of cigarettes, as provided in the Act and in this Part.
- ji) It shall be the duty of each distributor to collect the tax from the retailer at or before the time of the sale, to affix the required stamps and to remit the tax collected from retailers to the Department of Revenue (Department). Any distributor who shall fail to properly collect and pay the tax imposed by the Act shall be liable for the tax.
- kj) The amount of the cigarette tax imposed by the Act shall be separately stated, apart from the price of the goods, by both distributors and retailers, in all advertisements, bills and sales invoices.

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- k) The taxes so imposed are in addition to all other occupation or privilege taxes imposed by the State of Illinois, political subdivisions thereof or by any municipal corporation.

(Source: Amended at 27 Ill. Reg. 1618, effective January 15, 2003)

## Section 440.20Tax--How Paid

- a) Except as provided in subsection (b) of this Section, payment of the tax imposed by the Act shall be evidenced by a stamp or alternative tax indicia affixed to each "original package" of cigarettes, in a face amount equal to 29 mills for each cigarette contained in such package; except that, beginning July 1, 2002, the tax rate is 49 mills per cigarette contained in each package. Stamps are sold only to distributors by the Department at a discount (explained in more detail in Section 440.90 of this Part), when purchased according to law, in denominations evidencing payment of the tax on packages of 10, 20, and 25 ~~and 30~~ cigarettes. Beginning June 7, 2002 through June 28, 2002, persons holding valid licenses as distributors may purchase cigarette tax stamps up to an amount equal to 115% of the distributor's average monthly cigarette tax stamp purchases over the prior 12 calendar months [35 ILCS 130/3] ~~More than one stamp may be affixed to a single original package. For example, a 10 cigarette stamp and a 10 cigarette stamp may be affixed to a single original package of 20 cigarettes.~~
- b) Illinois cigarette manufacturers who place their cigarettes in original packages which are contained inside a sealed transparent wrapper, and similar out-of-State cigarette manufacturers who elect to qualify and are accepted by the Department as distributors under Section 4b of the Act, shall pay the taxes imposed by the Act by remitting the amount thereof, less the discount explained in Section 440.90 of this Part, to the Department by the 5th day of each month covering cigarettes shipped or otherwise delivered in Illinois to purchasers during the preceding calendar month. ~~The Such~~ manufacturers of cigarettes in original packages that ~~which~~ are contained inside a sealed transparent wrapper, before delivering the ~~such~~ cigarettes or causing the ~~such~~ cigarettes to be delivered in this State to purchasers, shall evidence their obligation to remit the taxes due with respect to the ~~such~~ cigarettes by imprinting language to be prescribed by the Department on each original package of such cigarettes underneath the sealed transparent outside wrapper of the ~~such~~ original package, in a ~~such~~ place thereon and in such manner as the Department may designate. ~~The Such~~ imprinted language shall

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acknowledge the manufacturer's payment of or liability for the tax imposed by the Act with respect to the distribution of such cigarettes.

- c) [The Department may refuse to sell cigarette revenue stamps to any person who does not comply with the provisions of the Cigarette Tax Act.](#)

(Amended at 27 Ill. Reg. [1618](#), effective [January 15, 2003](#))

Section 440.40 Design

The Department shall adopt the design or designs of the tax stamps [or alternative tax indicia](#) and shall procure the printing of such stamps [or alternative tax indicia](#) in such amounts and denominations as it deems necessary to provide for the affixation of the proper amount of tax stamps [or alternative tax indicia](#) to each original package of cigarettes.

(Amended at 27 Ill. Reg. [1618](#), effective [January 15, 2003](#))

Section 440.50 Tax Stamps--When and By Whom Affixed: License or Permit Required

- a) The Department, or any person authorized by the Department, will sell tax stamps only to licensed distributors. It shall be unlawful for any person to engage in the business as a distributor of cigarettes in this State without first having obtained a license or permit therefor from the Department. Application for a distributor's license shall be made to the Department in form as furnished and prescribed by the said Department and shall be accompanied by a joint and several bond in the amount of \$2,500. Except when the applicant is the manufacturer, no distributor's license shall be issued to an applicant unless he presents the Department with satisfactory proof in writing that he will be able to buy cigarettes directly from at least 3 major cigarette manufacturers. Each licensed place of business shall be covered by a separate license.
- b) The annual license fee payable to the Department for each distributor's license shall be \$250. The purpose of [the such](#) annual license fee is to defray the cost, to the Department, of ~~coding, serializing or coding and~~ serializing cigarette tax stamps. Each applicant for license shall pay [the such](#) fee to the Department at the

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time of submitting his application for license to the Department.

- c) All licenses issued by the Department under the Cigarette Tax Act shall be valid for not to exceed one year after issuance unless sooner revoked, canceled or suspended as in the Act provided.
- d) The Department may, in its discretion, upon application, issue permits authorizing the payment of the tax imposed by the Act by out-of-State cigarette manufacturers who are not required to be licensed as distributors of cigarettes in this State, but who elect to qualify under the Act as distributors of cigarettes in this State, and who, to the satisfaction of the Department, furnish adequate security to insure payment of the tax, provided that any ~~the such~~ permit shall extend only to cigarettes which ~~the such~~ permittee-manufacturer places in original packages that are contained inside a sealed transparent wrapper.
- e) All permits issued by the Department under the Cigarette Tax Act shall be valid for not to exceed one year after issuance unless sooner revoked, canceled or suspended as in the Act provided.
- f) The following are ineligible to receive a distributor's license or permit under this Act:
  - 1) A person who is not of good character and reputation in the community in which he resides;
  - 2) A person who has been convicted of a felony under any Federal or State law, if the Department, after investigation and a hearing, if requested by the applicant, determines that such person has not been sufficiently rehabilitated to warrant the public trust;
  - 3) A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than 5% (in the case of distributors) or 1% (in the case of out-of-State cigarette manufacturer permittees) of the stock of such corporation, would not be eligible to receive a license under this Act for any reason.
- g) The first distributor who delivers cigarettes or causes them to be delivered in this State to a purchaser must affix proper stamp or stamps to each original package of such cigarettes before delivering ~~the such~~ cigarettes (or causing them to be delivered) in this State to the purchaser, or (in the case of manufacturers of

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cigarettes in original packages which are contained inside a sealed transparent wrapper) to imprint the required language on the original package of cigarettes beneath such outside wrapper, as provided in Section 440.20(b) of this Part.

- h) On and after July 22, 1999, *no stamp or imprint may be affixed to, or made upon, any package of cigarettes unless that package complies with all requirements of the federal Cigarette Labeling and Advertising Act, 15 USC 1331 and following, for the placement of labels, warnings, or any other information upon a package of cigarettes that is sold within the United States. Under the authority of Section 6 of the Cigarette Tax Act [35 ILCS 130], the Department shall revoke the license of any distributor that is determined to have violated this subsection (h). A person may not affix a stamp on a package of cigarettes, cigarette papers, wrappers, or tubes if that individual package has been marked for export outside the United States with a label or notice in compliance with Section 290.185 of Title 27 of the Code of Federal Regulations. It is not a defense to a proceeding for violation of this subsection that the label or notice has been removed, mutilated, obliterated, or altered in any manner.* (Section 3 of the Cigarette Tax Act)
- i) On and after August 15, 1999, packages of cigarettes, cigarette papers, wrappers, or tubes stamped or imprinted in a manner not in accordance with subsection (h) of this Section and found in the possession of a distributor create a rebuttable presumption that the packages of cigarettes, cigarette papers, wrappers or tubes were stamped or imprinted in violation of the Cigarette Tax Act.
- j) On and after September 1, 1999, packages of cigarettes, cigarette papers, wrappers or tubes stamped or imprinted in a manner not in accordance with subsection (h) of this Section and found in the possession of a retailer create a rebuttable presumption that the packages of cigarettes, cigarette papers, wrappers or tubes were stamped or imprinted by the distributor from whom they were obtained in violation of the Cigarette Tax Act.
- k) *On and after June 13, 2000, no stamp or imprint may be affixed to, or made upon, any package of cigarettes that:*
  - 1) *bears any statement, label, stamp, sticker, or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed, or used in the United States, including but not limited to labels stating*

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*"For Export Only", "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording;*

- 2) *does not comply with:*
  - A) *all requirements imposed by or pursuant to federal law regarding warnings and other information on packages of cigarettes manufactured, packaged, or imported for sale, distribution, or use in the United States, including but not limited to the precise warning labels specified in the federal Cigarette Labeling and Advertising Act, 15 USC 1333; and*
  - B) *all federal trademark and copyright laws;*
- 3) *is imported into the United States in violation of 26 USC 5754 or any other federal law or implementing federal regulations;*
- 4) *the person affixing the stamp or imprint otherwise knows or has reason to know the manufacturer did not intend to be sold, distributed, or used in the United States;*
- 5) *for which there has not been submitted to the Secretary of the U.S. Department of Health and Human Services the list or lists of the ingredients added to tobacco in the manufacture of the cigarettes required by the federal Cigarettes Labeling and Advertising Act, 15 USC 1335a; or*
- 6) *has been altered, prior to sale or distribution to the ultimate consumer, so as to remove, conceal, or obscure:*
  - A) *any statement, label, stamp, sticker, or notice described in subdivision (k)(1) of this Section; or*
  - B) *any health warning that is not specified in, or does not conform with the requirements of, the federal Cigarette Labeling and Advertising Act, 15 USC 1333. (Section 3-10 of the Act)*

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- l) On and after July 15, 2000, packages of cigarettes, cigarette papers, wrappers, or tubes stamped or imprinted in a manner not in accordance with subsection (k) of this Section and found in the possession of a distributor create a rebuttable presumption that the package of cigarettes, cigarette papers, wrappers, or tubes were stamped or imprinted in violation of the Cigarette Tax Act.
- m) On and after July 31, 2000, packages of cigarettes, cigarette papers, wrappers or tubes stamped or imprinted in a manner not in accordance with subsection (k) of this Section and found in the possession of a retailer create a rebuttable presumption that the packages of cigarettes, cigarette papers, wrapper or tubes were stamped or imprinted by the distributor from whom they were obtained in violation of the Cigarette Tax Act.
- n) *On and after June 13, 2000, on the first business day of each month, each person licensed to affix the State tax stamp to cigarettes shall file with the Department, for all cigarettes imported into the United States to which the person has affixed the tax stamp in the preceding month:*
- 1) *a copy of:*
    - A) *the permit issued pursuant to the Internal Revenue Code, 26 USC 5713, to the person importing the cigarettes into the United States allowing the person to import the cigarettes; and*
    - B) *the customs form containing, with respect to the cigarettes, the internal revenue tax information required by the U.S. Bureau of Alcohol, Tobacco and Firearms;*
  - 2) *a statement, signed by the person under penalty of perjury, which shall be treated as confidential by the Department and exempt from disclosure under the Freedom of Information Act, identifying the brand and brand styles of all such cigarettes, the quantity of each brand style of such cigarettes, the supplier of such cigarettes, and the person or persons, if any, to whom such cigarettes have been conveyed for resale;*
  - 3) *in addition to the statement required in subsection (n)(2) of this Section, a separate statement, signed by the individual under penalty of perjury, which shall not be treated as confidential or exempt from disclosure, separately identifying the brands and brand styles of such cigarettes;*

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- 4) *in addition to the statement required in subsections (n)(2) and (n)(3) of this Section, a separate statement, signed by an officer of the manufacturer or importer under penalty of perjury, certifying that the manufacturer or importer has complied with:*
- A) *the package health warning and ingredient reporting requirements of the federal Cigarette Labeling and Advertising Act, 15 USC 1333 and 1335a, with respect to such cigarettes; and*
  - B) *the provisions of Exhibit T of the Master Settlement Agreement entered in the case of People of the State of Illinois v. Philip Morris, et al. (Circuit Court of Cook County, No. 96-L13146), including a statement indicating whether the manufacturer is, or is not, a participating tobacco manufacturer within the meaning of Exhibit T.*
- o) *The Department may revoke or suspend the license or licenses of any distributor, in the manner provided in Section 6 of the Cigarette Tax Act, if the Department determines that the distributor knew or had reason to know that the distributor was committing any the acts prohibited in subsection (k) of this Section or had failed to comply with any of the requirements of subsection (l) of this Section. In addition, the Department may impose on the distributor a civil penalty in an amount not to exceed the greater of 500% of the retail value of the cigarettes involved or \$5000. Cigarettes acquired, held, owned, possessed, transported in, imported into, or sold or distributed in this State in violation of subsection (k) of this Section shall be subject to seizure and forfeiture whether the violation is knowing or otherwise. (Section 3-10 of the Act)*

(Amended at 27 Ill. Reg. 1618, effective January 15, 2003)

Section 440.60      Tax Stamps--How Affixed

- a) Adhesive tax stamps furnished and sold by the Department must be physically "affixed" to original packages of cigarettes. ~~Provision is also made in the Act so that stamp or stamps may be "affixed" by tax meters, where permission to employ this method of affixation is first obtained from the Department (Section 440.140 of this Part).~~

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- b) Adhesive tax stamps shall be securely attached to each original package of cigarettes so as to be clearly visible. If the cigarettes are sold through vending machines the stamps shall be affixed so that if any packages are visible in the machine, the stamps affixed thereto shall also be visible.
- ~~e) When affixed to "rounds" or "flats" of fifty (50) cigarettes or more, stamps must be so placed that they will be destroyed when the container is opened. The stamps must be placed on the small, individual packages originally sold to consumers as distinguished from the carton or larger containers of cigarettes.~~
- cd) If original packages of cigarettes are wrapped in some substance to which stamps do not readily adhere, such substance must be roughened or treated to assure the proper adherence of stamps.

(Amended at 27 Ill. Reg. 1618, effective January 15, 2003)

## Section 440.90 Tax Stamps--Purchase of: Cost: Discount

- a) Sales of ~~such~~ stamps shall be made by the Department, or any person authorized by the Department, to licensed distributors in proper denominations, subject to discounts as explained in subsection paragraph (b) of this Section, which discount shall be allowed at the time of purchase of the stamps, when purchase is required by the Act.
- b) The discount allowable to distributors at the time of purchasing stamps during any year commencing July 1 and ending the following June 30 *shall be equal to 1.75% of the amount of the tax payable under the Cigarette Tax Act up to and including the first \$3,000,000.00 paid by such distributor to the Department during any such year and 1.5% of the amount of any additional tax paid by such distributor to the Department during any such year.* (Section 2 of the Act)
- c) Two or more distributors that use a common means of affixing revenue tax stamps or that are owned or controlled by the same interests shall be treated as a single distributor for the purpose of computing the discount.
- d) *The Department shall allow a distributor 30 days in which to make final payment of the amount to be paid for such stamps, by allowing the distributor to make payment for the stamps at the time of purchasing them with a draft which shall be*

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*in such form as the Department prescribes (i.e., a standard bank draft which the distributor may post-date), and which shall be payable within 30 days thereafter. Beginning January 1, 2003, such draft shall be payable by means of electronic funds transfers, as provided in 86 Ill. Adm. Code Part 750. A distributor's failure to pay any such draft, when due, shall also make such distributor automatically liable for a penalty equal to 25% of the amount of such draft. (Section 3 of the Act) ~~Provided that such distributor has filed with the Department, and has received the Department's approval of, a bond (in a form provided for in this Section), which is in addition to the bond required under Section 4 of the Act, payable to the Department in an amount equal to 100% of such distributor's average monthly tax liability under the Act during the preceding calendar year or \$750,000.00, whichever is less. The bond shall be joing and several and shall be in the form of a surety company bond in such form as the Department prescribes, or it may be in the form of a bank certificate of deposit or bank letter of credit. The bond shall be conditioned upon the distributor's payment of the amount of any 30-day draft which the Department accepts from that distributor for the delivery of stamps to that distributor under the Act. The distributor's failure to pay any such draft, when due, shll also make such distributor automatically liable for a penalty equal to 25% of the amount of such draft. (Section 3 of the Act) Prior continuous compliance taxpayers, as defined in Section 1 of the Act, are exempt from the bond requirements noted above. For additional information concerning the exempiton, refer to Section 3 of the Act.~~*

- e) *Distributors making payment for stamps at the time of purchase by draft as explained in subsection (d) shall first file with the Department, and receive the Department's approval of, a bond (in a form provided for in this subsection), which is in addition to the bond required under Section 4 of the Act, payable to the Department in an amount equal to 100% of such distributor's average monthly tax liability under the Act during the preceding calendar year or \$750,000, whichever is less. The bond shall be joint and several and shall be in the form of a surety company bond or it may be in the form of a bank certificate of deposit or bank letter of credit. The bond shall be conditioned upon the distributor's payment of the amount of any 30-day draft which the Department accepts from that distributor for the delivery of stamps to that distributor under the Act. Prior continuous compliance taxpayers, as defined in Section 1 of the Act, are exempt from the bond requirements noted in this subsection. (Section 3 of the Act) For additional information concerning the exemption for prior continuous compliance taxpayers, see Section 3 of the Act.*

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- f) Beginning January 1, 2003, any taxpayer choosing not to make payment of tax by means of a draft payable within 30 days as provided for in subsection (d), and who has an annual tax liability of \$200,000 or more shall make all payments of that tax by means of electronic funds transfer, as provided in 86 Ill. Adm. Code 750. [20 ILCS 2505/2505-210]
- g) The Department may refuse to sell cigarette tax stamps to any person who does not comply with the provisions of the Cigarette Tax Act. (Section 3 of the Act)

(Amended at 27 Ill. Reg. 1618, effective January 15, 2003)

Section 440.100 Returns Required: When Filed

- a) Every distributor who is required to procure a license under this Act, but who is not a manufacturer of cigarettes in original packages ~~that~~ ~~which~~ are contained in a sealed transparent wrapper, shall, on or before the 15th day of each calendar month, file a return with the Department, showing the quantity of cigarettes manufactured during the preceding calendar month, the quantity of cigarettes brought into this State or caused to be brought into this State from outside this State during the preceding calendar month without authorized evidence on the original packages of ~~such~~ cigarettes underneath the sealed transparent wrapper ~~thereof~~ that the tax liability imposed by this Act has been assumed by the out-of-State seller of ~~such~~ cigarettes, the quantity of cigarettes purchased tax-paid during the preceding calendar month either within or outside this State and the quantity of cigarettes sold or otherwise disposed of during the preceding calendar month. Such return shall be filed upon forms furnished and prescribed by the Department and shall contain ~~such~~ other information as the Department may reasonably require. Computer generated returns and schedules or returns and schedules filed on forms that have not been approved by the Department are considered non-processable and may subject the filer to penalties and interest for failure to file a proper return.
- b) Illinois manufacturers of cigarettes in original packages ~~that~~ ~~which~~ are contained inside a sealed transparent wrapper shall file a return by the 5th day of each month covering the preceding calendar month. Each ~~such~~ return shall show the quantity of ~~such~~ cigarettes manufactured during the period covered by the return, the quantity of cigarettes sold or otherwise disposed of during the period covered by the return and ~~such~~ other information as the Department may lawfully require. Returns ~~Such returns~~ shall be filed on forms prescribed and furnished by the

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Department. Computer generated returns and schedules or returns and schedules filed on forms that have not been approved by the Department are considered non-processable and may subject the filer to penalties and interest for failure to file a proper return.

- c) Each out-of-State manufacturer, who is granted a permit by the Department under Section 4b of the Act, shall file a return with the Department on a form to be prescribed and furnished by the Department and shall disclose ~~the such~~ information as the Department may lawfully require. ~~The Such~~ return shall be filed by the 5th day of the month and shall cover the preceding calendar month. Computer generated returns and schedules or returns and schedules filed on forms that have not been approved by the Department are considered non-processable and may subject the filer to penalties and interest for failure to file a proper form.
- d) Effective January 1, 2003, the returns filed by both distributors required to procure a license under the Act who have 30 or more transactions per month, and by Illinois manufacturers having 30 or more transactions per month, must be accompanied by appropriate computer-generated magnetic media supporting schedule data in the format required by the Department. (Section 9 of the Act) Distributors and manufacturers unable to comply with this requirement by January 1, 2003 may petition the Department for an extension of time to comply with this requirement. Distributors and manufacturers who voluntarily file returns and schedules electronically are not subject to this requirement. ~~Where a distributor under the Act keeps his books and records and conducts his entire accounting system on a basis of thirteen equal accounting periods annually, permission may be granted to such distributor upon formal request therefor to file returns within fifteen days (or five days in the case of manufacturers whose returns are due by the 5th of the month) after the end of each of the respective thirteen periods.~~
- e) ~~Similarly, where a distributor keeps his books and records and conducts his entire accounting system on a weekly and not a monthly basis, permission may be granted him, upon formal request therefor, to file returns twelve times annually on or before fifteen days (or five days in the case of manufacturers whose returns are due by the 5th of the month) after the end of any week whose ending date falls nearest to the end of each respective calendar month.~~
- f) ~~In all cases, a distributor must file formal request for permission to report on these bases, stating that his books and records are kept in such form as to reflect~~

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~~accurately and adequately all facts upon which returns are required to be filed by him as a distributor under the provisions of the Act.~~

(Amended at 27 Ill. Reg. 1618, effective January 15, 2003)

## Section 440.110 Books and Records: Examination: Preservation

- a) Every distributor of cigarettes, who is required to procure a license under the Act, shall keep within Illinois, at his licensed address, complete and accurate records of cigarettes held, purchased, manufactured, brought in or caused to be brought in from without the State, and sold or otherwise disposed of, and shall preserve and keep within Illinois at his licensed address all invoices, bills of lading, sales records, copies of bills of sale, inventory at the close of each period for which a return is required of all cigarettes on hand and of all cigarette revenue stamps, both affixed and unaffixed, and other pertinent papers and documents relating to the manufacture, purchase, sale or disposition of cigarettes.
- b) Among other things, a distributor's records of a particular purchase from a manufacturer shall include:
  - 1) A copy of the distributor's purchase order (if any) to the manufacturer;
  - 2) the manufacturer's invoice to the distributor in duplicate (see [subsection e](#) ~~the heading, "Invoices", below~~);
  - 3) bill of lading or waybill pertaining to the shipment covered by such invoice;
  - 4) receiving record- ~~(the~~ ~~The~~ receiving record should show the date when the cigarettes were received by the distributor); ~~;~~ and
  - 5) ~~such~~ other records as the Department may reasonably require.
- c) All books and records and other papers and documents which are required by the Act to be kept shall be kept in the ~~American~~ [English](#) language, and shall, at all times during the usual business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees.

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- d) ~~The Such~~ books, records, papers and documents, ~~as aforesaid,~~ shall be preserved for a period of at least 3 years ~~after the date of said documents, as aforesaid,~~ or the date of the entries ~~thereof~~ appearing in ~~the such~~ records, unless the Department, in writing, authorizes their destruction or disposal at an earlier date.
- e) Invoices: Every distributor who is required to procure a license under the Act and who purchases cigarettes for shipment into Illinois from a point outside this State shall procure invoices in duplicate covering each ~~such~~ shipment, and shall furnish one copy of each ~~such~~ invoice to the Department ~~upon request at the time of filing the return required by the Act.~~
- f) Each ~~return from an~~ Illinois manufacturer of cigarettes in original packages ~~that which~~ are contained inside a sealed transparent wrapper shall ~~keep be accompanied by~~ a copy of each invoice rendered by ~~the such~~ manufacturer to any purchaser to whom ~~the such~~ manufacturer delivered cigarettes (or caused cigarettes to be delivered) during the period covered by ~~the such~~ manufacturer's return. Copies of invoices must be furnished to the Department upon request.
- g) Each ~~return from a~~ manufacturer who holds a permit under Section 4b of the Act shall ~~keep be accompanied by~~ a copy of each invoice rendered by the permittee to any purchaser to whom the permittee delivered cigarettes of the type covered by the permit (or caused cigarettes of the type covered by the permit to be delivered) in Illinois during the period covered by ~~the such~~ return. Copies of invoices must be furnished to the Department upon request.
- h) When a distributor who is licensed or has a permit under the Cigarette Tax Act sells cigarettes to a Federal or foreign government agency or instrumentality under circumstances causing Illinois cigarette tax liability to be incurred (see Section 440.180 of this Part), ~~the such~~ distributor shall print, stamp or otherwise write substantially the following legend on the original and all copies of the invoice covering ~~the such~~ cigarettes: "Illinois cigarette tax paid:.".
- i) When a distributor who is licensed or has a permit under the Cigarette Tax Act sells Illinois tax-stamped or tax-imprinted original packages of cigarettes to any purchaser other than a Federal or foreign government agency or instrumentality, ~~the such~~ distributor's invoice not only shall state that the cigarette tax has been paid by the distributor, but also shall state the amount of the tax to the purchaser as a separate item from the selling price of the cigarettes.

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- j) When a permit holder or licensee under the Cigarette Use Tax Act (as distinguished from a licensee or permit holder under the Cigarette Tax Act) sells Illinois tax-stamped or tax-imprinted cigarettes to anyone other than a Federal or foreign government agency or instrumentality, ~~the such~~ distributor's invoice shall state the amount of the cigarette use tax to the purchaser as a separate item from the selling price of the cigarettes. (See Section 440.50 of this Part.) However, when ~~such~~ a person sells cigarettes to a Federal or foreign government agency or instrumentality, his invoice should omit any reference to the cigarette use tax.

(Amended at 27 Ill. Reg. 1618, effective January 15, 2003)

## Section 440.130 Mutilated Stamps

Where stamps have become mutilated or otherwise unfit for use, distributors shall file a claim with ~~notify~~ the Department, and if an investigation discloses that ~~the said~~ stamps have not evidenced a taxable transaction, a credit will be issued ~~replacement stamps will be supplied~~.

(Amended at 27 Ill. Reg. 1618, effective January 15, 2003)

## Section 440.170 Sales Out of Illinois

- a) The tax imposed by the Act does not apply to cigarettes ~~that which~~ are shipped by the selling distributor from within this State to a point outside the State, not to be returned to a point within this State, unless ~~the such~~ cigarettes bear evidence underneath the sealed transparent wrapper of the original package ~~thereof~~ indicating that the tax has been paid. Distributors need not affix tax stamps to the original packages of cigarettes ~~that which~~ they ~~so~~ sell and ship outside the State. Manufacturers who are distributors of cigarettes in original packages ~~that which~~ are contained inside a sealed transparent wrapper are not required to imprint evidence of cigarette tax liability and payment underneath ~~a such~~ sealed transparent wrapper if ~~the such~~ manufacturer-distributor ships ~~the such~~ cigarettes to the purchaser at a point outside this State, not to be returned to a point within this State. The burden of proof, however, is at all times upon the distributor to show that ~~the such~~ cigarettes actually went into interstate commerce.
- b) Illinois distributors claiming exemption from the tax on cigarettes on the ground that shipments or deliveries were made in interstate commerce shall ~~certify under oath:—(1) The~~ provide the Department with the name and address of the persons

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receiving ~~the such~~ shipments or deliveries in ~~the such~~ foreign states; and must keep in their books and records the following ~~(2) that such Illinois distributors are in possession of delivery data of the following description:~~

- 1) A waybill, bill of lading or other evidence of shipment issued by a common carrier; or
  - 2) an insurance receipt or registry receipt issued by the United States Postal Department, or a Post Office Department receipt form 3817; or
  - 3) a copy of the seller's invoice covering the sale, showing delivery by the seller or his agent at a designated out-of-State address (which shall be the address of premises owned, leased or otherwise legally possessed by the purchaser), and certified to and signed by the purchaser or his agent. However, if, upon investigation, the out-of-State premises, to which the delivery allegedly is made, are found to have been premises which were owned, leased or otherwise legally possessed by the purchaser at the time of such delivery, the transaction will not be regarded as a tax-free sale.
- c) The Department reserves the right to require ~~such~~ additional proof as it deems necessary in any particular case.
- d) Distributors who make shipments or deliveries of cigarettes in interstate commerce and claim cigarette tax exemption shall record each ~~such~~ shipment on ~~in~~ a Schedule ~~CD~~ accompanying their cigarette revenue return for the month in which the shipments were made. The total number of cigarettes recorded on the ~~in~~ Schedule ~~CD~~ may be entered as a claimed exemption from the tax ~~in line 6 under the stock account in Form RC-6;~~ on the cigarette revenue return.
- e) Except as provided in Section 440.220 of this Part, the sale may not be made tax-free if the cigarettes are delivered in Illinois to the purchaser or his representative, notwithstanding the fact that the purchaser or his representative may then take or send the cigarettes outside Illinois for use outside Illinois.
- f) Subject to the conditions stated in subsection (g) and (h) below, Illinois licensed distributors of cigarettes may make tax-free sales of cigarettes to out-of-State retailers who can certify that ~~the such~~ cigarettes are to be removed immediately from the State of Illinois for resale outside of Illinois in a state in which that purchaser is registered as a licensed tobacco retailer.

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- g) Illinois distributors claiming exemption from the tax on the grounds that sales are made to an out-of-State ~~tobacco~~ retailer for resale outside of this State shall maintain in their records as proof of exemption:
- 1) A certification from the purchaser that the cigarettes are purchased by him for resale outside of the State of Illinois and will be immediately transported out of this State, -
  - 2) Proof of the purchasing retailer's valid out-of-State tobacco retailer's license, and
  - 3) A copy of the purchasing retailer's Illinois Transporter Permit issued under Section 440.170 of this Part.
- h) Distributors who make sales of unstamped cigarettes to ~~such~~ certifying out-of-State retailers shall record each ~~such~~ sale on a Schedule CD accompanying their cigarette revenue return for the month in which the sales are made.

(Amended at 27 Ill. Reg. 1618, effective January 15, 2003)

Section 440.200 ~~Claim for Replacement~~ Credit for Stamps that Are Damaged, Unused, Destroyed or on Packages Returned to the Manufacturer

- a) Where a distributor wishes to ~~have~~ receive credit for stamps that have been affixed to original packages of cigarettes ~~replaced, the such~~ distributor shall file a claim on a Departmental Form RC-16, which form ~~will be~~ provided by the Department ~~upon request~~.
- b) Upon receipt by the Department of a Form RC-16, properly completed and executed claim, ~~if the claim is approved~~, the Department may send its representative or representatives to the distributor's place of business to witness destruction of cigarette revenue stamps affixed to packages of cigarettes. ~~;-and~~ when Credit for the stamps will be given when an affidavit made by a such representative ~~or representatives~~ of the Department is supported by other documents required by the Department, or, when no affidavit is made because the Department did not send a representative to witness destruction of the stamps, the claim is supported by the documents evidence required by the Department ~~without an affidavit of a Department representative or representatives who has witnessed the destruction of the stamps where the Department does not send~~

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~~anyone to witness such stamp destruction, physical replacement of the stamps will be made.~~

- c) ~~The Department may make such charge for the cost of the replacement stamps as it deems necessary and reasonable.~~ If the Department sends one or more of its representatives to witness the destruction of the stamps, the Department may ~~make such~~ charge as it deems necessary and reasonable because of that expense to the Department.
- d) If a greater number of stamps in a certain series of stamps is destroyed than is included in the claim for credit replacement, the excess number of stamps destroyed in that series of stamps will not be credited replaced. If a lesser number of stamps in a certain series of stamps is destroyed than is included in the claim for credit replacement, the actual number of stamps destroyed in that series will be credited replaced. If stamps are destroyed in a certain series of stamps, ~~which series of stamps is~~ not listed in the claim for credit replacement, ~~physical replacement of credit for stamps in that series will not be made.~~
- e) Claims for credit replacement of cigarette revenue stamps will be approved only when the claim indicates that the cigarettes involved are unsalable and are to be shipped by the claimant in interstate commerce, by a common carrier or through the United States mails, to a designated consignee outside Illinois, or when the claim indicates that the cigarettes involved are unsalable and are to be destroyed by claimant, ~~or~~ when the claim indicates that the packages of cigarettes involved have been improperly stamped (~~i.e., e.g., overstamped, understamped, etc.~~) or when the claimant returns unused or damaged stamps.
- f) It is mandatory upon a distributor to destroy (in the presence of a Department representative or representatives if the Department so requires) Illinois cigarette revenue stamps that are affixed to packages of cigarettes in connection with his claim to the Department for ~~the replacement credit~~ of ~~such~~ stamps, if the distributor has improperly stamped packages of cigarettes by affixing Illinois cigarette revenue stamps in an amount that ~~which~~ is insufficient to evidence full payment of the tax.
- g) Claims for ~~the replacement credit~~ of cigarette revenue stamps affixed to packages of cigarettes will not be approved unless the distributor filing the claim has title to the cigarettes covered by the claim and is carrying ~~such~~ Illinois tax-stamped cigarettes in his physical, book and Cigarette Revenue Return inventories.

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- h) If a claim discloses that, subsequent to the destruction of the stamps, the unstamped packages of cigarettes are to be shipped in interstate commerce to a designated out-of-State consignee, ~~physical replacement of credit for~~ the stamps will not be made unless and until the claimant-licensee submits to the Department, to support his claim, an affidavit from the manufacturer that receives and destroys the stamps. If an affidavit cannot be obtained, a waybill, freight bill or bill of lading, issued by a common carrier, or an insurance receipt or registry receipt issued by the United States Postal Department, or a Post Office Department receipt form 3817, proving that the cigarettes have actually been shipped by the claimant in interstate commerce, by common carrier or through the United States mails, to the out-of-State consignee designated in the claim, will be accepted.
- i) Subsequent to the destruction of cigarette revenue stamps affixed to packages of cigarettes, ~~physical replacement credit for of~~ the stamps will not be made if a review of pertinent Cigarette Revenue Return or Returns filed by the claimant-licensee reveals that the stamps scheduled in the claim have not been included in the claimant-licensee's inventories ~~in Schedule "CF"~~.
- j) In connection with any claim for ~~the replacement credit~~ of Illinois cigarette revenue stamps, in addition to the types of proof specified ~~herein~~, the Department reserves the right to require ~~such~~ additional proof in support of any claim as may appear to be necessary.
- k) If the Department approves a claim for ~~the physical replacement of credit for~~ cigarette tax stamps, the Department (subject to the same limitations as those provided for in Section 440.230 of this Part) may issue an assignable credit memorandum or refund to the claimant or to the claimant's legal representative. Under no circumstances will a claim for ~~replacement credit~~ be approved in an amount ~~that which~~ exceeds the amount paid by the claimant for the stamps ~~that which~~ are the subject of the claim.
- l) When any tax imposed by the Cigarette Tax Act terminates or has terminated, distributors who have bought stamps while ~~the such~~ tax was in effect and who ~~therefore~~ paid ~~the such~~ tax, but who can show, to the Department's satisfaction, that they sold the cigarettes to which they affixed ~~the such~~ stamps after ~~the such~~ tax had terminated and did not recover the tax or its equivalent from purchasers, shall be allowed by the Department to take credit for ~~the such~~ absorbed tax against subsequent tax stamp purchases from the Department by ~~the such~~

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distributor.

(Amended at 27 Ill. Reg. 1618, effective January 15, 2003)

Section 440.220 Tax-Free Sales of Cigarettes for Use Aboard Ships Operating in Foreign Commerce Outside The Continental Limits of the United States

- a) Subject to the conditions stated in this Section hereinbelow, Illinois licensed distributors of cigarettes may make tax-free sales of cigarettes to operators of ships docked in the Port of Chicago where ~~such~~ cigarettes will be used aboard ~~such~~ ships operating in foreign commerce outside the continental limits of the United States. However, ~~such~~ sales of cigarettes may not be made tax-free for use on ships operating exclusively on the Great Lakes or the St. Lawrence Seaway between the United States and Canadian ports.
- b) In order for the exemption to apply where the cigarettes will be used aboard ships operating in foreign commerce outside the continental limits of the United States, the sale must be made by an Illinois licensed cigarette distributor who has a United States Government permit to maintain an export warehouse at the licensee's place of business for the purpose of selling cigarettes and supplies to vessels that are docked in the Port of Chicago. A distributor must keep in his books and records the name of the ship to which the distributor delivers the cigarettes and the name of the shipping line operating the ship. Only cigarettes that are delivered from a bonded warehouse and that which are exempt from the Federal tax can qualify for the exemption provided for in this Section.
- c) In addition, to sustain a claim to the ~~such~~ exemption, the distributor must attach a schedule ~~written statement~~ to his return for the month in which the exemption is claimed, showing the following information:
  - 1) The name of the distributor making the sale;
  - ~~2) the name of the ship to which the distributor delivers the cigarettes and the name of the shipping line operating such ship;~~
  - ~~2~~3) the number of cigarettes delivered to such purchaser;
  - ~~3~~4) the date and invoice number for ~~place of~~ such delivery; ; and

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- 45) ~~the reason for the exemption, e.g.,~~ a statement that the cigarettes are to be used aboard a ~~such~~ ship in foreign commerce outside the continental limits of the United States.
- ~~de~~) This deduction or claimed exemption must be substantiated by the records ~~that~~ ~~which~~ the distributor keeps to comply with customs' requirements of the Federal Government, and ~~the such~~ records must be made available to the Department on request for examination at any time during the usual business hours of the day.

(Amended at 27 Ill. Reg. 1618, effective January 15, 2003)

## Section 440.230 Claims for Credit or Refund

- a) If it appears, after claim is ~~therefor~~ filed with the Department, that an amount of tax or penalty has been paid ~~that~~ ~~which~~ was not due under the Cigarette Tax Act, whether as the result of a mistake of fact or an error of law, except as ~~hereinafter~~ provided, then the Department shall issue a credit memorandum or refund to the person who made the erroneous payment or, if that person has died or become incompetent, to his legal representative, ~~as such~~.
- b) If it is determined that the Department should issue a credit or refund under the Act, the Department may first apply the amount ~~thereof~~ against any amount of tax or penalty due under the Cigarette Tax Act or under the Cigarette Use Tax Act from the person entitled to a ~~such~~ credit or refund. For this purpose, if proceedings are pending to determine whether or not any tax or penalty is due under the Cigarette Tax Act or under the Cigarette Use Tax Act from a ~~such~~ person, the Department may withhold issuance of the credit or refund pending the final disposition of ~~the such~~ proceedings and may apply ~~the such~~ credit or refund against any amount found to be due to the Department under the Cigarette Tax Act or under the Cigarette Use Tax Act as a result of ~~the such~~ proceedings. The balance, if any, of the credit or refund shall be issued to the person entitled ~~thereto~~.
- c) *If no tax or penalty is due and no proceeding is pending to determine whether a ~~such~~ taxpayer is indebted to the Department for tax or penalty, the credit memorandum or refund shall be issued to the claimant; or (in the case of a credit memorandum) the credit memorandum may be assigned and set over by the*

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*lawful holder ~~thereof~~, subject to reasonable rules of the Department, to any other person who is subject to the Cigarette Tax Act or the Cigarette Use Tax Act, and the amount ~~thereof~~ shall be applied by the Department against any tax or penalty due or to become due under the Cigarette Tax Act or under the Cigarette Use Tax Act from any ~~such~~ assignee. [35 ILCS 130/9d]*

- d) As to any claim filed ~~hereunder~~ with the Department on and after each January 1 and July 1, no amount of tax or penalty erroneously paid (either in total or partial liquidation of a tax or penalty under the Act) more than 3 years prior to January 1 and July 1, respectively, shall be credited or refunded.
- e) In case the Department determines that the claimant is entitled to a refund, such refund shall be made only from an ~~such~~ appropriation as may be available for that purpose. If it appears unlikely that the amount appropriated would permit everyone having a claim allowed during the period covered by an ~~such~~ appropriation to elect to receive a cash refund, the Department will make ~~such~~ refunds only in hardship cases (i.e., in cases in which the claimant cannot use a credit memorandum). The two most likely situations where this would be the case are the situation in which the claimant has discontinued business and the situation in which the claimant will have a small volume of liability to the Department in the foreseeable future, but receives a large credit memorandum which it therefore might take the claimant a long time to liquidate by using it to pay current taxes. In these instances, the claimant probably would have to sell the credit memorandum at a loss in order to realize anything from it within any reasonable period of time.
- f) If the Department approves a claim for ~~the physical replacement of~~ credit for cigarette tax stamps, the Department (subject to the same limitations as those provided for ~~hereinbefore~~ in this Section) may issue an assignable credit memorandum or refund to the claimant or to the claimant's legal representative.
- g) The provisions of Sections 6a, 6b, and 6c of the Retailers' Occupation Tax Act (~~Ill. Rev. Stat. 1983, ch. 120, pars. 440 et seq.~~) [35 ILCS 120/6a, 6b and 6c], ~~that~~ while ~~the~~ ~~such~~ which are not inconsistent with the Cigarette Tax Act, shall apply, as far as practicable, to the subject matter of this Section to the same extent as if such provisions were included in the Cigarette Tax Act.

(Amended at 27 Ill. Reg. 1618, effective January 15, 2003)

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## Section 440.240 Protest Procedures

- a) *Any person aggrieved by any decision of the Department under Section 4 of the Act (denial of distributor's license) may, within 20 days after notice of the decision, file a written protest and request a hearing. (See 86 Ill. Adm. Code 200, Practice and Procedure for Hearings Before the Illinois Department of Revenue.) Upon receiving a written request for a hearing, the Department shall give notice to the person requesting the hearing of the time and place fixed for the hearing and shall hold a hearing in conformity with the provisions of the Act and then issue its final administrative decision in the matter to that person. In the absence of a written protest and request for a hearing within 20 days, the Department's decision shall become final without any further determination being made or notice given. (Section 4 of the Act)*
- b) *Any distributor aggrieved by any decision of the Department under Section 6 of the Act (revocation or suspension of license) may, within 20 days after notice of the decision, file a written protest and request a hearing. (See 86 Ill. Adm. Code 200, Practice and Procedure for Hearings Before the Illinois Department of Revenue.) Upon receiving a written request for a hearing, the Department shall give notice in writing to the distributor requesting the hearing that contains a statement of the charges preferred against the distributor and that states the time and place fixed for the hearing. The Department shall hold the hearing in conformity with the provisions of the Act and then issue its final administrative decision in the matter to the distributor. In the absence of a written protest and request for a hearing within 20 days, the Department's decision shall become final without any further determination being made or notice given. (Section 6 of the Act)*
- c) *Any person aggrieved by a decision of the Department under Section 9a or 9b of the Act (examination and correction of returns and failure to file a return) may, within 60 days after a notice of tax liability, file a written protest and request a hearing (see 86 Ill. Adm. Code 200, Practice and Procedure for Hearings Before the Illinois Department of Revenue). Upon receiving a request for a hearing, the Department shall give notice in writing to the distributor that states the time and place fixed for the hearing. The Department shall hold the hearing in conformity with the provisions of the Act and then issue its final administrative decision in the matter to the distributor. In the absence of a written protest and request for a hearing within 60 days after the issuance of a notice of tax liability, the notice of*

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*tax liability shall become final without any further determination being made or notice given. (Sections 9a, 9b of the Act)*

(Amended at 27 Ill. Reg. 1618, effective January 15, 2003)

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- 1) Heading of the Part: Cigarette Use Tax Act
- 2) Code Citation: 86 Ill. Adm. Code 450
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
450.10	Amendment
450.30	Amendment
450.40	Amendment
450.50	Amendment
450.90	Amendment
450.120	Amendment
450.130	Amendment
- 4) Statutory Authority: 35 ILCS 135/21; 20 ILCS 2505/2505-80
- 5) Effective Date of Amendment(s): January 15, 2003
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register:  
June 21, 2002, 26 Ill. Reg. 8762  
July 26, 2002, 26 Ill. Reg. 11429
- 10) Has JCAR issued a Statement of Objections to these Amendments? 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. This is a consolidated rulemaking with 8 sections being amended.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

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- 13) Will these amendments replace emergency amendments currently in effect? Yes, Section 450.10.
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment(s): Various regulations throughout Part 450 are being amended, primarily in response to Public Act 92-322 and Public Act 92-492. Section 450.10 is amended to specify that the tax is increased to 49 mills per cigarette, or 98 cents per package of 20 cigarettes. This amendment is required by the terms of Public Act 92-0536. Section 450.10 is also amended to reflect the provisions of PA 92-322, which provide that beginning January 1, 2003, distributors purchasing tax stamps by means of a 30-day draft must make payment of that draft by means of electronic funds transfer ("EFT"). The rules also implement the more general provisions of PA 92-492 which require taxpayers whose annual tax liability is \$200,000 or more to make payment by means of EFT. The rules also set out the manner in which the Department is implementing provisions in PA 92-322 which allow the Department to promulgate regulations requiring that returns be accompanied by computer-generated magnetic media supporting schedule data. Section 450.130 is amended to provide that requests for hearings must be written, and, pursuant to PA 92-322, to add hearing provisions for licensees protesting the Department's issuance of NTLs. Numerous changes have been made throughout to delete references to specific forms and to reflect current Department procedures. The latter amendments include changes reflecting the Department's policy of providing a credit memo, rather than physical replacement of stamps, in situations in which stamps are unused, damaged, destroyed, or in which packs are returned to the manufacturer. The regulations provide, pursuant to PA 92-322, that the Department may refuse to sell tax stamps to any person who does not comply with the Cigarette Use Tax Act, and add provisions reflecting the Department's authority to design "alternative tax indicia." Also in accordance with PA 92-322, the regulations state that when cigarettes are purchased for use in Illinois by a person who did not pay tax to a distributor, the person shall file a return with payment of tax within 30 days after acquiring the cigarettes.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Jerilynn T. Gorden  
Sr. Counsel, Sales & Excise Tax  
Legal Services Office  
Illinois Department of Revenue  
101 West Jefferson

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Springfield, Illinois 62794  
Phone: (217) 782-2844

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

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TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUEPART 450  
CIGARETTE USE TAX ACT

Section	
450.10	Nature and Rate of Tax
450.20	Tax Stamps--Affixed Out of State
450.30	Licenses and Permits--Bonds
450.40	Reports and Returns
450.50	Books and Records
450.60	Unused Stamps and Meter Units--Sale of--Notice to Department--Mutilated Stamps--Tax Meter Machine Settings
450.70	Cigarettes Used Outside Illinois
450.80	Purchase of Cigarettes by Governmental Bodies for Use
450.90	<a href="#">Credit for Stamps that Are Damaged, Unused, Destroyed or on Packages Returned to the Manufacturer</a> <del>Claim for Replacement</del>
450.100	Sample Packages of Cigarettes--Stamps or Other Evidence of Tax Collection Affixed
450.110	Sale of Forfeited Cigarettes and Vending Machines
450.120	Claims for Credit or Refund
450.130	Protest Procedures

AUTHORITY: Implementing and authorized by the Cigarette Use Tax Act [35 ILCS 135].

SOURCE: Filed and effective June 17, 1958; codified at 8 Ill. Reg. 13838; amended at 13 Ill. Reg. 10687, effective June 16, 1989; amended at 14 Ill. Reg. 6804, effective April 19, 1990; amended at 15 Ill. Reg. 122, effective December 24, 1990; amended by emergency rulemaking at 23 Ill. Reg. 9546, effective July 29, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 14753, effective December 8, 1999; amended at 24 Ill. Reg. 9909, effective June 23, 2000; emergency amendment at 24 Ill. Reg. 10759, effective July 6, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 17800, effective November 28, 2000; amended at 25 Ill. Reg. 937, effective January 8, 2001; amended at 26 Ill. Reg. 9027, effective June 10, 2002, for a maximum of 150 days; emergency expired November 5, 2002; amended at 27 Ill. Reg. 1647, effective January 15, 2003.

Section 450.10 Nature and Rate of Tax

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- a) The Cigarette Use Tax is imposed upon the privilege of using cigarettes in this State, and the tax rate is 29 mills per cigarette so used or 58 cents on a package of 20 cigarettes; except that, beginning July 1, 2002, the tax rate is 49 mills per cigarette or 98 cents on a package of 20 cigarettes.
- b) The tax must be collected by a distributor maintaining a place of business in this State or a distributor authorized by Section 7 of the Act to hold a permit to collect the such tax, and the amount of the tax shall be added to the price of the cigarettes sold by the such distributor and must be stated on the invoice as a separate item from the selling price of the cigarettes except when the purchaser is a Federal or foreign government agency or instrumentality (see Section 450.50 of this Part).
- c) Distributors who are not subject to the Cigarette Tax Act [35 ILCS 130] (the Act), but who are subject to the Cigarette Use Tax Act [35 ILCS 135], must remit, to the Department of Revenue (the Department), the amount of Cigarette Use Tax to be collected by them through the purchase and affixation of tax stamps or meter impression units (where the use of meters is authorized by the Department) to any original package of cigarettes before delivering the such cigarettes (or causing them to be delivered) in this State to any purchaser, or (in the case of manufacturers of cigarettes in original packages that which are contained inside a sealed transparent wrapper) by imprinting the language to be prescribed by the Department on the original package of cigarettes beneath the such outside wrapper.
- 1) *On and after July 22, 1999, no stamp or imprint may be affixed to, or made upon, any package of cigarettes unless that package complies with all requirements of the federal Cigarette Labeling and Advertising Act, 15 USC 1331 and following, for the placement of labels, warnings, or any other information upon a package of cigarettes that is sold within the United States. Under the authority of Section 6 of the Cigarette Use Tax Act [35 ILCS 135], the Department shall revoke the license of any distributor that is determined to have violated this subsection (c)(1). A person may not affix a stamp on a package of cigarettes, cigarette papers, wrappers, or tubes if that individual package has been marked for export outside the United States with a label or notice in compliance with Section 290.185 of Title 27 of the Code of Federal Regulations. It is not a defense to a proceeding for violation of this subsection that the label or notice has been removed, mutilated, obliterated, or altered in any manner. (Section 3 of the Cigarette Use Tax Act)*

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- 2) On and after August 15, 1999, packages of cigarettes, cigarette papers, wrappers, or tubes stamped or imprinted in a manner not in accordance with subsection (c)(1) and found in the possession of a distributor create a rebuttable presumption that the packages of cigarettes, cigarette papers, wrappers, or tubes were stamped or imprinted in violation of the Cigarette Use Tax Act.
- 3) On and after September 1, 1999, packages of cigarettes, cigarette papers, wrappers, or tubes stamped or imprinted in a manner not in accordance with subsection (c)(1) and found in the possession of a retailer create a rebuttable presumption that the packages of cigarettes, cigarette papers, wrappers, or tubes were stamped or imprinted by the distributor from whom they were obtained in violation of the Cigarette Use Tax Act.
- 4) *On and after June 13, 2000, no stamp or imprint may be affixed to, or made upon, any package of cigarettes that:*
  - A) *bears any statement, label, stamp, sticker, or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed, or used in the United States, including but not limited to labels stating "For Export Only", "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording; or*
  - B) *does not comply with:*
    - i) *all requirements imposed by or pursuant to federal law regarding warnings and other information on packages of cigarettes manufactured, packaged, or imported for sale, distribution, or use in the United States, including but not limited to the precise warning labels specified in the federal Cigarette Labeling and Advertising Act, 15 USC 1333; and*
    - ii) *all federal trademark and copyright laws;*
  - C) *is imported into the United States in violation of 26 USC 5754 or any other federal law or implementing federal regulations;*
  - D) *the person affixing the stamp or imprint otherwise knows or has reason to know the manufacturer did not intend to be sold, distributed, or used in the United States;*
  - E) *for which there has not been submitted to the Secretary of the U.S. Department of Health and Human Services the list or lists of the*

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*ingredients added to tobacco in the manufacture of the cigarettes required by the federal Cigarette Labeling and Advertising Act, 15 USC 1335a; or*

- F) *has been altered, prior to sale or distribution to the ultimate consumer, so as to remove, conceal, or obscure:*
- i) *any statement, label, stamp, sticker, or notice described in 86 Ill. Adm. Code 440.50(k)(1); or*
  - ii) *any health warning that is not specified in, or does not conform with the requirements of, the federal Cigarette Labeling and Advertising Act, 15 USC 1333 (Section 3-10 of the Act).*
- 5) On and after July 15, 2000, packages of cigarettes, cigarette papers, wrappers, or tubes stamped or imprinted in a manner not in accordance with subsection (c)(4) of this Section and found in the possession of a distributor create a rebuttable presumption that the packages of cigarettes, cigarette papers, wrappers or tubes were stamped or imprinted in violation of the Cigarette Use Tax Act.
- 6) On and after July 31, 2000, packages of cigarettes, cigarette papers, wrappers or tubes stamped or imprinted in a manner not in accordance with subsection (c)(4) of this Section and found in the possession of a retailer create a rebuttable presumption that the packages of cigarettes, cigarette papers, wrappers or tubes were stamped or imprinted by the distributor from whom they were obtained in violation of the Cigarette Use Tax Act.
- 7) *On and after June 13, 2000, on the first business day of each month, each person licensed to affix the State tax stamp to cigarettes shall file with the Department, for all cigarettes imported into the United States to which the person has affixed the tax stamp in the preceding month. ÷*
- 8) *A # copy of:*

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- A) *the permit issued pursuant to the Internal Revenue Code, 26 USC 5713, to the person importing the cigarettes into the United States allowing the person to import the cigarettes; and*
- B) *the customs form containing, with respect to the cigarettes, the internal revenue tax information required by the U.S. Bureau of Alcohol, Tobacco and Firearms.* †
- 9) *A ~~a~~ statement, signed by the person under penalty of perjury, which shall be treated as confidential by the Department and exempt from disclosure under the Freedom of Information Act, identifying the brand and brand styles of all such cigarettes, the quantity of each brand style of such cigarettes, the supplier of such cigarettes, and the person or persons, if any, to whom such cigarettes have been conveyed for resale.* † ~~and~~
- 10) *In addition to the statement required in subsection (c)(9) of this Section, a separate statement, signed by the individual under penalty of perjury, which shall not be treated as confidential or exempt from disclosure, separately identifying the brands and brand styles of such cigarettes.* †
- 11) *In addition to the statement required in subsection (c)(9) and (c)(10) of this Section, a separate statement, signed by an officer of the manufacturer or importer under penalty of perjury, certifying that the manufacturer or importer has complied with:*
- A) *the package health warning and ingredient reporting requirements of the federal Cigarette Labeling and Advertising Act, 15 USC 1333 and 1335a, with respect to such cigarettes; and*
- B) *the provisions of Exhibit T of the Master Settlement Agreement entered in the case of People of the State of Illinois v. Philip Morris, et al. (Circuit Court of Cook County, No. 96-L13146), including a statement indicating whether the manufacturer is, or is not, a participating tobacco manufacturer within the meaning of Exhibit T.*
- 12) *The Department may revoke or suspend the license or licenses of any distributor, in the manner provided in Section 6 of the Cigarette Use Tax Act, if the Department determines that the distributor knew or had reason*

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*to know that the distributor was committing any of the acts prohibited in subsection (c)(4) of this Section or had failed to comply with any of the requirements of subsection (b) of Section 3-10 of the Cigarette Use Tax Act. In addition, the Department may imposed on the distributor a civil penalty in an amount not to exceed the greater of 500% of the retail value of the cigarettes involved or \$5,000. Cigarettes acquired, held, owned, possessed, transported in, imported into, or sold or distributed in this State in violation of subsection (c)(4) of this Section shall be subject to seizure and forfeiture whether the violation is knowing or otherwise.(Section 3-10 of the Act)*

- d) At the time of purchasing stamps from the Department or any person authorized by the Department, when purchase of the stamps is required by the Cigarette Use Tax Act or at the time when the tax ~~that~~ ~~which~~ he has collected is remitted by a distributor to the Department without the purchase of stamps from the Department or any person authorized by the Department when that method of remitting the tax that has been collected is required or authorized by the Act, the distributor will be allowed a discount during any year commencing July 1 and ending the following June 30. The discount shall be equal to 1.75% of the amount of the tax payable under the Act up to and including the first \$3,000,000.00 paid by ~~the such~~ distributor to the Department during any ~~such~~ year and 1.5% of the amount of any additional tax paid by ~~the such~~ distributor to the Department during any such year.
- e) This discount is to cover the distributor's cost of collecting the tax.
- f) Two or more distributors that use a common means of affixing revenue tax stamps or that are owned or controlled by the same interests shall be treated as a single distributor for the purpose of computing the discount.
- g) *On and after December 1, 1985, the Department shall allow a distributor 30 days in which to make final payment of the amount to be paid for such stamps, by allowing the distributor to make payment for the stamps at the time of purchasing them with a draft which shall be in such form as the Department prescribes (i.e. a standard bank draft which the distributor may post-date), and which shall be payable within 30 days thereafter: Beginning January 1, 2003, such draft shall be payable by means of electronic funds transfer, as provided in 86 Ill. Adm. Code 750. A distributor's failure to pay any such draft, when due, shall also make such distributor automatically liable for a penalty equal to 25% of the amount of such draft. (Section 3 of the Act) ~~provided that such distributor has filed with~~*

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~~the Department, and has received the Department's approval of, a bond, which is in addition to the Bond required under Section 4 of the Act, payable to the Department in an amount equal to 100% of such distributor's average monthly tax liability under the Act during the preceding calendar year or \$750,000.00, whichever is less. The Bond shall be joint and several and shall be in the form of a surety company bond in such form as the Department prescribes, or it may be in the form of a bank certificate of deposit or bank letter of credit. The bond shall be conditioned upon the distributor's payment of the amount of any 30-day draft which the Department accepts from that distributor for the delivery of stamps to that distributor under the Act. The distributor's failure to pay any such draft, when due, shall also make such distributor automatically liable to the Department for a penalty equal to 25% of the amount of such draft. Prior continuous compliance taxpayers, as defined in Section 1 of the Act, are exempt from the bond requirements noted above. (Section 3 of the Act) For additional information concerning the exemption, refer to Section 3 of the Act.~~

- h) Distributors making payment for stamps at the time of purchase by draft as explained in subsection (g) shall first file with the Department, and receive the Department's approval of, a bond (in a form provided for in this subsection), which is in addition to the bond required under Section 4 of the Act, payable to the Department in an amount equal to 100% of such distributor's average monthly tax liability under the Act during the preceding calendar year or \$750,000, whichever is less. The bond shall be joint and several and shall be in the form of a surety company bond or it may be in the form of a bank certificate of deposit or bank letter of credit. The bond shall be conditioned upon the distributor's payment of the amount of any 30-day draft which the Department accepts from that distributor for the delivery of stamps to that distributor under the Act. Prior continuous compliance taxpayers, as defined in Section 1 of the Act, are exempt from the bond requirements noted in this subsection. (Section 3 of the Act) For additional information concerning the exemption for prior continuous compliance taxpayers, see Section 3 of the Act.
- i) Beginning January 1, 2003, any taxpayer choosing not to make payment of tax by means of a draft payable within 30 days as provided for in subsection (g) and who has an annual tax liability of \$200,000 or more shall make all payments of that tax by means of electronic funds transfer, as provided in 86 Ill. Adm. Code 750. (Section 3 of the Act)

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- j~~h~~) The Cigarette Use Tax collected by a distributor who is liable to collect and remit a like amount of tax with respect to the same cigarettes under the Cigarette Tax Act need not be remitted to the Department under the Cigarette Use Tax Act. In other words, the amount which the distributor is liable to collect and remit under the Cigarette Tax Act with respect to particular cigarettes is offset against the amount collected from the purchaser by ~~the such~~ distributor under the Cigarette Use Tax Act with respect to the same cigarettes. Sections 3 and 10 of the Cigarette Use Tax Act permit this offset in order to avoid the double remittance of tax to the State on the same transactions in the case of sales of cigarettes in Illinois.
- k~~i~~) In those instances in which a distributor is required to affix tax stamps or meter impressions to original packages of cigarettes under the Cigarette Use Tax Act, rather than under the Cigarette Tax Act, the provisions of the Part relating to the Cigarette Tax Act (86 Ill. Adm. Code 440) shall apply and are incorporated herein by reference.
- l~~j~~) Where cigarettes are acquired for use in this State without Illinois tax stamps being affixed to the original packages thereof and without authorized tax imprints placed underneath the sealed transparent wrapper of ~~the such~~ original packages, the user is required to remit the amount of the Cigarette Use Tax directly to the Department. Before January 1, 2002, the tax shall be remitted to the Department by the user within 3 days after he acquires the cigarettes. On and after January 1, 2002, the ~~Such~~ tax shall ~~should~~ be remitted to the Department by the user within 30 ~~3~~ days after he acquires ~~the such~~ cigarettes.
- m) The Department may refuse to sell cigarette stamps to any person who does not comply with the provisions of the Cigarette Use Tax Act. (Section 3 of the Act)

(Source: Amended 27 Ill. Reg. 1647, effective January 15, 2003)

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## Section 450.30 Licenses and Permits--Bonds

- a) Any distributor maintaining a place of business in this State is required to be licensed as a distributor under the Cigarette Use Tax Act, provided that ~~the such~~ distributor need not obtain ~~the said~~ license if ~~a such~~ distributor is required to procure a license or allowed to obtain a permit as a distributor under the Cigarette Tax Act. The Act defines a "Distributor maintaining a place of business in this State" to mean "any distributor 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 operating within this State under the authority of the distributor or its subsidiary, irrespective of whether ~~the such~~ place of business or agent is located here permanently or temporarily, or whether ~~the such~~ distributor or subsidiary is licensed to transact business within this State." ~~The Such-a~~ distributor must apply for a license on a form prescribed by the Department and must accompany the application with a joint and several bond. The amount of the bond shall be \$2,500-~~00~~.
- b) Except when the applicant is the manufacturer, no distributor's license shall be issued to an applicant unless he presents the Department with satisfactory proof in writing that he will be able to buy cigarettes directly from at least 3 major cigarette manufacturers. A separate application for license shall be made, and bond filed, for each place of business at or from which the applicant proposes to act as a distributor under the Cigarette Use Tax Act and for which the applicant is not required to procure a license or allowed to obtain a permit as a distributor under the Cigarette Tax Act. Any license issued shall permit the applicant to engage in business as a distributor at or from the place shown in his application. All licenses issued by the Department under the Cigarette Use Tax Act shall be valid for not to exceed one year after issuance unless sooner revoked, canceled or suspended as in the Act provided.
- c) The annual license fee payable to the Department for each distributor's license shall be \$250-~~00~~. The purpose of ~~the such~~ annual license fee is to defray the cost, to the Department, of ~~coding, serializing or coding and~~ serializing cigarette tax stamps. The applicant for license shall pay ~~the such~~ fee to the Department at the time of submitting the application for license to the Department.
- d) A license shall not be transferable or assignable. Every ~~the such~~ license shall be conspicuously displayed at the place of business for which it is issued. Licenses

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issued under the Cigarette Use Tax Act are subject to suspension, revocation or cancellation under the conditions prescribed in Section 6 of the said Act.

- e) The Department may, in its discretion, upon application, issue permits authorizing the collection of the tax ~~herein~~ imposed by those out-of-state cigarette manufacturers who are not required to be licensed as distributors of cigarettes in this State, but who elect to qualify under this Act as distributors of cigarettes in this State, and who, to the satisfaction of the Department, furnish adequate security to insure collection and payment of the tax, provided that any ~~such~~ permit shall extend only to cigarettes ~~that the~~ ~~which-such~~ permittee-manufacturer places in original packages that are contained inside a sealed transparent wrapper, and provided that no ~~such~~ permit shall be issued under the Cigarette Use Tax Act to ~~such~~ a manufacturer who has obtained the permit provided for in Section 4b of the Cigarette Tax Act. ~~The Such~~ distributor shall be issued, without charge, a permit to collect ~~the such~~ tax in a ~~such~~ manner, and subject to ~~such~~ reasonable regulations and agreements as the Department shall prescribe. When so authorized, it shall be the duty of ~~the such~~ distributor to collect the tax upon all cigarettes which he delivers (or causes to be delivered) within this State to purchasers, in the same manner and subject to the same requirements as a distributor maintaining a place of business within this State. ~~The Such~~ permit shall be in ~~the such~~ form as the Department may prescribe and shall not be transferable or assignable. ~~The Such~~ authority and permit may be suspended, canceled or revoked when, at any time, the Department considers that the security given is inadequate, or that ~~the such~~ tax can more effectively be collected from the person using ~~the such~~ cigarettes in this State or through distributors located in this State, or whenever the permittee violates any provision of the Cigarette Use Tax Act or any lawful rule or regulation issued by the Department pursuant to that Act, or whenever the permittee shall notify the Department in writing of his desire to have the permit canceled. The Department shall have the power, in its discretion, to issue a new permit after ~~the such~~ suspension, cancellation or revocation.
- f) All permits issued by the Department under the Cigarette Use Tax Act shall be valid for not to exceed one year after issuance unless sooner revoked, canceled or suspended as in the Act provided.
- g) The following are ineligible to receive a distributor's license or permit under this Act:

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- 1) A person who is not of good character and reputation in the community in which he resides;
- 2) a person who has been convicted of a felony under any Federal or State law, if the Department, after investigation and a hearing, if requested by the applicant, determines that ~~the such~~ person has not been sufficiently rehabilitated to warrant the public trust;
- 3) a corporation, if any officer, manager or director ~~thereof~~, or any stockholder or stockholders owning in the aggregate more than 5% (in the case of distributors) or 1% (in the case of out-of-state cigarette manufacturer permittees) of the stock of ~~the such~~ corporation, would not be eligible to receive a license ~~under this Part hereunder~~ for any reason.

(Source: Amended 27 Ill. Reg. 1647, effective January 15, 2003)

## Section 450.40 Reports and Returns

- a) When cigarettes are acquired for use in this State by a person (including a distributor as well as any other person), who did not pay the cigarette use tax to a distributor, ~~the such~~ person, within 3 days after acquiring ~~the such~~ cigarettes, shall file a return with the Department and shall transmit with the return to the Department the tax imposed by the Cigarette Use Tax Act. On and after January 1, 2002, the return shall be filed with the Department along with any tax by the user within 30 days after he acquires the cigarettes. Computer generated returns or returns filed on forms that have not been approved by the Department are considered non-processable and may subject the filer to penalties and interest for failure to file a proper return.
- b) Every distributor, who is required or authorized to collect tax under the Cigarette Use Tax Act, but who is not a manufacturer of cigarettes in original packages ~~that which~~ are contained in a sealed transparent wrapper, shall, on or before the 15th day of each calendar month, file a return with the Department showing ~~the such~~ information as the Department may reasonably require. Computer generated returns and schedules or returns and schedules that have not been approved by the Department are considered non-processable and may subject the filer to penalties and interest for failure to file a proper return.

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- c) Every distributor who is a manufacturer of cigarettes in original packages which are contained inside a sealed transparent wrapper, and who is required or authorized to collect tax under the Cigarette Use Tax Act, shall file a return by the 5th day of each month covering the preceding calendar month. Each ~~such~~ return shall be accompanied by the appropriate remittance for tax as provided in Sections 3 and 7 of the Cigarette Use Tax Act. Each such return shall disclose ~~the such~~ information as the Department may lawfully require. Computer generated returns and schedules or returns and schedules filed on forms that have not been approved by the Department are considered to be non-processable and may subject the filer to penalties and interest for failure to file a proper return.
- d) No distributor shall be required to return information to the extent to which the reporting of ~~that such~~ information would be a duplication of ~~the such~~ distributor's reporting of information in any return which he is required to file with the Department under the Cigarette Tax Act. Returns shall be filed on forms prescribed by the Department. Computer generated returns and schedules or returns and schedules filed on forms that have not been approved by the Department are considered non-processable and may subject the filer to penalties and interest for failure to file a proper return.
- e) ~~To the extent to which distributors are required to file returns under the Cigarette Use Tax Act and under this regulation, the filing of such returns on other than a calendar monthly basis will be permitted to the same extent and subject to the same conditions as the filing of such returns is permitted by a distributor who is licensed or who holds a permit to act as a distributor under the Cigarette Tax Act (see 86 Ill. Adm. Code 440.10 Rules relating to the Cigarette Tax Act); and for this purpose, the relevant provisions of said 86 Ill. Adm. Code 440.10 are incorporated herein by reference.~~ Effective January 1, 2003, the returns filed by both distributors required or authorized to collect tax under the Act who have 30 or more transactions per month, and by Illinois manufacturers having 30 or more transactions per month, must be accompanied by appropriate computer-generated magnetic media supporting schedule data in the format required by the Department. (Section 11 of the Act) Distributors and manufacturers unable to comply with this requirement by January 1, 2003 may petition the Department for an extension of time to comply with this requirement. Distributors and manufacturers who voluntarily file returns and schedules electronically are not subject to this requirement.

(Source: Amended 27 Ill. Reg. 1647, effective January 15, 2003)

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## Section 450.50 Books and Records

- a) Every distributor required or authorized to collect taxes imposed by the Cigarette Use Tax Act and every person using, in this State, cigarettes purchased on or after the effective date of this Act without Illinois cigarette tax stamps affixed to the original packages ~~thereof~~ and without authorized tax imprints placed underneath the sealed transparent wrapper of ~~the such~~ original packages, shall keep ~~the such~~ records, receipts, invoices and other pertinent books, documents, memoranda and papers as the Department shall require, in ~~a such~~ form as the Department shall require.
- b) Among other things, a distributor's records of a particular purchase from a manufacturer shall include:
- 1) a ~~A~~ copy of the distributor's purchase order (if any) to the manufacturer;
  - 2) the manufacturer's invoice to the distributor in duplicate (see [subsection \(d\)](#) ~~the heading, "Invoices", below~~);
  - 3) bill of lading or waybill pertaining to the shipment covered by ~~the such~~ invoice;
  - 4) receiving record- (~~the The~~ receiving record should show the date when the cigarettes were received by the distributor); ~~;~~ and
  - 5) ~~such~~ other records as the Department may reasonably require.
- c) All books, records, papers, memoranda and documents ~~that which~~ are required to be kept shall be kept in the ~~American~~ [English](#) language and shall, at all times during business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees. The books, records, papers, memoranda and documents of a distributor pertaining to business done by him at or from a licensed place of business, or at or from a place of business for which he holds a permit issued by the Department, shall be kept by ~~the such~~ distributor at ~~the such~~ place of business.
- 1) ~~The such~~ books, records, papers, memoranda and documents, which are required to be kept, shall be preserved for a period of at least 3 years after the date of ~~the said~~ documents, ~~as aforesaid~~, or the date of the entries

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~~thereof~~ appearing in ~~the such~~ records, unless the Department, in writing, authorizes their destruction or disposal at an earlier date.

- 2) It is not the purpose of this regulation to require distributors to keep duplicate sets of books and records. Consequently, to the extent to which a distributor is required by the Cigarette Tax Act and by the Cigarette Use Tax Act to keep the same books and records, the distributor's compliance with ~~the such~~ requirement under the Cigarette Tax Act shall be deemed to be a compliance with the same requirement under the Cigarette Use Tax Act.
  
- d) Invoices: Every person who purchases cigarettes for shipment into Illinois from a point outside this State, and who is required to file a return with the Department with respect to ~~the such~~ cigarettes, shall procure invoices ~~in duplicate~~ covering each ~~such~~ shipment and shall furnish one copy of each ~~such~~ invoice to the Department ~~upon request at the time of filing the return required by the Cigarette Use Tax Act.~~ Each ~~return from an~~ Illinois manufacturer of cigarettes in original packages ~~that~~ ~~which~~ are contained inside a sealed transparent wrapper shall ~~keep be accompanied by~~ a copy of each invoice rendered by ~~the such~~ manufacturer to any purchaser to whom ~~the such~~ manufacturer delivered cigarettes (or caused cigarettes to be delivered) during the period covered by ~~the such~~ manufacturer's return. ~~Copies must be furnished to the Department upon request.~~ Each ~~return from a~~ manufacturer who holds a permit under Section 7 of the Cigarette Use Tax Act shall ~~keep be accompanied by~~ a copy of each invoice rendered by the permittee to any purchaser to whom the permittee delivered cigarettes of the type covered by the permit (or caused cigarettes of the type covered by the permit to be delivered) in Illinois during the period covered by ~~the such~~ return. ~~Copies must be furnished to the Department upon request.~~ This ~~subsection paragraph~~ shall not apply to a transaction in which the same requirement applies by virtue of the provisions of 86 Ill. Adm. Code 440.110 ~~Article 11 of the Rules relating to the~~ (Cigarette Tax Act ~~rules~~).
  
- e) When a permit holder or licensee under the Cigarette Use Tax Act (as distinguished from a licensee or permit holder under the Cigarette Tax Act) sells Illinois tax-stamped or tax-imprinted cigarettes to anyone other than a Federal or foreign government agency or instrumentality, ~~such~~ distributor's invoice shall state the amount of the cigarette use tax to the purchaser as a separate item from the selling price of the cigarettes. However, when ~~such~~ a person sells cigarettes to a Federal or

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foreign government agency or instrumentality, his invoice should omit any reference to the cigarette use tax.

((Source: Amended 27 Ill. Reg. 1647, effective January 15, 2003)

Section 450.90 ~~Claim for Replacement~~ Credit for Stamps that Are Damaged, Unused, Destroyed or on Packages Returned to the Manufacturer

Holders of permits and distributors who are licensed under the Cigarette Use Tax Act, rather than under the Cigarette Tax Act, may file claims for credit with the Department for ~~the replacement of cigarette stamps that are damaged, unused, destroyed or for packages returned to manufacturers. purchased from the Department under the Cigarette Use Tax Act in the same manner and for the same reasons as distributors under the Cigarette Tax Act may file such claims, and stamp replacements will be made under this regulation~~ Claims shall be subject to the same terms and conditions as ~~replacements are~~ claims made under 86 Ill. Adm. Code 440.200 ~~of the Rules relating to the Cigarette Tax Act, and for~~ For that purpose, the provisions of ~~said~~ 86 Ill. Adm. Code 440.200 are enforceable under this Section ~~incorporated herein by reference.~~

(Source: Amended 27 Ill. Reg. 1647, effective January 15, 2003)

Section 450.120 Claims for Credit or Refund

- a) If it appears, after claim is ~~therefor~~ filed with the Department, that an amount of tax or penalty has been paid that ~~which~~ was not due under the Cigarette Use Tax Act, whether as the result of a mistake of fact or an error of law, except as hereinafter provided, then the Department shall issue a credit memorandum or refund to the person who made the erroneous payment or, if that person has died or become incompetent, to his legal representative, ~~as such.~~
- b) If it is determined that the Department should issue a credit or refund under the Act, the Department may first apply the amount ~~thereof~~ against any amount of tax or penalty due under the Cigarette Use Tax Act or under the Cigarette Tax Act from the person entitled to the such credit or refund. For this purpose, if proceedings are pending to determine whether or not any tax or penalty is due under the Cigarette Use Tax Act or under the Cigarette Tax Act from the such person, the Department may withhold issuance of the credit or refund pending the final disposition of the such proceedings and may apply the such credit or refund

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against any amount found to be due to the Department under the Cigarette Use Tax Act or under the Cigarette Tax Act as a result of ~~the such~~ proceedings. The balance, if any, of the credit or refund shall be issued to the person entitled ~~thereto~~.

- c) *If no tax or penalty is due and no proceeding is pending to determine whether ~~the such~~ taxpayer is indebted to the Department for tax or penalty, the credit memorandum or refund shall be issued to the claimant; or (in the case of a credit memorandum) may be assigned and set over by the lawful holder ~~thereof~~, subject to reasonable rules of the Department, to any other person who is subject to the Cigarette Use Tax Act or the Cigarette Tax Act, and the amount thereof shall be applied by the Department against any tax or penalty due or to become due under the Cigarette Use Tax Act or under the Cigarette Tax Act from ~~the such~~ assignee. [35 ILCS 135/14a]*
- d) As to any claim filed ~~under this Section hereunder~~ with the Department on and after each January 1 and July 1, no amount of tax or penalty erroneously paid (either in total or partial liquidation of a tax or penalty under the Act) more than 3 years prior to ~~such~~ January 1 and July 1, respectively, shall be credited or refunded.
- e) In case the Department determines that the claimant is entitled to a refund, ~~the such~~ refund shall be made only from ~~the such~~ appropriation as may be available for that purpose. If it appears unlikely that the amount appropriated would permit everyone having a claim allowed during the period covered by ~~the such~~ appropriation to elect to receive a cash refund, the Department will make ~~such~~ refunds only in hardship cases (i.e., in cases in which the claimant cannot use a credit memorandum). The two most likely situations where this would be the case are the situation in which the claimant has discontinued business and the situation in which the claimant will have a small volume of liability to the Department in the foreseeable future, but receives a large credit memorandum which it ~~therefore~~ might take the claimant a long time to liquidate by using it to pay current taxes. In these instances, the claimant probably would have to sell the credit memorandum at a loss in order to realize anything from it within any reasonable period of time.
- f) If the Department approves a claim for ~~the physical replacement credit for of~~ cigarette tax stamps, the Department (subject to the same limitations as those provided for ~~hereinbefore~~ in this regulation) may issue an assignable credit memorandum or refund to the claimant or to the claimant's legal representative.

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- g) The provisions of Sections 6a, 6b and 6c of the Retailers' Occupation Tax Act, [that which](#) are not inconsistent with the Cigarette Use Tax Act, shall apply, as far as practicable, to the subject matter of this [Part regulation](#) to the same extent as if such provisions were included in the Cigarette Use Tax Act.

(Source: Amended 27 Ill. Reg. [1647](#), effective [January 15, 2003](#))

## Section 450.130 Protest Procedures

- a) *Any person aggrieved by any decision of the Department under Section 4 of the Act (denial of distributor's license) may, within 20 days after notice of the decision, [file a written](#) protest and request a hearing. (See 86 Ill. Adm. Code 200, Practice and Procedure for Hearing Before the Illinois Department of Revenue.) Upon receiving a [written](#) request for a hearing, the Department shall give notice to the person requesting the hearing of the time and place fixed for the hearing and shall hold a hearing in conformity with the provisions of the Act and then issue its final administrative decision in the matter to that person. In the absence of a [written](#) protest and request for a hearing within 20 days, the Department's decision shall become final without any further determination being made or notice given. (Section 4 of the Act)*
- b) *Any distributor aggrieved by any decision of the Department under Section 6 of the Act (revocation or suspension of license) may, within 20 days after notice of the decision, [file a written](#) protest and request a hearing. (See 86 Ill. Adm. Code 200, Practice and Procedure for Hearing Before the Illinois Department of Revenue.) Upon receiving a [written](#) request for a hearing, the Department shall give notice in writing to the distributor requesting the hearing that contains a statement of the charges preferred against the distributor and that states the time and place fixed for the hearing. The Department shall hold the hearing in conformity with the provisions of the Act and then issue its final administrative decision in the matter to the distributor. In the absence of a [written](#) protest and request for a hearing within 20 days, the Department's decision shall become final without any further determination being made or notice given. (Section [4 6](#) of the Act)*
- c) *[Any person aggrieved by a decision of the Department under Section 13 or 13a of the Act \(examination and correction of returns and failure to file a return\) may, within 60 days after a notice of tax liability, file a written protest and request a hearing \[see 86 Ill. Adm. Code 200, Practice and Procedure for Hearings Before](#)*

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the Illinois Department of Revenue]. Upon receiving a written request for a hearing, the Department shall give notice in writing to the distributor that states the time and place fixed for the hearing. The Department shall hold the hearing in conformity with the provisions of the Act and then issue its final administrative decision in the matter to the distributor. In the absence of a written protest and request for a hearing within 60 days after issuance of a notice of tax liability, the notice of tax liability shall become final without any further determination being made or notice given. (Section 13 and 13a of the Act)

(Source: Amended 27 Ill. Reg. 1647, effective January 15, 2003)



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- 11) Differences between proposal and final version: Various punctuation changes recommended by JCAR were made in the final version.
- 12) Have all the changes agreed upon by the agency and JCAR been as indicated in the agreements issued by JCAR? Yes
- 13) Will these rules replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules:

The rulemaking reorganizes the System's QILDRO rules to make them more understandable to the TRS membership and more clearly states the definition of salary pertaining to Contributions, Payments and Credits.

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

Name: Cynthia M. Fain, Sr. Assistant General Counsel  
Address: Teachers' Retirement System  
2815 West Washington, P.O. Box 19253  
Springfield, Illinois 62794-9253  
Telephone: (217) 753-0375

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

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE D: RETIREMENT SYSTEMS  
CHAPTER III: TEACHERS' RETIREMENT SYSTEM OF  
THE STATE OF ILLINOISPART 1650  
THE ADMINISTRATION AND OPERATION OF THE  
TEACHERS' RETIREMENT SYSTEM

## SUBPART A: REPORTS BY BOARD OF TRUSTEES

Section  
1650.10 Annual Financial Report (Repealed)

## SUBPART B: BASIC RECORDS AND ACCOUNTS

Section  
1650.110 Membership Records  
1650.120 Claims Records (Repealed)  
1650.130 Individual Accounts (Repealed)  
1650.140 Ledger and Accounts Books (Repealed)  
1650.150 Statistics (Repealed)  
1650.160 Confidentiality of Records  
1650.180 Filing and Payment Requirements  
1650.181 Early Retirement Incentive Payment Requirements  
1650.182 Waiver of Additional Amounts Due  
1650.183 Definition of Employer's Normal Cost

## SUBPART C: FILING OF CLAIMS

Section  
1650.201 Disability Benefits – Application Procedure  
1650.202 Disability and Occupational Disability Benefits – Definitions  
1650.203 Disability Retirement Annuity – Definitions  
1650.204 Gainful Employment – Consequences  
1650.205 Medical Examinations and Investigation of Disability Claims  
1650.206 Physician Certificates  
1650.207 Disability Due to Pregnancy  
1650.208 Disability Payments

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1650.209	Computation of Annual Salary When Member Has Different Semester Salary Rates
1650.210	Claim Applications
1650.211	Disability Recipient Eligible to Receive an Age or Disability Retirement Annuity
1650.220	Reclassification of Disability Claim (Repealed)
1650.221	When Member Becomes Annuitant
1650.222	Death Out of Service
1650.230	Medical Examinations and Investigations of Claims (Repealed)
1650.240	Refunds; Impermissible Refunds; Canceled Service; Repayment
1650.250	Death Benefits
1650.260	Evidence of Age
1650.270	Reversionary Annuity – Evidence of Dependency
1650.271	Evidence of Parentage
1650.272	Eligible Child Dependent By Reason of a Physical or Mental Disability
1650.280	Evidence of Marriage
1650.290	Offsets

## SUBPART D: MEMBERSHIP AND SERVICE CREDITS

Section	
1650.310	Effective Date of Membership
1650.320	Method of Calculating Service Credits
1650.325	Method of Calculating Service Credit for Recipients of a Disability Benefit or Occupational Disability Benefit
1650.330	Duplicate Service Credit
1650.340	Service Credit for Leaves of Absence
1650.341	Service Credit for Involuntary Layoffs
1650.345	Service Credit for Periods Away From Teaching Due to Pregnancy
1650.346	Service Credit for Periods Away From Teaching Due to Adoption
1650.350	Service Credit for Unused Accumulated Sick Leave Upon Retirement
1650.355	Purchase of Optional Service – Required Minimum Payment
1650.356	Payroll Deduction Program (Repealed)
1650.357	Employer Payment of Member's Optional Service and/or Upgrade Contribution Balance (Repealed)
1650.360	Settlement Agreements and Judgments
1650.370	Calculation of Average Salary (Renumbered)
1650.380	Definition of Actuarial Equivalent
1650.390	Independent Contractors
1650.391	Optional 2.2 Upgrade of Earned and Credited Service

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1650.392 2.2 Upgrade of Optional Service Not Credited at Initial Upgrade

## SUBPART E: CONTRIBUTION CREDITS AND PAYMENTS

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1650.410 Return of Contributions for Duplicate or Excess Service  
1650.415 Return of Optional Increase in Retirement Annuity Contributions  
1650.420 Interest on Deficiencies (Repealed)  
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1650.440 Small Deficiencies, Credits or Death Benefit Payments  
1650.450 Definition of Salary  
1650.451 Reporting of Conditional Payments  
1650.460 Calculation of Average Salary  
1650.470 Rollover Distributions  
1650.480 Rollovers to the System

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## Section

1650.505 Beneficiary (Repealed)  
1650.510 Re-entry Into Service  
1650.520 Suspension of Benefits  
1650.530 Power of Attorney  
1650.540 Conservators/Guardians  
1650.550 Presumption of Death  
1650.560 Benefits Payable on Death  
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1650.580 Evidence of Eligibility  
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## SUBPART G: ATTORNEY GENERALS' OPINION

## Section

1650.605 Policy of the Board Concerning Attorney Generals' Opinion (Repealed)

## SUBPART H: ADMINISTRATIVE REVIEW

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1650.620	Right of Appeal
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1650.635	Presiding Hearing Officer – Duties and Responsibilities
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## Section

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- 1650.1111 Requirements for a Valid Qualified Illinois Domestic Relations Order
- 1650.1112 Curing Minor Deficiencies
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- 1650.111 Filing a QILDRO with the System
- 1650.1115 Benefits Affected by a QILDRO
- 1650.1116 Effect of a Valid QILDRO
- 1650.1117 QILDROs Against Persons Who Became Members Prior to July 1, 1999
- 1650.1118 Alternate Payee's Address
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## SUBPART N: PAYROLL DEDUCTION PROGRAM

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- 1650.1200 Payroll Deduction Program Guidelines
- 1650.1201 Employer Responsibility Under the Payroll Deduction Program Upon Execution of a Payroll Deduction Agreement
- 1650.1202 Payroll Deduction Agreements – Suspensions and Terminations
- 1650.1203 Payroll Deduction Program – Full Time Employment Defined
- 1650.1204 Payroll Deduction Program – Disability Defined
- 1650.1205 Employer Payment of Member's Optional Service, Refund and/or Upgrade Contribution Balance

## SUBPART O: RETIRMENT BENEFITS

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## Section

1650.2900 Excess Benefit Arrangement

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

SOURCE: Filed June 20, 1958; emergency rules adopted at 2 Ill. Reg. 49, p. 249, effective November 29, 1978, for a maximum of 150 days; adopted at 3 Ill. Reg. 9, p. 1, effective March 3, 1979; codified at 8 Ill. Reg. 16350; amended at 9 Ill. Reg. 20885, effective December 17, 1985; amended at 12 Ill. Reg. 16896, effective October 3, 1988; amended at 14 Ill. Reg. 18305, effective October 29, 1990; amended at 15 Ill. Reg. 16731, effective November 5, 1991; amended at 17 Ill. Reg. 1631, effective January 22, 1993; amended at 18 Ill. Reg. 6349, effective April 15, 1994; emergency amendment at 18 Ill. Reg. 8949, effective May 24, 1994, for a maximum of 150 days; emergency modified at 18 Ill. Reg. 12880; amended at 18 Ill. Reg. 15154, effective September 27, 1994; amended at 20 Ill. Reg. 3118, effective February 5, 1996; emergency amendment at 21 Ill. Reg. 483, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 2422, effective January 31, 1997; amended at 21 Ill. Reg. 4844, effective March 27, 1997; emergency amendment at 21 Ill. Reg. 17159, effective December 9, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 7243, effective April 9, 1998; emergency amendment at 22 Ill. Reg. 7314, effective April 9, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 9374, effective May 14, 1998, for a maximum of 150 days; emergency rule modified in response to JCAR Objection at 22 Ill. Reg. 11640; emergency amendment at 22 Ill. Reg. 13151, effective June 29, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 15620, effective August 17, 1998; amended at 22 Ill. Reg. 19079, effective October 1, 1998; amended at 22 Ill. Reg. 22090, effective December 1, 1998; amended at 23 Ill. Reg. 3079, effective February 23, 1999; amended at 24 Ill. Reg. 2440, effective January 27, 2000; amended at 24 Ill. Reg. 10300, effective June 26, 2000; amended at 25 Ill. Reg. 203, effective December 22, 2000; amended at 26 Ill. Reg. 2758, effective February 11, 2002; amended at 26 Ill. Reg. 11476, effective July 11, 2002; amended at 27 Ill. Reg. 1668, effective January 17, 2003.

## SUBPART E: CONTRIBUTION CREDITS AND PAYMENTS

## Section 1650.450 Definition of Salary

- a) Any emolument of value recognized by the System that is received, actually or constructively, by a member in consideration for services rendered as a teacher,

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within all applicable limits and restrictions on qualified pension plans contained in the Internal Revenue Code (26 USC 401(a) et seq.). Subsection (b) of this Section lists the more common elements of compensation that are recognized by the System as "salary," for purposes of illustration. For further illustration, subsection (c) mentions several examples of items not recognized by the System as "salary." However, "salary" within the meaning of Section 16-121 of the Act is not limited to the items so enumerated.

- b) Examples of salary amounts to be reported to the System include:
- 1) The gross amount of wages or compensation earned or accruing to the member during the ~~legal~~ school ~~year term or the length of his or her employment agreement, whichever is greater~~, in a function requiring certification as a teacher, and payable by the employer at termination of service;
  - 2) Additional wages or compensation earned during the school year for the performance of extra duties, not requiring teacher certification, but which involve the supervision of students or are related to the academic program, provided the member is employed as a full-time or part-time contractual teacher and establishes active service credit in that position during the school year;  
~~Wages or compensation for overtime or extra duties:~~
    - A) ~~Extra duties are those duties performed by full-time and part-time contractual teachers that involve teaching or supervising students, and other assignments related to the academic program, regardless of whether the duties require certification;~~
    - B) ~~Extra duties performed by substitute and part-time non-contractual teachers are not reportable as creditable earnings unless the duties require certification;~~
  - 3) The amount of back salary awarded to a member as a result of a settlement or judgment obtained due to a disputed dismissal, suspension or demotion. Court costs, attorney's fees, other compensatory damages and punitive damages shall not be reportable as salary. The back salary amount reported to the System under this Section shall be equal to the amount ~~which~~ the member would have earned had the dispute not occurred, regardless of the actual amount paid;
  - 4) Severance pay (e.g., retirement incentives, lump sum bonuses, payments for unused vacation and sick days) received by the member or becoming due and payable to the member prior to or concurrent with receipt of final paycheck for regular earnings;
  - 5) Contributions made by or on behalf of the member to qualified deferred

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compensation plans (sections 401(a) and 457 of the Internal Revenue Code), salary reduction plans or tax sheltered annuities under section 403(b) of the Internal Revenue Code; and

- 6) Amounts that would otherwise qualify as salary under subsections (b)(1) through (b)(5) but are not received directly by the member because they are used to finance benefit options in a flexible benefit plan; provided, however, that to be reportable, a flexible benefit plan must be available to teachers on a non-discriminatory basis and cannot include non-qualifying deferred compensation. Effective July 1, 1999, flexible benefit plans need not be made available to teachers on a non-discriminatory basis. For the System's purposes, a flexible benefit plan is an option offered by an employer to its employees covered under the System to receive an alternative form of creditable compensation in lieu of employer-provided insurance.
- c) Examples of amounts not reportable to the System include:
- 1) Any severance payment (e.g., retirement incentives, lump sum bonuses, payments for unused vacation and sick days) becoming due and payable to the member subsequent to receipt of final paycheck for regular earnings;
  - 2) Any lump sum payment made after the death of the member;
  - 3) Expense reimbursements, expense allowances, or fringe benefits unless included in a reportable flexible benefit plan;
  - 4) Any monies received by the member under the Workers' Compensation Act or the Workers' Occupational Diseases Act;
  - 5) Wages or compensation for extra duties not requiring teacher certification performed by substitute and part-time non-contractual teachers;
  - 6)5) Any amount paid in lieu of previously nonreportable benefits or reported in lieu of previously non-reported compensation where the conversion occurs in the last years of service and one of the purposes is to increase a member's average salary. If the member's non-creditable or non-reported compensation in any of the last seven creditable school years of employment exceeds that of any other subsequent year, the System will presume the difference, unless resulting from the terms of a collective bargaining agreement, to have been converted into salary and wages in the subsequent year for the purpose of increasing final average salary. To overcome the presumption, the member must submit documentary evidence to the System that which clearly and convincingly proves that none of the purposes of the change in compensation structure was to increase average salary (for example, changes in collectively bargained agreements applicable to all similarly situated individuals covered by the

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- agreement, change of employer, or change in family status);
- ~~7)6)~~ Any amount paid by an employer as the employer's one time contribution (or on behalf of the employee as the employee's one-time contribution) required by the System as part of the statutory early retirement option in Section 16-133.2 of the Act;
- ~~8)7)~~ Options to take salary in lieu of employment-related expense allowances or reimbursements;
- ~~9)8)~~ Employer payment of the member's ~~one-half of one percent~~ Teachers Health Insurance health insurance Security Fund contribution;
- ~~10)9)~~ Commissions (i.e., payments to a member based upon a percentage formula); or
- ~~11)10)~~ Contributions to and distributions from nonqualified deferred compensation arrangements.

(Source: Amended at 27 Ill. Reg. 1668, effective January 17, 2003)

## SUBPART M: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

## Section 1650.1110 Definitions

- a) The definitions in Section 1-119(a) of the Illinois Pension Code (the "Act") [40 ILCS 5/1-119(a)] shall apply to ~~the rules contained in~~ this Subpart.
- b) The phrase "death benefit" in Section 1-119(a)(2) of the Act [40 ILCS 5/1-119(a)(2)] includes:
- 1) A refund of any remaining accumulated contributions; or
  - 2) A refund payable to a deceased member's designated beneficiary because the member elected a 2.2 upgrade and dies before making the full upgrade contribution.
- c) The phrase "member's refund" in Section 1-119(a)(5) of the Act [40 ILCS 5/1-119(a)(5)] does not include an "error refund" as defined in subsection (d) of this Section.
- d) The phrase "error refund" as used in ~~the rules contained in~~ this Subpart includes:
- 1) A refund paid to a member as the result of an error in a payment to the System; or
  - 2) A refund payable to a living member resulting from an overpayment made by a TRS-covered employer for a 2.2 upgrade.
- e) The phrase "disability benefit" in Section 1-119(a)(3) of the Act [40 ILCS 5/1-119(a)(3)] includes:
- 1) A disability benefit under Section 16-149 of the Act [40 ILCS 5/16-149];

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- 2) An occupational disability benefit under Section 16-149.1 of the Act [40 ILCS 5/16-149.1]; or
  - 3) A disability retirement annuity under Section 16-149.2 of the Act [40 ILCS 5/16-149.2].
- f) The phrase "member's retirement benefit" as used in ~~the rules contained in~~ this Subpart means the total amount of the "retirement benefit" as defined in Section 1-119(a)(8) of the Act [40 ILCS 5/1-119(a)(8)] that would be payable to the member in the absence of a QILDRO.
- g) The phrase "partial member's refund" as used in ~~the rules contained in~~ this Subpart includes:
- 1) A refund of survivor benefit contributions;
  - ~~2) A partial refund of retirement contributions as provided under Section 16-152(d) of the Act [40 ILCS 5/16-152(d)]; or~~
  - ~~3)2) An upgrade contribution~~ A refund payable to a living member who has elected a 2.2 upgrade, because:
    - ~~A) The~~ The member has creditable service in excess of 34 years;
    - ~~B) The member is entitled to a 1% reduction in the upgrade contribution for every three full years of creditable service;~~
    - ~~C) An actuarial calculation provides a greater benefit than an upgraded final average salary calculation; or~~
    - ~~D) The member failed to make the full upgrade contribution in a timely fashion.~~
  - ~~3) A refund payable to a living member who has elected a 2.2 upgrade, because the member is entitled to a 1% reduction in the upgrade contribution for every three full years of creditable service; or~~
  - ~~4) A refund payable to a living member who has elected a 2.2 upgrade, because the member failed to make the full upgrade contribution in a timely fashion.~~
- h) The phrase "effective date of the QILDRO" or any similar phrase as used in this Subpart means:
- 1) If the QILDRO applies to a member who is an annuitant of the System, the first day of the next month that falls at least 30 days after the valid receipt date of the QILDRO; or
  - 2) If the QILDRO applies to a member who is not an annuitant of the System, the date that the member begins receiving a retirement benefit or receives a refund to which the QILDRO applies, provided that such date is at least 30 days after the valid receipt date of the QILDRO.
- i) The phrase "valid receipt date of the QILDRO" or any similar phrase as used in this Subpart means:

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- 1) The date the System received a valid QILDRO; or
  - 2) The date the System received a QILDRO with curable deficiencies as provided in Section 1650.1112 that were all corrected within the cure period.
- j) The phrase "valuation procedures established by the retirement system" in Section 503(b)(2) of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/503(b)(2)], with respect to the Teachers' Retirement System, means the benefit information provided by the System for divorce purposes in accordance with Section 1650.1122.

(Source: Amended at 27 Ill. Reg. 1668, effective January 17, 2003)

## Section 1650.1111 Requirements for a Valid Qualified Illinois Domestic Relations Order

The System will accept a court order as a valid Qualified Illinois Domestic Relations Order, or "QILDRO," that meets all of the following requirements:

- a) The order must be accompanied by a \$50 non-refundable processing fee, by check payable to the Teachers' Retirement System.
- b) If the order applies to a person who became a member of the System before July 1, 1999, the order must be accompanied by the original Consent to Issuance of QILDRO signed by the member. If the original has been filed with the court, a certified copy of the original is acceptable.
- c) The order must be a certified copy of the original.
- d) The order must have been issued by an Illinois court of competent jurisdiction in a proceeding for declaration of invalidity of marriage, legal separation, or dissolution of marriage that provides for the distribution of property, or any proceeding to amend or enforce such a property distribution.
- e) The order must contain the name, residence address, and Social Security number of the member.
- f) The order must contain the name, residence address, and Social Security number of the alternate payee.
- g) The order must identify the Teachers' Retirement System as the retirement system to which it is directed.
- h) The order must express any amount to be paid to the alternate payee from a member's retirement benefit as a dollar amount per month.
- i) The order must express any amount to be paid to the alternate payee from a refund as a dollar amount.
- j) The order must not contain formulas or percentages.
- k) The order must apply only to benefits that are statutorily subject to QILDROs as

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- provided in Section 1-119(b)(1) of the Act [40 ILCS 5/1-119(b)(1)].
- l) The order, and, if applicable, the Consent to Issuance of QILDRO must be in the form adopted by the System as of the valid receipt date of the QILDRO ~~date the order is received.~~
  - m) No language may be added to, or omitted from, the QILDRO form or the consent form adopted by the System.
  - n) The order, if applicable to the member's retirement benefit, must designate whether the alternate payee will or will not receive automatic annual increases.
  - o) The order must not specify a termination date.
  - p) If the order applies to a member who is not an annuitant of the System, the order must not specify when the alternate payee will begin receiving payments.
  - q) If the order applies to a member who is an annuitant of the System, the order must not specify a date when the alternate payee will begin receiving payments that occurs prior to the effective date of the QILDRO.
  - r) If a consent form is required, the names and Social Security numbers identified in the consent form must match the names and Social Security numbers identified in the order.

(Source: Amended at 27 Ill. Reg. 1668, effective January 17, 2003)

## Section 1650.1112 Curing Minor Deficiencies

- a) An order containing one or more of the deficiencies enumerated in subsection (b) of this Section may be corrected and resubmitted within 60 days ~~after~~ of the date the System sends notice of the deficiency or deficiencies. Such 60-day period is referred to in ~~the rules contained in~~ this Subpart as the "cure period".
- b) Only the following deficiencies may be corrected during the cure period:
  - 1) The order is not accompanied by a \$50 non-refundable processing fee, by check payable to the Teachers' Retirement System.
  - 2) The order applies to a person who became a member of the System before July 1, 1999, and is not accompanied by the original Consent to Issuance of QILDRO signed by the member or, if the original has been filed with the court, a certified copy of the original.
  - 3) The consent form accompanying the order is not in the form adopted by the System.
  - 4) The order is not a certified copy of the original.
  - ~~5) The order omits or inaccurately states the member's name, address, or Social Security number.~~
  - ~~6) The order omits or inaccurately states the alternate payee's name, address,~~

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- ~~or Social Security number.~~
- ~~5)7) If a consent form is required, the names and/or Social Security numbers identified in the consent form do not match the names and/or Social Security numbers identified in the order. The order does not designate whether the alternate payee will or will not receive automatic annual increases.~~
- ~~6)8) Any other deficiency determined by the System, in its sole discretion, to be of a minor nature.~~
- c) If the System receives an order containing one or more deficiencies identified in subsection (b) of this Section, and the order applies to a member who is an annuitant of the System ~~currently receiving a monthly benefit payment~~, the System will hold the portion of the member's retirement benefit that would be payable to the alternate payee if the QILDRO were valid, until one of the following occurs:
- 1) The System determines that all deficiencies have been corrected during the cure period; or
  - 2) The cure period expires and one or more deficiencies have not been corrected.
- d) If the System determines that all deficiencies have been corrected during the cure period, the valid receipt date of the QILDRO will be ~~deemed received as of~~ the date the original order was received.
- e) If the cure period expires and the System determines that one or more deficiencies have not been corrected, the order will be deemed invalid, and any amounts held during the cure period will be paid to the regular payee.

(Source: Amended at 27 Ill. Reg. 1668, effective January 17, 2003)

## Section 1650.1113 Required Form

- a) A QILDRO must be in the form adopted by the System as of the valid receipt date ~~of that~~ the QILDRO ~~is received~~. The required QILDRO form is available from the System upon request.
- b) A QILDRO that is not in the form adopted by the System is invalid.
- c) A Consent to Issuance of QILDRO must be in the form adopted by the System as of the valid receipt date ~~of that~~ the QILDRO ~~is received~~. The required consent form is available from the System upon request.
- d) A consent constant form that is not in the form adopted by the System ~~is in~~ invalid.

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 27 Ill. Reg. 1668, effective January 17, 2003)

Section 1650.1114 Filing a QILDRO ~~with~~ With the System

- a) A QILDRO ~~must~~ should be sent to the ~~System's Systems-General Counsel's Office of General Counsel~~, accompanied by the consent form, if applicable, and the \$50 non-refundable processing fee.
- b) A QILDRO will be deemed received by the System on the date that it is received in the ~~System's Systems-General Counsel's Office of General Counsel~~.
- c) Within 30 calendar days after receipt of a QILDRO, the System will review the order and notify the member and each alternate payee by first class mail that it has received the order, and whether the order is a valid QILDRO. If the System determines that the order is not a valid QILDRO, the notice will specify the reason or reasons.
- d) A QILDRO that has been ~~amended~~ modified by the issuing court ~~must~~ should be submitted in the same manner as the original QILDRO. A separate \$50 non-refundable processing fee is required for each ~~new or amended~~ modified QILDRO.

(Source: Amended at 27 Ill. Reg. 1668, effective January 17, 2003)

## Section 1650.1115 Benefits Affected by a QILDRO

- a) A QILDRO may apply only to the following benefits administered by the System:
  - 1) A monthly retirement benefit;
  - 2) A single sum retirement benefit;
  - 3) A termination refund; ~~or and~~
  - 4) A partial member's refund.
- b) If a QILDRO ~~applies to~~ specifies a dollar amount payable to an alternate payee ~~from~~ any partial member's refund that becomes payable, the aggregate amount paid to the alternate payee from all partial member's refunds shall not exceed the dollar amount specified in the QILDRO.
- c) A QILDRO shall not apply to any of the following:
  - 1) A death benefit;
  - 2) A survivor benefit;
  - 3) A disability benefit;
  - 4) An occupational disability benefit;
  - 5) A disability retirement annuity;
  - 6) A Teachers' Retirement Insurance Program ("TRIP") benefit ~~or any other~~

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF ADOPTED AMENDMENTS

- 7) ~~health insurance benefit; or and~~  
An error refund.

(Source: Amended at 27 Ill. Reg. 1668, effective January 17, 2003)

## Section 1650.1116 Effect of a Valid QILDRO

- a) After the System has determined that a QILDRO is valid, one of the following will occur:
- 1) If ~~the QILDRO applies to a member who is not an annuitant of the System the member has not yet started receiving benefits~~, the QILDRO will be placed in the member's file and will be implemented on the date that the member begins receiving retirement benefits or receives a refund to which the QILDRO applies, provided that such date is at least 30 days after the valid receipt date of the QILDRO when the first affected benefit payment commences; or
  - 2) If ~~the QILDRO applies to a member who is an annuitant of the System the member is already receiving benefits subject to the QILDRO~~, payment to the alternate payee will begin with the first payment ~~due to~~ the member to which the QILDRO applies that falls occurring at least 30 days after the valid receipt date of the QILDRO was received.
- b) If a refund application is pending when the System receives a valid QILDRO that purports to apply to the refund but the refund payment has not yet been vouchered, the System will hold the portion of the refund that would be payable to the alternate payee until it receives clarification from the court as to whether the QILDRO applies to is effective against that pending refund. It is the member's or alternate payee's responsibility to obtain such clarification from the court and to notify the System of the court's clarification.
- c) If a refund payment has already been vouchered when the System receives a QILDRO that purports to apply to the refund, the QILDRO shall not apply to be effective against that refund.
- d) "Vouchered" as used in this Section means that the voucher has been signed and dated, even though the warrant has not been issued by the Office of the State Comptroller.

(Source: Amended at 27 Ill. Reg. 1668, effective January 17, 2003)

## Section 1650.1117 QILDROs Against Persons Who Became Members Prior to July 1, 1999

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF ADOPTED AMENDMENTS

- a) A QILDRO that applies to a person who became a member of the System prior to July 1, 1999, must be accompanied by the original Consent to Issuance of QILDRO signed by the member. If the original ~~has been filed with the court is unavailable~~, a certified copy of the ~~original consent form filed with the court that issued the QILDRO~~ is acceptable ~~in lieu of the original~~.
- b) The Consent to Issuance of QILDRO must be in the form adopted by the System as of the ~~valid receipt~~ date ~~of the QILDRO is received~~. The required consent form is available from the System upon request. A consent form that is not in the form adopted by the System is invalid.
- c) In accordance with Section 1-119(m)(1) of the Act [40 ILCS 5/1-119(m)(1)], a consent form must be signed by the member to whom the QILDRO applies. A consent form signed by a judge ~~or any person other than the member in lieu of the member~~ is invalid. In the event of a dispute regarding the validity of a member's consent to issuance of a QILDRO, the System may, in its sole discretion, require a consent form bearing the member's notarized signature.

(Source: Amended at 27 Ill. Reg. 1668, effective January 17, 2003)

## Section 1650.1119 Electing Form of Payment

- a) A member's election either to receive or forego a proportional annuity under the Retirement Systems Reciprocal Act [40 ILCS 5/20] is not a prohibited election under Section 1-119(j)(1) of the Act [40 ILCS 5/1-119(j)(1)].
- b) A member's election to take a refund is not a prohibited election under Section 1-119(j)(1) of the Act ~~[40 ILCS 5/1-119(j)(1)]~~.
- c) A member's election of a form of payment of annuity that reduces the member's total benefit, while still allowing full payment to the alternate payee under a QILDRO at the date of the election, is not a prohibited election under Section 1-119(j)(1) of the Act ~~[40 ILCS 5/1-119(j)(1)]~~.
- d) A member's failure to elect a 2.2 upgrade, or failure to make all upgrade contributions in a timely fashion, is not a prohibited election under Section 1-119(j)(1) of the Act ~~[40 ILCS 5/1-119(j)(1)]~~.
- e) The System may, in its sole discretion, hold a proposed election until clarification is obtained from a court of competent jurisdiction as to whether the proposed election is a prohibited election under Section 1-119(j)(1) of the Act [40 ILCS 5/1-119(j)(1)]. It shall be the duty of the member or alternate payee to obtain such clarification upon request of the System.

(Source: Amended at 27 Ill. Reg. 1668, effective January 17, 2003)

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF ADOPTED AMENDMENTS

## Section 1650.1120 Automatic Annual Increases

- a) The alternate payee will or will not receive a proportionate share of any automatic annual increase in the member's retirement benefit under Section 16-136.1 of the Act [40 ILCS 5/16-136.1], according to the designation in the QILDRO.
- b) Except as provided in subsection (c) of this Section, the initial increase in the amount due the alternate payee under the QILDRO is payable with the next succeeding increase due the member after the effective date of the QILDRO first took effect.
- c) In the event that the effective date of the QILDRO is first takes effect in the same month that the member's benefit is increased, the alternate payee's initial increase is not payable until the next succeeding increase in the member's benefit.
- d) The System will calculate the amount of any increase payable to the alternate payee under the QILDRO.
- e) The amount of any increase payable to the alternate payee (other than any increase resulting from the member's initial automatic annual increase) is the percentage of increase due the member under Section 16-133.1 or Section 16-136.1 16-136.1 of the Act [40 ILCS 5/16-133.1, 16-136.1], multiplied by the alternate payee's monthly benefit as of the date of the increase.
- f) The amount of any increase payable to the alternate payee resulting from the member's initial automatic annual increase is the percentage of increase due the member under Section 16-133.1 or Section 16-136.1 16-136.1 of the Act [40 ILCS 5/16-133.1, 16-136.1], multiplied by the alternate payee's monthly benefit as of the date of the increase, multiplied by the following a fraction:
  - 1) The the numerator of which is the number of months elapsed between:
    - A) The later of the effective date of the QILDRO or the date of retirement, and
    - B) The the date that the initial increase becomes payable; and
  - 2) The the denominator of which is the number of months elapsed between:
    - A) The the date of retirement, and
    - B) The the date that the initial increase becomes payable.

(Source: Amended at 27 Ill. Reg. 1668, effective January 17, 2003)

## Section 1650.1121 Reciprocal Systems QILDRO Policy Statement

It is the policy of the System to administer QILDROs consistent with the Policy Statement of the Association of Retirement Systems on Qualified Illinois Domestic Relations Orders (the "Reciprocal Systems QILDRO Policy Statement", dated June 1999 and available from the

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF ADOPTED AMENDMENTS

System by request). To the extent that there is any conflict between ~~the rules contained in~~ this Subpart and the Reciprocal Systems QILDRO Policy Statement, this Subpart ~~these rules~~ shall control.

(Source: Amended at 27 Ill. Reg. 1668, effective January 17, 2003)

## Section 1650.1122 Providing Benefit Information for Divorce Purposes

- a) Within 45 days ~~after~~ ~~of~~ receiving a subpoena or request from a member, the System will provide a statement for divorce purposes regarding the value of a member's retirement benefit through June 30 of the last completed school year for which data are on file with the System.
- b) Information provided by the System for divorce purposes does not include the value of a member's retirement benefit accrued during a school year for which data are not yet on file with the System.
- c) Information provided by the System for divorce purposes does not reflect an actuarial opinion as to the present values of a member's retirement benefit, refund, or other interests.
- d) Information provided by the System for divorce purposes reflects the member's total service career for which service credit in the System has accrued, and is not isolated as to the marital period only.
- e) The System does not calculate the amount of a member's retirement benefit or refund that would be payable to a former spouse pursuant to a divorce decree or dissolution judgment.
- f) While the System makes every effort to provide accurate information for divorce purposes, benefit estimates are by their nature approximate and subject to revision due to errors, omissions, erroneous assumptions, or future changes in the rules and laws governing the System.
- g) In accordance with Section 1650.160 of this Part pertaining to the confidentiality of member records, the System does not disclose information for divorce purposes to spouses, former spouses, relatives, or other third parties, including the member's attorney, except in response to the member's written authorization to release such information, or in response to a subpoena.

(Source: Amended at 27 Ill. Reg. 1668, effective January 17, 2003)

[Section 1650.1123 Suspension and Expiration of a QILDRO](#)

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF ADOPTED AMENDMENTS

- a) If a member who is an annuitant of the System subject to a valid QILDRO re-enters active TRS membership, payments to the alternate payee will be suspended for the same period of time that the member's retirement benefits are suspended. Resumption of the alternate payee's payments will be subject to the same limitations that apply to resumption of the member's benefits.
- b) A QILDRO expires:
- 1) Upon the death of the alternate payee, in which case the right to receive the affected benefit or refund will revert to the member.
  - 2) Upon the death of the member.
  - 3) When the member takes a refund that terminates his or her membership in the System, even if the member's refund is paid to an alternate payee. A QILDRO that expires because the member took a refund is not revived by the member's subsequent return to membership in the System.
  - 4) In accordance with the provisions of a valid court order terminating the QILDRO.

(Source: Added at 27 Ill. Reg. 1668, effective January 17, 2003)

## ILLINOIS DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF REQUEST FOR EXPEDITED CORRECTION

- 1) Heading of the Part: Consumer Installment Loan Act
- 2) Code Citation 38 Ill. Adm. Code 110
- 3) Section Number: 110.390
- 4) Date Proposal published in Illinois Register: August 11, 2000, 24 Ill. Reg. 11717
- 5) Date Adoption published in Illinois Register: June 15, 2001, 25 Ill. Reg. 7456
- 6) Summary and Purpose of Expedited Correction: Clerical and inadvertent errors in the table of contents and Section 110.390 are corrected. Also, the Subpart heading before Section 110.500 is relettered from “Subpart B: Mortgage Lending” to “Subpart C: Mortgage Lending” to match the Table of Contents.
- 7) Information and questions regarding this request shall be directed to:

Michael J. Cleary  
Deputy Counsel  
Illinois Department of Financial Institutions  
100 W. Randolph, Suite 15-700  
Chicago, Illinois 60601  
(312)814-1524

## ILLINOIS DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF REQUEST FOR EXPEDITED CORRECTION

## TITLE 38: FINANCIAL INSTITUTIONS

## CHAPTER I: DEPARTMENT OF FINANCIAL INSTITUTIONS

## PART 110

## CONSUMER INSTALLMENT LOAN ACT

## SUBPART A: GENERAL PROVISIONS

Section	
110.1	Definitions
110.10	Minimum Requirements for Office Records
110.15	Application for License; Controlling Person
110.20	Loan Register
110.30	Individual Account Records
110.40	File of Original Papers
110.50	Cash Book
110.60	Alphabetical Record of Co-Makers, Obligors
110.65	Permanent File
110.70	Payments
110.80	Simple Interest Loans
110.90	Cancellation and Return of Documents
110.100	Finance Charges – Rebates and Delinquency Charges
110.110	Hypothecation at the Time of the Sale of Obligor's Notes
110.120	Legal Forms
110.130	Judgments
110.140	Sale of Security
110.150	Trouble File
110.160	Lien Charges
110.170	Insurance
110.180	Office and Office Hours
110.190	Advertising
110.200	Other Business
110.210	Examination Remittances
110.215	Document Preparation Fee
110.220	Credit Practices
110.225	Verification of Amount Owing
110.230	General
110.235	Relocation
110.236	Name Change
110.240	Hearing Procedures

## ILLINOIS DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF REQUEST FOR EXPEDITED CORRECTION

110.250	Limited Purpose Branch
110.260	Off-Site Records
110.265	Servicing of Accounts by Contract
110.270	Revocation or Suspension of License

## SUBPART B: SHORT TERM LENDING

Section	
110.300	Definitions
110.310	Applicability of Rule
110.320	Application for License
110.330	Renewal of License
110.340	Simple Interest
110.350	Release of Lien
110.360	Availability of Debt Management Services
110.370	Lending Limits and Refinancing
110.380	Second Notice
110.390	Possession of Vehicle
110.400	Loan Proceeds
110.410	Security Interest

SUBPART ~~CB~~: MORTGAGE LENDING

110.500	Definitions
110.505	Applicability of Rule
110.510	Good Faith Requirements
110.515	Fraudulent or Deceptive Practices
110.520	Prohibited Refinances
110.525	Negative Amortization
110.530	Negative Equity
110.535	Balloon Payments
110.540	Financing of Certain Points and Fees
110.545	Financing of Single Premium Insurance Products
110.550	Lending Without Due Regard to Ability to Repay
110.555	Verification of Ability to Repay
110.560	Payments to Contractors
110.565	Counseling Prior to Perfecting Foreclosure
110.570	Mortgage Awareness Program
110.575	Offer of Mortgage Awareness Program
110.580	Third Party Review

## ILLINOIS DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF REQUEST FOR EXPEDITED CORRECTION

APPENDIX AEstimated Monthly Income and Expenses WorksheetAPPENDIX BMortgage Ratio Worksheet

## TABLE A

Illinois Rule of 78 Fraction for Rebating Charges According to Number of Months Originally Contracted For and Number of Months Prepaid in Full for Contracts of 2 to 120 Months (Repealed)

## TABLE B

Rule of 78 Percentage Rebate Table (Repealed)

AUTHORITY: Implementing and authorized by Section 22 of the Consumer Installment Loan Act [205 ILCS 670/22].

SOURCE: Filed and effective June 19, 1970; amended at 3 Ill. Reg. 24, p. 16, effective June 15, 1979; emergency amendment at 4 Ill. Reg. 5, p. 372, effective January 16, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 36, p. 138, effective September 22, 1980; amended at 5 Ill. Reg. 1352, effective February 3, 1981; codified at 7 Ill. Reg. 11721; amended at 9 Ill. Reg. 1343, effective January 17, 1985; amended at 11 Ill. Reg. 2749, effective January 28, 1987; emergency amendment at 11 Ill. Reg. 14141, effective August 7, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 10456, effective June 7, 1988; amended at 19 Ill. Reg. 44, effective December 22, 1994; amended at 20 Ill. Reg. 5799, effective April 8, 1996; emergency amendment at 22 Ill. Reg. 1485, effective January 2, 1998, for a maximum of 150 days; emergency expired May 31, 1998; amended at 22 Ill. Reg. 13657, effective July 14, 1998; amended at 25 Ill. Reg. 6227, effective May 17, 2001; amended at 25 Ill. Reg. 7456, effective August 1, 2001; expedited correction at 27 Ill. Reg. \_\_\_\_\_, effective August 1, 2001; amended at 26 Ill. Reg. 14232, effective October 1, 2002.

## SUBPART B: SHORT TERM LENDING

## Section 110.390 Possession of Vehicle

- a) Unless otherwise provided for in the loan agreement, lender shall not take or retain possession of the keys (or a copy thereof) to a motor vehicle used to secure a title-secured loan.
- b) No short-term lender may take possession of a vehicle without first giving notice to the obligor; affording the obligor the opportunity to make the vehicle available to the lender at a place, date and time reasonably convenient to the lender and obligor; and permitting the obligor to remove any personal belongings from the vehicle without charge or additional cost to the obligor.
- c) Possession measures shall be in accordance with Section 19.1 of the Act.
- de) No short-term lender may take possession of a motor vehicle for a loan default and lease the vehicle back to the obligor.

## ILLINOIS DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF REQUEST FOR EXPEDITED CORRECTION

(Source: Expedited Correction at 27 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
SUBPART **CB**: MORTGAGE LENDING

## Section 110.500 Definitions

"Approved Credit Counselor" means a credit counselor as approved by the Director of the Department of Financial Institutions.

"Good faith" means honesty in fact in the conduct of the transaction.

"Home equity loan" means any loan secured by the borrower's primary residence where the proceeds are not used as purchase money for the residence.

"Points and fees" means:

all items required to be disclosed as points and fees under 12 CFR 226.32 (2000, no subsequent amendments or editions included);

the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance that is financed directly or indirectly into the loan;

all compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a tablefunded transaction, not otherwise included in 12 CFR 226.4.

"Subject loan" is the term used to describe any loan to which this Subpart applies pursuant to Section 110.505 of this Part.

"Total loan amount" is the same as the term used in 12 CFR 226.32, and shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary to that regulation.

(Source: Added at 25 Ill. Reg. 6227, effective May 17, 2001)

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## FEBRUARY AGENDA

## SCHEDULED MEETING:

STRATTON OFFICE BUILDING  
ROOM C-1  
SPRINGFIELD, ILLINOIS  
10:00 A.M.  
FEBRUARY 4, 2003

NOTICES: The scheduled date and time for the JCAR meeting are subject to change. Due to *Register* submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting and items from the list can be postponed to future meetings.

*If members of the public wish to express their views with respect to a rulemaking, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:*

*Joint Committee on Administrative Rules  
700 Stratton Office Building  
Springfield, Illinois 62706*

Email: [jcar@legis.state.il.us](mailto:jcar@legis.state.il.us)

Phone: 217/785-2254

## RULEMAKINGS CURRENTLY BEFORE JCAR

## PROPOSED RULEMAKINGS

Commerce and Community Affairs

1. Enterprise Zone and High Impact Program (14 Ill. Adm. Code 520)
  - First Notice Published: 26 Ill. Reg. 11319 – 7/26/02
  - Expiration of Second Notice: 2/5/03
2. Enterprise Zone and High Impact Business Programs (14 Ill. Adm. Code 520)
  - First Notice Published: 26 Ill. Reg. 1845 – 2/15/02
  - Expiration of Second Notice: 2/5/03

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## FEBRUARY AGENDA

3. State Administration of the Federal Community Services Block Grant Program (47 Ill. Adm. Code 120)
  - First Notice Published: 26 Ill. Reg. 14313 – 10/4/02
  - Expiration of Second Notice: 2/5/03

Commerce Commission

4. Construction of Electric Power and Communication Lines (83 Ill. Adm. Code 305)
  - First Notice Published: 26 Ill. Reg. 5810 – 4/26/02
  - Expiration of Second Notice: 2/27/03

Human Services

5. Standards and Licensure Requirements for Community-Integrated Living Arrangements (59 Ill. Adm. Code 115)
  - First Notice Published: 26 Ill. Reg. 6964 – 5/10/02
  - Expiration of Second Notice: 2/5/03
6. Temporary Assistance for Needy Families (89 Ill. Adm. Code 112)
  - First Notice Published: 26 Ill. Reg. 14416 – 10/4/02
  - Expiration of Second Notice: 2/19/03
7. Food Stamps (89 Ill. Adm. Code 121)
  - First Notice Published: 26 Ill. Reg. 14452 – 10/4/02
  - Expiration of Second Notice: 2/12/03
8. Special Education Program and Services (89 Ill. Adm. Code 765)
  - First Notice Published: 26 Ill. Reg. 16402 – 11/8/02
  - Expiration of Second Notice: 2/20/03

Natural Resources

9. Injurious Species (17 Ill. Adm. Code 805)
  - First Notice Published: 26 Ill. Reg. 16702 – 11/15/02
  - Expiration of Second Notice: 2/28/03
10. General Definitions (62 Ill. Adm. Code 1701)
  - First Notice Published: 26 Ill. Reg. 5553 – 4/19/02

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## FEBRUARY AGENDA

-Expiration of Second Notice: 2/26/03

11. Areas Designated by Act of Congress (62 Ill. Adm. Code 1761)
  - First Notice Published: 26 Ill. Reg. 5582 – 4/19/02
  - Expiration of Second Notice: 2/26/03
12. Criteria for Designating Areas as Unsuitable for Surface Coal Mining Operations (62 Ill. Adm. Code 1762)
  - First Notice Published: 26 Ill. Reg. 5601– 4/19/02
  - Expiration of Second Notice: 2/26/03
13. Requirements for Coal Exploration (62 Ill. Adm. Code 1772)
  - First Notice Published: 26 Ill. Reg. 5605 – 4/19/02
  - Expiration of Second Notice: 2/26/03
14. Requirements for Permits and Permit Processing (62 Ill. Adm. Code 1773)
  - First Notice Published: 26 Ill. Reg. 5611 – 4/19/02
  - Expiration of Second Notice: 2/26/03
15. Permit Applications-Minimum Requirements for Legal, Financial, Compliance and Related Information (62 Ill. Adm. Code 1778)
  - First Notice Published: 26 Ill. Reg. 5622 – 4/19/02
  - Expiration of Second Notice: 2/26/03
16. Surface Mining Permit Applications-Minimum Requirements for Reclamation and Operation Plan (62 Ill. Adm. Code 1780)
  - First Notice Published: 26 Ill. Reg. 5627 – 4/19/02
  - Expiration of Second Notice: 2/26/03
17. Underground Mining Permit Applications-Minimum Requirements for Reclamation and Operation Plan (62 Ill. Adm. Code 1784)
  - First Notice Published: 26 Ill. Reg. 5631 – 4/19/02
  - Expiration of Second Notice: 2/26/03
18. Bonding and Insurance Requirements for Surface Coal Mining and Reclamation Operations (62 Ill. Adm. Code 1800)
  - First Notice Published: 26 Ill. Reg. 5635 – 4/19/02
  - Expiration of Second Notice: 2/26/03

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## FEBRUARY AGENDA

19. Permanent Program Performance Standards-Surface Mining Activities (62 Ill. Adm. Code 1816)  
-First Notice Published: 26 Ill. Reg. 5641 – 4/19/02  
-Expiration of Second Notice: 2/26/03
20. Administrative and Judicial Review (62 Ill. Adm. Code 1847)  
-First Notice Published: 26 Ill. Reg. 5653 – 4/19/02  
-Expiration of Second Notice: 2/26/03

Nuclear Safety

21. Registration and Operator Requirements for Radiation Installations (32 Ill. Adm. Code 320)  
-First Notice Published: 26 Ill. Reg. 16902 – 11/22/02  
-Expiration of Second Notice: 2/27/03
22. Accrediting Persons in the Practice of Medical Radiation Technology (32 Ill. Adm. Code 401)  
-First Notice Published: 26 Ill. Reg. 16406 – 11/8/02  
-Expiration of Second Notice: 2/23/03

Pollution Control Board

23. Organic Material Emission Standards and Limitations for the Chicago Area (35 Ill. Adm. Code 218)  
-First Notice Published: 26 Ill. Reg. 13772 – 9/20/02  
-Expiration of Second Notice: 2/27/03

Public Aid

24. Medical Assistance Programs (89 Ill. Adm. Code 120)  
-First Notice Published: 26 Ill. Reg. 14942 – 10/18/02  
-Expiration of Second Notice: 2/28/03
25. Children's Health Insurance Program (89 Ill. Adm. Code 125)  
-First Notice Published: 26 Ill. Reg. 14945 – 10/18/02  
-Expiration of Second Notice: 2/28/03

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## FEBRUARY AGENDA

26. Medical Payment (89 Ill. Adm. Code 140)  
-First Notice Published: 26 Ill. Reg. 14948 – 10/18/02  
-Expiration of Second Notice: 2/28/03
27. Hospital Services (89 Ill. Adm. Code 148)  
-First Notice Published: 26 Ill. Reg. 13406 – 8/30/02  
-Expiration of Second Notice: 2/28/03
28. Child Support Enforcement (89 Ill. Adm. Code 160)  
-First Notice Published: 26 Ill. Reg. 14488 – 10/4/02  
-Expiration of Second Notice: 2/13/03

Public Health

29. Emergency Medical Services and Trauma Center Code (77 Ill. Adm. Code 515)  
-First Notice Published: 26 Ill. Reg. 16141 – 11/1/02  
-Expiration of Second Notice: 2/15/03
30. Freestanding Emergency Center Demonstration Program Code (77 Ill. Adm. Code 518)  
-First Notice Published: 26 Ill. Reg. 16428 – 11/8/02  
-Expiration of Second Notice: 2/28/03

State Board of Elections

31. The Campaign Financing Act (26 Ill. Adm. Code 100)  
-First Notice Published: 26 Ill. Reg. 12521 – 8/16/02  
-Expiration of Second Notice: 2/8/03
32. Practice and Procedure (26 Ill. Adm. Code 125)  
-First Notice Published: 26 Ill. Reg. 12527 – 8/16/02  
-Expiration of Second Notice: 2/8/03

State Fire Marshal

33. Fire Prevention and Safety (41 Ill. Adm. Code 100)  
-First Notice Published: 26 Ill. Reg. 15413 – 11/1/02  
-Expiration of Second Notice: 3/1/03

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## FEBRUARY AGENDA

## EMERGENCY AND PEREMPTORY RULEMAKINGS

Central Management Services

34. The Travel Regulation Council (80 Ill. Adm. Code 3000) (Emergency)  
-Notice Published: 27 Ill. Reg. 557 – 1/10/03

Commerce Commission

35. Restricted Call Registry (14 Ill. Adm. Code 300) (Emergency)  
-Notice Published: 27 Ill. Reg. 563 – 1/10/03

Professional Regulation

36. Perfusionist Practice Act (68 Ill. Adm. Code 1335) (Emergency)  
-Notice Published: 27 Ill. Reg. 576 – 1/10/03

Public Aid

37. Hospital Services (89 Ill. Adm. Code 148) (Emergency)  
-Notice Published: 27 Ill. Reg. 580 – 1/10/03
38. Hospital Services (89 Ill. Adm. Code 148) (Emergency)  
-Notice Published: 27 Ill. Reg. 866 – 1/17/03

Public Health

39. Control of Communicable Disease Code (77 Ill. Adm. Code 690) (Emergency)  
-Notice Published: 27 Ill. Reg. 592 – 1/10/03

State Police

40. Firearm Transfer Inquiry Program (20 Ill. Adm. Code 1235) (Emergency)  
-Notice Published: 26 Ill. Reg. 17427 – 12/6/02

## EXEMPT RULEMAKING

Pollution Control Board

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

FEBRUARY AGENDA

41. Primary Drinking Water Standards (35 Ill. Adm. Code 611)
  - Proposed Date: 26 Ill. Reg. 15176 - 10/25/02
  - Adopted Date: 1/24/03

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION TO EXISTING RULE

DEPARTMENT OF PUBLIC AID

Heading of the Part: Medical Assistance Programs

Code Citation: 89 Ill. Adm. Code 120

Section Numbers: 120.381

At its meeting on January 9, 2003, the Joint Committee on Administrative Rules objected to Section 120.381 of the Department of Public Aid's rules titled Medical Assistance Programs (89 Ill. Adm. Code 120.381) because it violates 305 ILCS 5/5-2. 305 ILCS 5/5-2 authorizes the Department to establish the amount of assets to be disregarded in determining eligibility for medical assistance, which shall at a minimum equal the amounts to be disregarded under the Federal Supplemental Security Income program. The amount of assets of a single person to be disregarded shall not be less than \$2,000, and the amount of assets of a married couple to be disregarded shall not be less than \$3,000. SSI has totally exempted any assets of an individual used in a trade or business. By placing a limitation on property (including the tools of a tradesperson and machinery and livestock of a farmer) that is used in a trade or business or by such individual as an employee, DPA has violated 305 ILCS 5/5-2.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute a refusal to amend or repeal the rule. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of January 13, 2003 through January 20, 2003 and have been scheduled for review by the Committee at its February 4, 2003 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
2/26/03	<u>Department of Natural Resources</u> , General Definitions (62 Ill. Adm. Code 1701)	4/19/02 26 Ill. Reg. 5553	2/4/03
2/26/03	<u>Department of Natural Resources</u> , Areas Designated by Act of Congress (62 Ill. Adm. Code 1761)	4/19/02 26 Ill. Reg. 5582	2/4/03
2/26/03	<u>Department of Natural Resources</u> , Criteria for Designating Areas as Unsuitable for Surface Coal Mining Operations (62 Ill. Adm. Code 1762)	4/19/02 26 Ill. Reg. 5601	2/4/03
2/26/03	<u>Department of Natural Resources</u> , Requirements for Coal Exploration (62 Ill. Adm. Code 1772)	4/19/02 26 Ill. Reg. 5605	2/4/03
2/26/03	<u>Department of Natural Resources</u> , Requirements for Permits and Permit Processing (62 Ill. Adm. Code 1773)	4/19/02 26 Ill. Reg. 5611	2/4/03
2/26/03	<u>Department of Natural Resources</u> , Permit Applications-Minimum Requirements for Legal, Financial, Compliance, and Related Information (62 Ill. Adm. Code 1778)	4/19/02 26 Ill. Reg. 5622	2/4/03

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

2/26/03	<u>Department of Natural Resources</u> , Surface Mining Permit Applications-Minimum Requirements for Reclamation and Operation Plan (62 Ill. Adm. Code 1780)	4/19/02 26 Ill. Reg. 5627	2/4/03
2/26/03	<u>Department of Natural Resources</u> , Underground Mining Permit Applications-Minimum Requirements for Reclamation and Operation Plan (62 Ill. Adm. Code 1784)	4/19/02 26 Ill. Reg. 5631	2/4/03
2/26/03	<u>Department of Natural Resources</u> , Bonding and Insurance Requirements for Surface Coal Mining and Reclamation Operations (62 Ill. Adm. Code 1800)	4/19/02 26 Ill. Reg. 5635	2/4/03
2/26/03	<u>Department of Natural Resources</u> , Permanent Program Performance Standards-Surface Mining Activities (62 Ill. Adm. Code 1816)	4/19/02 26 Ill. Reg. 5641	2/4/03
2/26/03	<u>Department of Natural Resources</u> , Administrative and Judicial Review (62 Ill. Adm. Code 1847)	4/19/02 26 Ill. Reg. 5653	2/4/03
2/27/03	<u>Illinois Commerce Commission</u> , Construction of Electric Power and Communication Lines (83 Ill. Adm. Code 305)	4/26/02 26 Ill. Reg. 5810	2/4/03
2/27/03	<u>Pollution Control Board</u> , Organic Material Emission Standards and Limitations for the Chicago Area (35 Ill. Adm. Code 218)	9/20/02 26 Ill. Reg. 13772	2/4/03
2/27/03	<u>Department of Nuclear Safety</u> , Registration and Operator Requirements for Radiation Installations (32 Ill. Adm. Code 320)	11/22/02 26 Ill. Reg. 16902	2/4/03
2/28/03	<u>Department of Public Aid</u> , Hospital Services (89 Ill. Adm. Code 148)	8/30/02 26 Ill. Reg. 13046	2/4/03

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

2/28/03	<u>Department of Public Aid</u> , Medical Assistance Programs (89 Ill. Adm. Code 120)	10/18/02 26 Ill. Reg. 14942	2/4/03
2/28/03	<u>Department of Public Aid</u> , Children's Health Insurance Program (89 Ill. Adm. Code 125)	10/18/02 26 Ill. Reg. 14945	2/4/03
2/28/03	<u>Department of Public Aid</u> , Medical Payment (89 Ill. Adm. Code 140)	10/18/02 26 Ill. Reg. 14948	2/4/03
2/28/03	<u>Department of Public Health</u> , Freestanding Emergency Center Demonstration Program Code (77 Ill. Adm. Code 518)	11/8/02 26 Ill. Reg. 16428	2/4/03
2/28/03	<u>Department of Natural Resources</u> , Injurious Species (17 Ill. Adm. Code 805)	11/15/02 26 Ill. Reg. 16702	2/4/03
3/1/03	<u>State Fire Marshal</u> , Fire Prevention and Safety (41 Ill. Adm. Code 100)	11/1/02 26 Ill. Reg. 15413	2/4/03

## EXECUTIVE ORDERS

**2003-1****Executive Order Instituting Immediate Hiring and Promotion Freeze**

I, Rod R. Blagojevich, Governor of Illinois, order that no agency, department, bureau, board or commission subject to the control or direction of the Governor shall hire any employee or officer, fill any vacancy, create any new position, promote any employee or officer to any position or take any other action which will result in the increase or the maintenance of present levels in State employment or compensation (including benefits) payable in connection with State employment, including personal service contracts. All hiring and promotion are frozen. There will be no exceptions to this Executive Order without the express written permission of my office after submission of appropriate requests to my office.

This Executive Order shall be effective immediately.

Issued by the Governor January 14, 2003

Filed by the Secretary of State January 14, 2003

**2003-2****Executive Order Mandating a Freeze on the Acquisition of State Motor Vehicles and the Implementation of a Comprehensive Review of Potential Cost Savings associated with State Motor Vehicles**

WHEREAS, the State of Illinois is firmly committed to preserving the State's economic resources and regularly examining the State's assets and expenditures;

WHEREAS, the necessity for such fiscal responsibility is particularly acute at this time given the State's current budget deficit;

WHEREAS, the State expends significant resources acquiring, maintaining and operating a motor vehicle inventory of more than 13,000 State-owned motor vehicles;

WHEREAS, present circumstances warrant an examination of whether the State might currently own a surplus of motor vehicles and whether the State might utilize its motor vehicle fleet more cost effectively; and

WHEREAS, each agency is in a position to review and report the status of State-owned motor vehicles, as well each agency's current need for those motor vehicles, and the Department of Central Management Services is in a position to assist the State by reviewing and making recommendations regarding the State's motor vehicle fleet.

THEREFORE, I, Rod R. Blagojevich, Governor of Illinois, do hereby order the following immediate motor vehicle acquisition freeze and the following comprehensive review by each agency, department, bureau, office, board and commission under my jurisdiction, direction or control (which agencies, departments, bureaus, offices, boards and commissions are hereinafter individually referred to as an "agency," and collectively referred to as "agencies"):

1. MOTOR VEHICLE ACQUISITION FREEZE: Effective immediately and continuing until such time as this Executive Order is revoked or superceded, each agency shall: (i)

## EXECUTIVE ORDERS

refrain from placing any order for, or entering into any agreement for, the purchase, lease or other acquisition of, any motor vehicle; and (ii) prior to the close of business on January 31, 2003, (a) identify each motor vehicle ordered by or for such agency that has not yet been delivered to such agency, which order might be canceled without the imposition of any penalty or other cost to the State, and (b) cancel each such cancelable motor vehicle order if it is in the best financial interests of the State to do so (it being understood that notice of any decision to not cancel such motor vehicle order shall be provided to the Governor's Office for my approval prior to such decision being finalized). The provisions of this Paragraph 1 shall apply to automobiles, cars, vans, mini-vans, limousines, sport utility vehicles, light trucks (including pick-up trucks) and any other motor vehicles designed primarily to transport people (each of the foregoing are hereinafter individually referred to in this Executive Order as a "motor vehicle," and collectively referred to as "motor vehicles"), but shall not apply to any state police patrol car, ambulance, fire fighting, other emergency services vehicle, road clearing or road maintenance vehicle which in each case is necessary to assure the health, safety, defense and well-being of Illinois residents and visitors. There will be no exceptions to this Executive Order without any express written permission of my office after submission of appropriate requests to my office.

2. EXECUTIVE AGENCY REVIEW/REPORT: Each agency shall, within sixty (60) days after the effective date of this Executive Order, prepare and deliver to the Governor's Office, a thorough and comprehensive review of each motor vehicle utilized by such agency (including any official or employee thereof), and a report containing: (i) an inventory of each such motor vehicle, including its make, model and year; (ii) an examination of the need for each such motor vehicle; (iii) an identification of each motor vehicle that has been assigned by or to that agency, including the job title and classification of the position to whom such motor vehicle has been assigned and the purported reasons that a motor vehicle is necessary to be provided to a person holding a position with such job title and classification; (iv) an identification of the current location and use of each motor vehicle assigned or previously assigned to any official or employee of such agency who retired or otherwise withdrew from such agency during the one year period prior to the effective date of this Executive Order; (v) a proposal by such agency to reduce the number of motor vehicles utilized by it; and (vi) any other proposals by said agency to reduce the costs to the State of acquiring, maintaining and operating motor vehicles utilized by said agency.
3. FLEET MANAGEMENT STUDY: The Director of the Department of Central Management Services (for purposes of this Paragraph, the "Director") shall, within 30 days after completion of the review contemplated by Paragraph 2 of this Executive Order, prepare and deliver to the Governor's Office, a thorough and comprehensive motor vehicle fleet management study, which shall include: (i) an analysis of the agency reports described in Paragraph 2 above; (ii) an analysis comparing the cost of motor vehicle leasing versus motor vehicle ownership and other potential means of reducing the

## EXECUTIVE ORDERS

costs to acquire, maintain and operate State motor vehicles; (iii) a proposal of guidelines or other recommendations for immediately determining an appropriate number and assignment of motor vehicles in the agencies; (iv) a proposal or other recommendation for disposing of motor vehicles, which the Director believes warrant disposal, and for maximizing the prices paid to the State for motor vehicles being sold or otherwise disposed of by the State; (v) a proposal or other recommendation of means by which agencies can reduce the number of State motor vehicles (such as increased use of video or teleconferencing) and by which such agencies can work to increase the fuel efficiency of agency motor vehicles; (vi) a proposal or other recommendation regarding uniform license plate identification (e.g., license plates starting with the letter "U" or other means of ready identification of State owned motor vehicles (other than law enforcement or other motor vehicles for which such identification would be inappropriate); (vii) a proposal or other recommendation for the implementation of means to research and promote the cost effective use of alternative fuels in State owned motor vehicles; including particularly those utilizing Illinois agricultural products; and (viii) a proposal or other recommendation as to how, on an on-going basis, to reduce the size of the State's motor vehicle fleet, to implement cost-effective motor vehicle acquisition and disposition practices and to effect other on-going cost savings relating to the State's motor vehicle fleet.

4. EFFECTIVE DATE: This Executive Order shall be in full force and effect upon its filing with the Secretary of State.

Issued by the Governor January 14, 2003

Filed by the Secretary of State January 14, 2003

## DEPARTMENT OF INSURANCE

## JANUARY 2003 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): 2
- 1) Rulemaking:
- A) Description: 3
- B) Statutory Authority: 4
- C) Schedule meeting/hearing date: 5
- D) Date agency anticipates First Notice: 6
- E) Affect on small businesses, small municipalities or not for profit corporations: 7
- F) Agency contact person for information:
- Name: 8
- Address: Department of Insurance  
320 West Washington Street  
Fourth Floor  
Springfield, Illinois 62767-0001
- Telephone: 9
- G) Related rulemakings and other pertinent information: 10

## DEPARTMENT OF INSURANCE

## JANUARY 2003 REGULATORY AGENDA

- b) Part(s) (Heading and Code Citation): 2
- 1) Rulemaking:
- A) Description: 3
- B) Statutory Authority: 4
- C) Schedule meeting/hearing date: No meetings or hearing dates have been scheduled.
- D) Date agency anticipates First Notice: February 2003
- E) Affect on small businesses, small municipalities or not for profit corporations: These amendments will not have an affect on small businesses, municipalities or not-for-profit corporations.
- F) Agency contact person for information:
- Name: 8  
Address: Department of Insurance  
320 West Washington Street  
Fourth Floor  
Springfield, Illinois 62767-0001  
Telephone: 9
- G) Related rulemakings and other pertinent information: None

## DEPARTMENT OF INSURANCE

## JANUARY 2003 REGULATORY AGENDA

- c) Part(s) (Heading and Code Citation): Personal Information Privacy Protection, 50 Ill. Adm. Code 4002
- A) Description: 3
  - B) Statutory Authority: 4
  - C) Schedule meeting/hearing date: No meetings or hearing dates have been scheduled.
  - D) Date agency anticipates First Notice: 6
  - E) Affect on small businesses, small municipalities or not for profit corporations: 7
  - F) Agency contact person for information:
    - Name: 8
    - Address: Department of Insurance  
320 West Washington Street  
Fourth Floor  
Springfield, Illinois 62767-0001
    - Telephone: 9 782-4254
  - G) Related rulemakings and other pertinent information: None

## SECRETARY OF STATE

## JANUARY 2003 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): Procedures and Standards; 92 Ill. Admin. Code 1001.410, 1001.441, 1001.442, 1001.443 and 1001.444.

1) Rulemaking:

A) Description of Rule(s):

1. The amendment would revise and update these sections, which are entitled “Definitions” (1001.410), Breath Alcohol Ignition Interlock Device Pilot Program (1001.441), “Manufacturer’s Responsibilities; approval for Analyzing Alcohol content of breath; DPH Inspections; Disqualification of a Manufacturer, Designation and Assignment of Regions” (1001.442), a new section 1001.443, which will be titled “Breath Alcohol Ignition Interlock Device Multiple Offender—Compliance with Interlock Program,” and “Installer’s Responsibilities,” which is currently found at 1001.443 but will be moved to a new 1001.444, respectively, and pertain to the Breath Alcohol Ignition Interlock Device (BAIID) program.

In P.A. 92-248, effective August 2001 the General Assembly gave the Secretary of State authority and responsibility for the certification of interlock systems. Emergency rules to implement this legislation have been promulgated and are currently in effect. See emergency amendments adopted at 26 Ill. Reg. 13347, effective August 21, 2002 and at 26 Ill. Reg. 14706, effective September 20, 2002, both for a maximum of 150 days. The rulemaking which will be conducted during the upcoming regulatory agenda period will seek to make permanent these emergency rules.

The Department and Office of the General Counsel are also undertaking a general revision and updating of these sections. This revision is in the early stages of drafting.

B) Statutory Authority: 625 ILCS 5/2-104.

C) Scheduled Meeting/Hearing Dates: Unknown.

D) Date the Agency Anticipates First Notice: The public will have an opportunity to comment on the revision to the rulemaking which seeks to make permanent the emergency rules now in effect during the first notice period, which we anticipate will begin in early January 2003. We are not

## SECRETARY OF STATE

## JANUARY 2003 REGULATORY AGENDA

certain when the general revision of the BAIID rules will be ready for filing, but anticipate that it will be done during this regulatory agenda period.

- E) Impact on Small Business, Small Municipalities or Not For Profit Corporations: We do not believe that either rulemaking will have any direct impact on small businesses, small municipalities, or not-for-profit corporations. However, we are not certain as to the intent of the “Initial Regulatory Flexibility Analysis”, and will request some guidance from the Administrative Code Unit on this issue.
  - F) Agency Contact Person for Information:  
Marc Christopher Loro, Legal Advisor  
Administrative Hearings  
Office of the Secretary of State  
Howlett Building, Room 200  
Springfield, Illinois 62756  
217-785-8245 Fax 217-782-2192  
Mloro@ilsos.net
  - G) Related Rulemaking and Other Pertinent Information: None
- b) Part(s) Heading and Code Citation: Limited Liability Company, Act 14 Ill. Admin. Code 178
- 1) Rulemaking:
    - A) Description of Rule(s): This rule, under Section 178.130 is being amended to reflect the statutory changes that occurred July 1, 2001 whereby, in the determination of name availability of a limited liability company, the corporate database must also be reviewed for name conflicts.
    - B) Statutory Authority: Implemented and authorized by Article 1 of the Limited Liability Company Act (805 ILCS 180/1).
    - C) Scheduled Meeting/Hearing Dates: Unknown.
    - D) Date the Agency Anticipates First Notice: Unknown.

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- E) Impact on Small Business, Small Municipalities or Not For Profit Corporations: None.
- F) Agency Contact Person for Information:
- Michael Vincent  
Department of Business Services  
Office of the Secretary of State  
Howlett Building, Room 351  
Springfield, Illinois 62756  
217-782-4876 Fax 217-524-3390  
[Mvincent@ilsos.net](mailto:Mvincent@ilsos.net)
- G) Related Rulemaking and Other Pertinent Information: None.
- c) Part(s) (Heading and Code Citation): Limited Liability Company Act, 14 Ill. Admin. Code 178
- 1) Rulemaking:
- A) Description of Rule(s): This rule, under Section 178.20, is being amended to eliminate Paragraph (e) which is the section that requires entities that are managers or members of a limited liability company to register to do business in Illinois.
- B) Statutory Authority: Implemented and authorized under Article 5 of the Limited Liability Company Act. (805 ILCS 180/5)
- C) Schedule Meeting/Hearing Dates: Unknown.
- D) Date the Agency Anticipates First Notice: Unknown.
- E) Impact on Small Business, Small Municipalities or Not For Profit Corporations: None.
- F) Agency Contact Person for Information:  
Michael Vincent  
Department of Business Services

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## JANUARY 2003 REGULATORY AGENDA

Office of the Secretary of State  
Howlett Building, Room 351  
Springfield, IL 6756  
217-782-4876 Fax 217-524-3390  
Mvincent@ilsos.net

- G) Related Rulemaking and Other Pertinent Information: None.
- d) Part(s) (Heading and Code Citation): Limited Liability Company Act, 14 Ill. Admin. Code 178
- 1) Rulemaking:
- A) Description of Rule(s): This rule, under Section 178.30, must be revised to reflect the current address of the Limited Liability Company Division of the Department of Business Services.
- B) Date the Agency Anticipates First Notice: Implemented and authorized under Article 1 of the Limited Liability Company Act. (805 ILCS 180/1)
- C) Schedule Meeting/Hearing Dates: Unknown.
- D) Date Agency Anticipates First Notice: Unknown.
- E) Affect on Small Business, Small Municipalities or Not For Profit Corporations: None.
- F) Agency Contact Person for Information:  
Michael Vincent  
Department of Business Services  
Office of the Secretary of State  
Howlett Building, Room 351  
Springfield, IL 62756  
217-782-4877 Fax 217-524-3390  
[Mvincent@ilsos.net](mailto:Mvincent@ilsos.net)
- G) Related Rulemaking and Other Pertinent Information: None.

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- e) Part(s) (Heading and Code Citation): Limited Liability Company Act, 14 Ill. Admin. Code 178
- 1) Rulemaking:
- A) Description Rule(s): This rule, under Section 178.40 (a), is being amended to eliminate language so the Department will be able to furnish information about a limited liability company to the public without a fee.
- B) Statutory Authority: Implemented and authorized by the Limited Liability Company Act. (805 ILCS Act 180)
- C) Scheduled Meeting/Hearing Dates: Unknown.
- D) Date Agency Anticipates First Notice: Unknown.
- E) Affect on Small Business, Small Municipalities or Not For Profit Corporations: None.
- F) Agency Contact Person for Information:  
Michael Vincent  
Department of Business Services  
Office of the Secretary of State  
Howlett Building, Room 351  
Springfield, IL 62756  
217-782-4876 Fax 217-514-3390  
[Mvincent@ilsos.net](mailto:Mvincent@ilsos.net)
- G) Related Rulemaking and Other Pertinent Information: None.
- f) Part(s) (Heading and Code Citation): Limited Liability Company Act, 14 Ill. Admin. Code 178
- 1) Rulemaking:
- Description of Rule(s): This rule, under Section 178.145, is being amended to correspond with the statutory changes that occurred July 1, 2001, whereby, in determining name availability of a limited liability company, the corporate database must also be reviewed.

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## JANUARY 2003 REGULATORY AGENDA

Statutory Authority: Implemented and authorized under Article 1 of the Limited Liability Company Act. (805 ILCS 180/1)

Scheduled Meeting/Hearing Dates: Unknown.

Date Agency Anticipates First Notice: Unknown

Affect on Small Business, Small Municipalities or Not For Profit Corporations:  
None.

Agency Contact Person for Information:

Michael Vincent  
Department of Business Services  
Office of the Secretary of State  
Howlett Building, Room 351  
Springfield, IL 62756  
217-782-4876 Fax 217-514-3390  
Mvincent@ilsos.net

Related Rulemaking and Other Pertinent Information: None.

g) Part(s) (Heading and Code Citation): Public Library Non-Resident Services, 23 Ill. Admin. Code 3050

1) Rulemaking:

A) Description of Rule(s): The incorporation by reference in Section 3050.60 (c) (1), "Illinois Public Library statistics: Analyses, 2001-2002" produced by the Library Research Center, University of Illinois at Urbana-Champaign, 501 E. Daniel Street, Champaign, IL 61820 needs to be updated from the 2001-2002 edition to the 2002-2003 edition.

B) Statutory Authority: Implementing and authorized by Section 5 of the Illinois Local Library Act (75 ILCS 5/4-7), and authorized by Section 16 of the Illinois Library System Act (75 ILCS 16/30-55.60) and Section 8.25 of The State Mandate Act (30 ILCS 805/8.25).

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- C) Scheduled Meeting/Hearing Dates: A hearing will not be scheduled. Public comment will be requested through letters, fax and email.
- D) Date Agency Anticipates First Notice: March 2003.
- E) Affect on Small Business, Small Municipalities or Not For Profit Corporations: None.
- F) Agency Contact Person for Information:  
Joseph A. Natale  
Rules Coordinator  
Illinois State Library  
Office of the Secretary of State  
300 South Second Street  
Springfield, IL 62701-1796  
217-558-4185 Fax 217-557-2619  
Jnatale@ilsos.net
- G) Related Rulemaking and Other Pertinent Information: None
- h) Part(s) (Heading and Code Citation): Public Library Construction Grants, 23 Ill. Admin. Code 3060
- 1) Rulemaking:
- A) Description of Rule(s): Revisions to the assurances to be submitted with construction grant applications, including Sections 3060.800 and 3060.900 regarding fidelity bonds and secured funds.
- B) Statutory Authority: Section 3060.900 (h), states “The Library Board shall comply with all applicable provisions of the Illinois Purchasing Act (30 ILCS 505).” The section needs to be revised indicating that the Library Board shall comply with the Illinois Procurement Code (30 ILCS 300). The amendment will also involve the Illinois State Library acting on the recommendations from subcommittee reviewing construction grant applications (Section 3060.200 (c)), and clarifying the assurance for the Library Board to sign the construction grant contract (Section 3060.800 (b) (2)). Implementing Section 3 of the Capital Development Board Act of

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1972 [30 ILCS 420/3] and authorized by Sections 3 and 8 of the Illinois Library System Act [75 ILCS 10/3 and 8].

- C) Scheduled Meeting/Hearing Dates: A hearing will not be scheduled. Public comment will be requested through letters, fax and email.
  - D) Date Agency Anticipates First Notice: March 2003.
  - E) Affect on Small Business, Small Municipalities or Not For Profit Corporations: None.
  - F) Agency Contact Person for Information:  
Joseph A. Natale  
Rules Coordinator  
Illinois State Library  
Office of the Secretary of State  
300 South Second Street  
Springfield, IL 62701-2619  
217-558-4185 Fax 217-557-2619  
[Jnatale@ilsos.net](mailto:Jnatale@ilsos.net)
  - G) Related Rulemaking and Other Pertinent Information: None.
- i) Part(s) (Heading and Code Citation): Regulations Under the Illinois Business Brokers Act of 1995, 14 Ill. Admin. Code 140
- 1) Rulemaking:
    - A) Description of Rule(s): Amend rules and draft rules generally to conform regulations to legislative enactments.
    - B) Statutory Authority: Illinois Business Brokers Act, 815 ILCS 307/10-1.
    - C) Scheduled Meeting/Hearing Dates: None
    - D) Date the Agency Anticipates First Notice: Unkown.
    - E) Impact on Small Businesses, Small Municipalities or Not For Profit Corporations: Unknown.

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## JANUARY 2003 REGULATORY AGENDA

- F) Agency Contact Person for Information:  
Tanya Solov, Director  
Securities Department  
Office of the Secretary of State  
69 West Washington Street, Suite 1220  
Chicago, IL 60602  
312-793-3384 Fax 312-793-1202  
[Tsolov@ilsos.net](mailto:Tsolov@ilsos.net)
- G) Related Rulemaking and Other Pertinent Information: None
- j) Part(s) (Heading and Code Citation): Regulations Under Illinois Securities Law of 1953,  
14 Ill. Admin. Code 130
- 1) Rulemaking:
- A) Description of Rule(s): Amend rules and draft rules generally to conform regulations to state and federal legislative enactments and rules of the US Securities and Exchange Commission.
- B) Statutory Authority: Illinois Securities Law of 153, 815 ILCS 5/1.
- C) Schedule Meeting/Hearing Dates: None.
- D) Date the Agency Anticipates First Notice: Unknown.
- E) Impact on Small Businesses, Small Municipalities or Not for Profit Corporations: Unknown.
- F) Agency Contact Person for Information:  
Tanya Solov, Director  
Securities Department  
Office of the Secretary of State  
69 West Washington Street, Suite 1220  
Chicago, IL 60602  
312-793-3384 Fax 312-793-1202  
[Tsolov@ilsos.net](mailto:Tsolov@ilsos.net)

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- G) Related Rulemaking and Other Pertinent Information: None
- k) Part(s) (Heading and Code Citation): Regulations Under the Business Opportunity Sales Law of 1995, 14 Ill. Admin. Code 135
- 1) Rulemaking:
- A) Description of Rule(s): Amend rules and draft rules generally to conform regulations to legislative enactments.
- B) Statutory Authority: Illinois Business Opportunity Sales Law of 1995, 815 ILCS 602/5-1.
- C) Scheduled Meeting/Hearing Dates: None.
- D) Date the Agency Anticipates First Notice: Unknown.
- E) Impact on Small Businesses, Small Municipalities or Not For Profit Corporations: Unknown.
- F) Agency Contact Person for Information:  
Tanya Solov, Director  
Securities Department  
Office of the Secretary of State  
69 West Washington Street, Suite 1220  
Chicago, IL 60602  
312-793-3384 Fax 312-793-1202  
[Tsolov@ilsos.net](mailto:Tsolov@ilsos.net)
- G) Related Rulemaking and Other Pertinent Information: None
- l) Part(s) (Heading and Code Citation): Regulations Under the Illinois Loan Brokers Act of 1995, 14 Ill. Admin. Code 145
- 1) Rulemaking:
- A) Description of Rule(s): Amend rules and draft rules generally to conform regulations to legislative changes.

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- B) Statutory Authority: Illinois Loan Brokers Act of 1995, 815 ILCS 175/15-1.
- C) Scheduled Meeting/Hearing Dates: None.
- D) Date the Agency Anticipates First Notice: Unknown.
- E) Affect on Small Businesses, Small Municipalities or Not for Profit Corporations: Unknown.
- F) Agency Contact Person for Information:  
Tanya Solov, Director  
Securities Department  
Office of the Secretary of State  
69 West Washington Street, Suite 1220  
Chicago, IL 60602  
312-793-3384 Fax 312-793-1202  
Tsolov@ilsos.net
- G) Related Rulemaking and Other Pertinent Information: None.

## ILLINOIS STUDENT ASSISTANCE COMMISSION

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- a) Part (Heading and Code Citation): General Provisions  
23 Ill. Adm. Code 2700
- 1) Rulemaking:
- A) Description: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use.
- B) Statutory Authority: Implementing the Higher Education Student Assistance Act [110 ILCS 947]; Title IV of the Higher Education Act of 1965, as amended (20 USCA 1070 et seq., as amended by P.L. 105-244); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].
- C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.
- D) Date agency anticipates First Notice: January 2003.
- E) Affect on small business, municipalities or not for profit corporations: None.
- F) Agency Contact Person for Information:
- Name: Mr. Thomas A. Breyer  
Deputy Program Officer  
Address: Illinois Student Assistance Commission  
1755 Lake Cook Road  
Deerfield, Illinois 60015-5209  
Telephone: 847/948-8500
- G) Related rulemakings and other pertinent information: None.
- b) Part (Heading and Code Citation): Federal Family Education Loan Program (FFELP)

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23 Ill. Adm. Code 2720

- 1) Rulemaking:
- A) Description: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use.
- B) Statutory Authority: Implementing Sections 80 through 175 of the Higher Education Student Assistance Act [110 ILCS 947/80 through 175]; Title IV, Part B, of the Higher Education Act of 1965, as amended (20 USCA 1071 et seq.); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].
- C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.
- D) Date agency anticipates First Notice: January 2003.
- E) Affect on small business, municipalities or not for profit corporations None.
- F) Agency Contact Person for Information:
- Name: Mr. Thomas A. Breyer  
Deputy Program Officer
- Address: Illinois Student Assistance Commission  
1755 Lake Cook Road  
Deerfield, Illinois 60015-5209
- Telephone: 847/948-8500
- G) Related rulemakings and other pertinent information: None.
- c) Part (Heading and Code Citation): Illinois National Guard Grant (ING) Grant Program  
23 Ill. Adm. Code 2730

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- 1) Rulemaking:
  - A) Description: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use.
  - B) Statutory Authority: Implementing Section 45 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/45 and 20(f)].
  - C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.
  - D) Date agency anticipates First Notice: January 2003.
  - E) Affect on small business, municipalities or not for profit corporations: None.
  - F) Agency Contact Person for Information:

Name: Mr. Thomas A. Breyer  
Deputy Program Officer  
Address: Illinois Student Assistance Commission  
1755 Lake Cook Road  
Deerfield, Illinois 60015-5209  
Telephone: 847/948-8500
  - G) Related rulemakings and other pertinent information: None.
- d) Part (Heading and Code Citation): Illinois Veteran Grant (IVG) Grant Program  
23 Ill. Adm. Code 2733
  - 1) Rulemaking:

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- A) Description: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use.
- B) Statutory Authority: Implementing Section 40 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/40 and 20(f)].
- C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.
- D) Date agency anticipates First Notice: January 2003.
- E) Affect on small business, municipalities or not for profit corporations: None.
- F) Agency Contact Person for Information:
- Name: Mr. Thomas A. Breyer  
Deputy Program Officer
- Address: Illinois Student Assistance Commission  
1755 Lake Cook Road  
Deerfield, Illinois 60015-5209
- Telephone: 847/948-8500
- G) Related rulemakings and other pertinent information: None.
- e) Part (Heading and Code Citation): Monetary Award Program (MAP)  
23 Ill. Adm. Code 2735
- 1) Rulemaking:
- A) Description: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, to codify improvements due to technological advances, and

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to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use.

- B) Statutory Authority: Implementing Section 35 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/35 and 20(f)].
  - C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.
  - D) Date agency anticipates First Notice: January 2003.
  - E) Affect on small business, municipalities or not for profit corporations: None.
  - F) Agency Contact Person for Information:
    - Name: Mr. Thomas A. Breyer  
Deputy Program Officer
    - Address: Illinois Student Assistance Commission  
1755 Lake Cook Road  
Deerfield, Illinois 60015-5209
    - Telephone: 847/948-8500
  - G) Related rulemakings and other pertinent information: None.
- f) Part (Heading and Code Citation): Illinois Incentive for Access (IIA) Program  
23 Ill. Adm. Code 2736
- 1) Rulemaking:
    - A) Description: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures,

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format and terminology throughout our programmatic rules, in order to make them easier for our clients to use.

- B) Statutory Authority: Implementing Section 36 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/36 and 20(f)].
- C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.
- D) Date agency anticipates First Notice: January 2003.
- E) Affect on small business, municipalities or not for profit corporations: None.
- F) Agency Contact Person for Information:
  - Name: Mr. Thomas A. Breyer  
Deputy Program Officer
  - Address: Illinois Student Assistance Commission  
1755 Lake Cook Road  
Deerfield, Illinois 60015-5209
  - Telephone: 847/948-8500
- G) Related rulemakings and other pertinent information: None.

g) Part (Heading and Code Citation): Arthur F. Quern Information Technology Grant Program 23 Ill. Adm. Code 2740

- 1) Rulemaking:
  - A) Description: Public Act 92-597 repealed ISAC's statutory authority to administer the Arthur F. Quern Information Technology Grant Program. As a result, the administrative rules for this program will also be repealed.
  - B) Statutory Authority: Implementing Section 65.57 of the Higher Education Student Assistance Act [110 ILCS 947/65.57] and authorized by Sections 20(f) and 65.57 of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 65.57].

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- C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.
- D) Date agency anticipates First Notice: January 2003.
- E) Affect on small business, municipalities or not for profit corporations: None.
- F) Agency Contact Person for Information:
- Name: Mr. Thomas A. Breyer  
Deputy Program Officer  
Address: Illinois Student Assistance Commission  
1755 Lake Cook Road  
Deerfield, Illinois 60015-5209  
Telephone: 847/948-8500
- G) Related rulemakings and other pertinent information: None.
- h) Part (Heading and Code Citation): Optometric Education Scholarship Program  
23 Ill. Adm. Code 2741
- 1) Rulemaking:
- A) Description: Public Act 92-569 created the new Optometric Education Scholarship Program. Proposed rulemaking for this program will set forth the applicant eligibility requirements, program procedures and institutional procedures.
- B) Statutory Authority: Implementing Section 65.70 of the Higher Education Student Assistance Act [110 ILCS 947/65.70] and authorized by Sections 20(f) and 65.70 of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 65.70].
- C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.

## ILLINOIS STUDENT ASSISTANCE COMMISSION

## JANUARY 2003 REGULATORY AGENDA

- D) Date agency anticipates First Notice: January 2003.
- E) Affect on small business, municipalities or not for profit corporations:None.
- F) Agency Contact Person for Information:  
Name: Mr. Thomas A. Breyer  
Deputy Program Officer  
Address: Illinois Student Assistance Commission  
1755 Lake Cook Road  
Deerfield, Illinois 60015-5209  
Telephone: 847/948-8500
- G) Related rulemakings and other pertinent information: None.
- i) Part (Heading and Code Citation): Robert C. Byrd Honors Scholarship Program  
23 Ill. Adm. Code 2755
- 1) Rulemaking:
- A) Description: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use.
- B) Statutory Authority: Implementing Section 65.60 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/65.60 and 20(f)].
- C) Schedule meeting/hearing date: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.
- D) Date agency anticipates First Notice: January 2003.
- E) Affect on small business, municipalities or not for profit corporations:None.
- F) Agency Contact Person for Information:

## ILLINOIS STUDENT ASSISTANCE COMMISSION

## JANUARY 2003 REGULATORY AGENDA

Name: Mr. Thomas A. Breyer  
Deputy Program Officer  
Address: Illinois Student Assistance Commission  
1755 Lake Cook Road  
Deerfield, Illinois 60015-5209  
Telephone: 847-948-8500

- G) Related rulemakings and other pertinent information: None.
- j) Part (Heading and Code Citation): Minority Teachers of Illinois (MTI) Scholarship Program  
23 Ill. Adm. Code 2763
- 1) Rulemaking:
- A) Description: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use. A number of amendments are being proposed to this Part to reflect statutory changes contained in Public Act 92-845.
- B) Statutory Authority: Implementing Section 50 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/50 and 20(f)].
- C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.
- D) Date agency anticipates First Notice: January 2003.
- E) Affect on small business, municipalities or not for profit corporations: None.

## ILLINOIS STUDENT ASSISTANCE COMMISSION

## JANUARY 2003 REGULATORY AGENDA

F) Agency Contact Person for Information:

Name: Mr. Thomas A. Breyer  
Deputy Program Officer  
Address: Illinois Student Assistance Commission  
1755 Lake Cook Road  
Deerfield, Illinois 60015-5209  
Telephone: 847/948-8500

G) Related rulemakings and other pertinent information: None.

k) Part (Heading and Code Citation): David A. DeBolt Teacher Shortage Scholarship (DTSS) Program  
23 Ill. Adm. Code 2764

1) Rulemaking:

- A) Description: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use. A number of amendments are being proposed to this Part to reflect statutory changes contained in Public Act 92-845.
- B) Statutory Authority: Implementing Section 65.55 of the Higher Education Student Assistance Act [110 ILCS 947/65.55] and authorized by Sections 20(f) and 65.55 of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 65.55].
- C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.
- D) Date agency anticipates First Notice: January 2003.
- E) Affect on small business, municipalities or not for profit corporations: None.

## ILLINOIS STUDENT ASSISTANCE COMMISSION

## JANUARY 2003 REGULATORY AGENDA

F) Agency Contact Person for Information:

Name: Mr. Thomas A. Breyer  
Deputy Program Officer  
Address: Illinois Student Assistance Commission  
1755 Lake Cook Road  
Deerfield, Illinois 60015-5209  
Telephone: 847/948-8500

G) Related rulemakings and other pertinent information: None.

- l) Part (Heading and Code Citation): Illinois Special Education Teacher Tuition Waiver (SETTW) Program  
23 Ill. Adm. Code 2765

1) Rulemaking:

- A) Description: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use. A number of amendments are being proposed to this Part to reflect statutory changes contained in Public Act 92-845.
- B) Statutory Authority: Implementing Section 65.15 and authorized by Sections 20(f) and 65.15(a)(2) of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 65.15].
- C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.
- D) Date agency anticipates First Notice: January 2003.
- E) Affect on small business, municipalities or not for profit corporations: None.

## ILLINOIS STUDENT ASSISTANCE COMMISSION

## JANUARY 2003 REGULATORY AGENDA

F) Agency Contact Person for Information:

Name: Mr. Thomas A. Breyer  
Deputy Program Officer  
Address: Illinois Student Assistance Commission  
1755 Lake Cook Road  
Deerfield, Illinois 60015-5209  
Telephone: 847/948-8500

G) Related rulemakings and other pertinent information: None.

- m) Part (Heading and Code Citation): Illinois Teachers and Child Care Providers Loan Repayment Program  
23 Ill. Adm. Code 2767

1) Rulemaking:

- A) Description: Public Act 92-597 created the new Illinois Teachers and Child Care Providers Loan Repayment Program. Proposed rulemaking for this program will set forth the applicant eligibility requirements and program procedures.
- B) Statutory Authority: Implementing Section 65.56 of the Higher Education Student Assistance Act [110 ILCS 947/65.56] and authorized by Sections 20(f) and 65.56 of the Higher Education Student Assistance Act [110 ILCS 947/20 (f) and 65.56].
- C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.
- D) Date agency anticipates First Notice: January 2003.
- E) Affect on small business, municipalities or not for profit corporations: None.
- F) Agency Contact Person for Information:  
Name: Mr. Thomas A. Breyer  
Deputy Program Officer

## ILLINOIS STUDENT ASSISTANCE COMMISSION

## JANUARY 2003 REGULATORY AGENDA

Address: Illinois Student Assistance Commission  
1755 Lake Cook Road  
Deerfield, Illinois 60015-5209  
Telephone: 847/948-8500

H) Related rulemakings and other pertinent information: None.

n) Part (Heading and Code Citation): College Savings Bond Bonus Incentive Grant (BIG) Program  
23 Ill. Adm. Code 2771

1) Rulemaking:

A) Description: Amendments are being proposed to update the Table of Grant Amounts to include the most recent sale of College Savings Bonds which took place in October of 2002.

B) Statutory Authority: Implementing and authorized by Section 8 of the Baccalaureate Savings Act [110 ILCS 920/8].

C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.

D) Date agency anticipates First Notice: January 2003.

E) Affect on small business, municipalities or not for profit corporations: None.

F) Agency Contact Person for Information:

Name: Mr. Thomas A. Breyer  
Deputy Program Officer  
Address: Illinois Student Assistance Commission  
1755 Lake Cook Road  
Deerfield, Illinois 60015-5209  
Telephone: 847/948-8500

G) Related rulemakings and other pertinent information: None.

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF PUBLIC INFORMATION

**NOTICE OF FINE IMPOSED UNDER  
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987**

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act"), 205 ILCS 635/4-5(h) (2000), notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has reduced the fine to \$500.00 against Amerihome Mortgage Company, LLC., License No. #4903 of Brookfield, WI a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective January 13, 2003.

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PUBLIC INFORMATION

## LISTING OF DERIVED WATER QUALITY CRITERIA

Pursuant to 35 Ill. Adm. Code 302.Subpart F, the following water quality criteria have been derived as listed. This listing includes only the waterbodies for which water quality criteria have been used during the period August 1, 2002 through October 31, 2002.

A cumulative listing of criteria as of July 31, 1993 was published in 17 Ill. Reg. 18904, October 29, 1993. Listings of waterbodies for which water quality criteria were used during subsequent three month periods were published in 18 Ill. Reg. 318, January 7, 1994; 18 Ill. Reg. 4457, March 18, 1994; 18 Ill. Reg. 8734, June 10, 1994; 18 Ill. Reg. 14166, September 9, 1994; 18 Ill. Reg. 17770, December 9, 1994; 19 Ill. Reg. 3563, March 17, 1995; 19 Ill. Reg. 7270, May 26, 1995; 19 Ill. Reg. 12527, September 1, 1995; 20 Ill. Reg. 649, January 5, 1996; 20 Ill. Reg. 4829, March 22, 1996; 20 Ill. Reg. 7549, May 30, 1996; 20 Ill. Reg. 12278, September 6, 1996; 20 Ill. Reg. 15619, December 6, 1996; 21 Ill. Reg. 3761, March 21, 1997; 21 Ill. Reg. 7554, June 13, 1997; 21 Ill. Reg. 12695, September 12, 1997; 21 Ill. Reg. 16193, December 12, 1997; 22 Ill. Reg. 5131, March 13, 1998; 22 Ill. Reg. 10689, June 12, 1998; 22 Ill. Reg. 16376, September 11, 1998; 22 Ill. Reg. 22423, December 28, 1998; 23 Ill. Reg. 3102, March 12, 1999; 23 Ill. Reg. 6979, June 11, 1999; 23 Ill. Reg. 11774, September 24, 1999; 23 Ill. Reg. 14772, December 27, 1999; 24 Ill. Reg. 4251, March 17, 2000; 24 Ill. Reg. 8146, June 9, 2000; 24 Ill. Reg. 14428, September 29, 2000; 25 Ill. Reg. 270, January 5, 2001; 25 Ill. Reg. 4049, March 16, 2001; 25 Ill. Reg. 7367, June 8, 2001; 25 Ill. Reg. 12186, September 21, 2001; 25 Ill. Reg. 16175, December 14, 2001; 26 Ill. Reg. 4,974, March 29, 2002; and 26 Ill. Reg. 13370, September 6, 2002.

Chemical: Acenaphthene	CAS #83-32-9
Acute criterion: 124 ug/l	Chronic criterion: 9.9 ug/l
Date criteria derived: November 14, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: Acetone	CAS #67-64-1
Acute criterion: 1,530 mg/l	Chronic criterion: 122 mg/l
Date criteria derived: May 25, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Acetonitrile	CAS #75-05-8
Acute criterion: 375 mg/l	Chronic criterion: 30 mg/l
Date criteria derived: December 7, 1993	
Applicable waterbodies: Not used during this period.	

## ENVIRONMENTAL PROTECTION AGENCY

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Chemical: Acrylonitrile	CAS #107-13-4
Acute criterion: 910 ug/l	Chronic criterion: 73 ug/l
Human health criterion (HNC): 0.21 ug/l	
Date criteria derived: November 13, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: Anthracene	CAS #120-12-7
Human health criterion (HTC): 35 mg/l	
Date criteria derived: August 18, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Benzene	CAS #71-43-2
Acute criterion: 4,200 ug/l	Chronic criterion: 330 ug/l
Human health criterion (HNC): 21 ug/l	
Date criteria derived: August 15, 1990; revised January 14, 1999; revised June 25, 2001	
Applicable waterbodies: Not used during this period.	
Chemical: Benzo(a)anthracene	CAS #56-55-3
Human health criterion (HNC): 0.01 ug/l	
Date criteria derived: August 10, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Benzo(a)pyrene	CAS #50-32-8
Human health criterion (HNC): 0.01 ug/l	
Date criteria derived: August 10, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Benzo(b)fluoranthene	CAS # 205-99-2
Human health criterion (HNC): 0.01 ug/l	
Date criteria derived: August 10, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Benzo(k)fluoranthene	CAS #207-08-9
Human health criterion (HNC): 0.01 ug/l	
Date criteria derived: August 10, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Carbon tetrachloride	CAS #56-23-5
Acute criterion: 3,500 ug/l	Chronic criterion: 280 ug/l
Human health criterion (HNC): 1.4 ug/l	
Date criteria derived: June 18, 1993	
Applicable waterbodies: Not used during this period.	

## ENVIRONMENTAL PROTECTION AGENCY

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<p>Chemical: Chlorobenzene                      CAS #108-90-7  Acute criterion: 993 ug/l                      Chronic criterion: 79 ug/l  Date criteria derived: December 11, 1991  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Chloroform                              CAS #67-66-3  Acute criterion: 1,870 ug/l                      Chronic criterion: 150 ug/l  Human health criterion (HNC): 130 ug/l  Date criteria derived: October 26, 1992  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Chrysene                                CAS #218-01-9  Human health criterion (HNC): 0.01 ug/l  Date criteria derived: August 10, 1993  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: 1,2-dichlorobenzene              CAS #95-50-1  Acute criterion: 210 ug/l                      Chronic criterion: 16.8 ug/l  Date criteria derived: December 1, 1993  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: 1,3-dichlorobenzene              CAS #541-73-1  Acute criterion: 500 ug/l                      Chronic criterion: 196 ug/l  Date criteria derived: July 31, 1991  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: 1,2-dichloroethane                CAS #107-06-2  Acute criterion: 24,900 ug/l                      Chronic criterion: 4,540 ug/l  Human health criterion (HNC): 23 ug/l  Date criteria derived: March 19, 1992  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: 1,1-dichloroethylene              CAS #75-35-4  Acute criterion: 3,030 ug/l                      Chronic criterion: 242 ug/l  Human health criterion (HNC): 0.95 ug/l  Date criteria derived: March 20, 1992  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: 2,4-dichlorophenol                CAS #120-83-2  Acute criterion: 631 ug/l                      Chronic criterion: 83.1 ug/l  Date criteria derived: November 14, 1991  Applicable waterbodies: Not used during this period.</p>

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<p>Chemical: 1,2-dichloropropane      CAS #78-87-5  Acute criterion: 4,800 ug/l      Chronic criterion: 380 ug/l  Date criteria derived: December 7, 1993  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: 1,3-dichloropropylene      CAS #542-75-6  Acute criterion: 99 ug/l      Chronic criterion: 7.9 ug/l  Date criteria derived: November 13, 1991  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: 2,4-dimethyl phenol      CAS #105-67-9  Acute criterion: 740 ug/l      Chronic criterion: 220 ug/l  Date criteria derived: October 26, 1992  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: 4,6-dinitro-o-cresol = 2-methyl-4,6-dinitrophenol      CAS #534-52-1  Acute criterion: 28.8 ug/l      Chronic criterion: 2.3 ug/l  Date criteria derived: November 14, 1991  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: 2,4-dinitrophenol      CAS #51-28-5  Acute criterion: 85.3 ug/l      Chronic criterion: 4.07 ug/l  Date criteria derived: December 1, 1993  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: 2,6-dinitrotoluene      CAS #606-20-2  Acute criterion: 1,910 ug/l      Chronic criterion: 153 ug/l  Date criteria derived: February 14, 1992  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Diquat      CAS #85-00-7  Acute criterion: 1,330 ug/l      Chronic criterion: 106 ug/l  Date criteria derived: January 30, 1996  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Ethylbenzene      CAS #100-41-4  Acute criterion: 210 ug/l      Chronic criterion: 17 ug/l  Date criteria derived: August 15, 1990, revised May 17, 1991; revised June 25, 2001  Applicable waterbodies: Not used during this period.</p>

## ENVIRONMENTAL PROTECTION AGENCY

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<p>Chemical: Fluoranthene                      CAS #206-44-0  Human health criterion (HTC): 120 ug/l  Date criteria derived: August 10, 1993  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Formaldehyde                      CAS #50-00-0  Acute criterion: 4.9 mg/l                      Chronic criterion: 0.39 mg/l  Date criteria derived: January 19, 1993  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Hexachlorobenzene                      CAS #118-74-1  Human health criterion (HNC): 0.00025 ug/l  Date criteria derived: November 15, 1991  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Hexachlorobutadiene                      CAS #87-68-3  Acute criterion: 34.5 ug/l                      Chronic criterion: 2.76 ug/l  Date criteria derived: March 23, 1992  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Hexachloroethane                      CAS #67-72-1  Acute criterion: 381 ug/l                      Chronic criterion: 30.5 ug/l  Human health criterion (HNC): 2.9 ug/l  Date criteria derived: November 15, 1991  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Isobutyl alcohol = 2-methyl-1-propanol                      CAS #78-83-1  Acute criterion: 434 mg/l                      Chronic criterion: 34.8 mg/l  Date criteria derived: December 1, 1993  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Methylene chloride                      CAS #75-09-2  Acute criterion: 17,200 ug/l                      Chronic criterion: 1,380 ug/l  Human health criterion (HNC): 340 ug/l  Date criteria derived: January 21, 1992  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Methyleneethylketone                      CAS #78-93-3  Acute criterion: 322,000 ug/l                      Chronic criterion: 26,000 ug/l  Date criteria derived: July 1, 1992  Applicable waterbodies: Not used during this period.</p>

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<p>Chemical: 4-methyl-2-pentanone            CAS #108-10-1  Acute criterion: 46 mg/l                      Chronic criterion: 3.68 mg/l  Date criteria derived: January 13, 1992  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: 2-methyl phenol                    CAS #95-48-7  Acute criterion: 4.7 mg/l                      Chronic criterion: 0.37 mg/l  Date criteria derived: November 8, 1993  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: 4-methyl phenol                    CAS #106-44-5  Acute criterion: 670 ug/l                      Chronic criterion: 120 ug/l  Date criteria derived: January 13, 1992  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Naphthalene                        CAS #91-20-3  Acute criterion: 670 ug/l                      Chronic criterion: 68 ug/l  Date criteria derived: November 7, 1991  Applicable waterbodies: 07130003-001/off Illinois River</p>
<p>Chemical: 4-nitroaniline                    CAS #100-01-6  Acute criterion: 1.5 mg/l                      Chronic criterion: 0.12 mg/l  Date criteria derived: May 5, 1996  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Nitrobenzene                      CAS #98-95-3  Acute criterion: 15.4 mg/l                      Chronic criterion: 4.67 mg/l  Human health criterion (HTC): 0.52 mg/l  Date criteria derived: February 14, 1992  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Pentachlorophenol  Acute criterion: 20 ug/l                      Chronic criterion: 13 ug/l  Date criteria derived: national criterion, September 1986  Applicable waterbodies: 07130003-001/off Illinois River</p>
<p>Chemical: Phenanthrene                      CAS #85-01-8  Acute criterion: 46 ug/l                      Chronic criterion: 3.7 ug/l  Date criteria derived: October 26, 1992  Applicable waterbodies: 07130003-001/off Illinois River</p>

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<p>Chemical: Pyrene CAS #120-00-0  Human health criterion (HTC): 3,500 ug/l  Date criteria derived: December 22, 1992  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Tetrachloroethylene CAS #127-18-4  Acute criterion: 1,220 ug/l Chronic criterion: 152 ug/l  Date criteria derived: March 23, 1992  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Tetrahydrofuran CAS #109-99-9  Acute criterion: 216,000 ug/l Chronic criterion: 17,300 ug/l Date criteria derived:  March 16, 1992  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Toluene CAS #108-88-3  Acute criterion: 2,000 ug/l Chronic criterion: 230 ug/l  Date criteria derived: August 16, 1990, revised May 17, 1991, January 26, 1993, and  January 14, 1999, revised June 25, 2001  Applicable waterbodies: 07130009-1518/off Sugar Creek</p>
<p>Chemical: 1,2,4-trichlorobenzene CAS #120-82-1  Acute criterion: 353 ug/l Chronic criterion: 69.2 ug/l  Date criteria derived: December 14, 1993  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: 1,1,1-trichloroethane CAS #71-55-6  Acute criterion: 4,910 ug/l Chronic criterion: 393 ug/l  Date criteria derived: October 26, 1992  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: 1,1,2-trichloroethane CAS #79-00-5  Acute criterion: 19,000 ug/l Chronic criterion: 3,540 ug/l  Human health criterion (HNC): 12 ug/l  Date criteria derived: December 13, 1993  Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Trichloroethylene CAS #79-01-6  Acute criterion: 11,700 ug/l Chronic criterion: 940 ug/l  Date criteria derived: October 23, 1992  Applicable waterbodies: Not used during this period.</p>

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Chemical: Xylenes	CAS # 1330-20-7
Acute criterion: 920 ug/l	Chronic criterion: 73 ug/l
Date criteria derived: August 23, 1990, revised January 14, 1999, revised June 25, 2001	
Applicable waterbodies: 07130009-1518/off Sugar Creek	

For additional information concerning these criteria or the derivation process used in generating them, please contact:

Bob Mosher  
Illinois Environmental Protection Agency  
Division of Water Pollution Control  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, Illinois 62794-9276  
217/782-3362

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## 2002 ANNUAL SUNSHINE ROT INDEX

## ASSESSMENTS

ST 02-0051-GIL 02/28/2002 To request a hearing after a Notice of Tax Liability has become final, one must submit a written application therefor to the Chief Administrative Law Judge pursuant to the requirements of 86 Ill. Adm. Code 200.175.

## AUTOMOBILE RENTING TAX

ST 02-0030-PLR 12/17/2002 Extensions or renewals of automobile leases that have initial terms of more than one year are not subject to Automobile Renting Occupation and Use Tax liability if the initial lease term is for a period greater than one year. 86 Ill. Adm. Code 180.101.

## BULK SALES

ST 02-0188-GIL 08/30/2002 Successor liability provisions in the Illinois Retailers' Occupation Tax are found at 35 ILCS 120/5j.

## CERTIFICATE OF REGISTRATION

ST 02-0119-GIL 05/28/2002 Retailers are required to obtain certificates of registration from the Department in order to lawfully sell tangible personal property at retail in this State. See 35 ILCS 120/2a.

ST 02-0199-GIL 09/12/2002 The requirement that Form NUC-1, Illinois Business Registration, be signed by an individual who will be responsible for filing returns and payment of taxes due (Question 14) is set out at Section 2a of the Retailers' Occupation Tax Act. See 35 ILCS 120/2a.

ST 02-0256-GIL 12/03/2002 Businesses are required to obtain certificates of registration from the Department in order to lawfully sell tangible personal property at retail in this State. See 35 ILCS 120/2a.

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## CHARITABLE GAMES

- ST 02-0047-GIL 02/26/2002 This letter discusses a request to demonstrate table games to riverboat casino operators. See 230 ILCS 30/1 et seq.
- ST 02-0080-GIL 04/05/2002 This letter discusses the production standards for Pull Tabs under the provisions of the Illinois Pull Tabs and Jar Games Act and regulations promulgated thereunder. See 86 Ill. Adm. Code 432.130.
- ST 02-0086-GIL 04/12/2002 An essential element of a pull tab game is that the winning pull tab be predetermined. See 230 ILCS 20/1.1.
- ST 02-0253-GIL 12/01/2002 The provisions of the Raffles Act, 230 ILCS 15/1, govern the conduct of raffles in Illinois.

## CIGARETTE TAX

- ST 02-0034-GIL 02/06/2002 The cigarette tax is imposed upon any person who exercises the privilege of engaging in business as a retailer of cigarettes in this State, and is at the total rate of 29 mills per cigarette; or 58¢ on a package of 20 cigarettes. See 86 Ill. Adm. Code 440.10.
- ST 02-0202-GIL 09/16/2002 Only a licensed distributor may sell cigarettes to another licensed distributor without charging the tax. See 35 ILCS 130/2.

## CLAIMS FOR CREDIT

- ST 02-0062-GIL 03/07/2002 Only persons who have actually paid taxes to the Department can file claims for credit. See 86 Ill. Adm. Code 130.1501.
- ST 02-0129-GIL 06/12/2002 If a taxpayer pays an amount of tax under the Retailers' Occupation Tax that is not due, either as a result of a mistake of fact or an error of law, the taxpayer may file a claim for credit with the Department.

## COMPUTER SOFTWARE

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- ST 02-0001-PLR 01/14/2002 Transactions for the licensing of computer software that meet all of the criteria provided in 86 Ill. Adm. Code 130.1935(a)(1) will not be subject to Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.1935.
- ST 02-0007-PLR 04/09/2002 If transactions for the licensing of computer software meet all of the criteria provided in Section 130.1935(a)(1), neither the transfer of the software nor the subsequent software updates will be subject to Retailers' Occupation Tax.
- ST 02-0009-GIL 01/14/2002 Licenses of computer software that meet the requirements set out in 86 Ill. Adm. Code 130.1935(a)1(A-E) constitute nontaxable licenses of software.
- ST 02-0014-PLR 06/20/2002 Transactions for the licensing of computer software may not be subject to ROT if the transaction agreements contain all the criteria set out in 86 Ill. Adm. code 130.1935(a)(1).
- ST 02-0027-PLR 11/12/2002 If transactions for the licensing of computer software meet all of the criteria provided in Section 130.1935(a)(1), neither the transfer of the software nor subsequent updates of that software will be subject to Retailers' Occupation Tax.
- ST 02-0064-GIL 03/28/2002 Sales of "canned" computer software are taxable retail sales in Illinois regardless of the means of delivery of the software. See 86 Ill. Adm. Code 130. 1935.
- ST 02-0094-GIL 04/25/2002 Generally, sales of "canned" computer software are taxable retail sales in Illinois. However, if the computer software consists of custom computer programs, then the sales of such software may not be taxable retail sales. See 86 Ill. Adm. Code 130.1935.
- ST 02-0105-GIL 05/03/2002 Sales of "canned" computer software are taxable retail sales in Illinois regardless of the means of the delivery of that software. See 86 Ill. Adm. Code 130.1935.

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- ST 02-0152-GIL 07/12/2002 Transactions for the licensing of computer software may not be subject to ROT if the transaction agreements contain all the criteria set out in 86 Ill. Adm. code 130.1935(a)(1).
- ST 02-0157-GIL 07/18/2002 If transactions for the licensing of computer software meet all of the criteria provided in Section 130.1935(a)(1), neither the transfer of the software or the subsequent software updates will be subject to Retailers' Occupation Tax.
- ST 02-0172-GIL 08/06/2002 If transactions for the licensing of computer software meet all of the criteria provided in Section 130.1935(a)(1), neither the transfer of the software or the subsequent software updates will be subject to Retailers' Occupation Tax.
- ST 02-0189-GIL 09/04/2002 Acceptance of a computer software license agreement by the customer clicking "accept" while online does not generally constitute a written agreement signed by the licensor and the customer for purposes of subsection (a)(1)(A) of Section 130.1935. See 86 Ill. Adm. Code 130.1935.
- ST 02-0225-GIL 10/22/2002 If transactions for the licensing of computer software meet all of the criteria provided in Section 130.1935(a)(1), neither the transfer of the software or the subsequent software updates will be subject to Retailers' Occupation Tax.
- ST 02-0226-GIL 10/23/2002 Sales of "canned" computer software are considered taxable retail sales in Illinois regardless of the manner of the transfer of that software. See 86 Ill. Adm. Code 130.1935.
- ST 02-0262-GIL 12/10/2002 Sales of canned software are taxable regardless of the means of delivery. See 86 Ill. Adm. Code 130.1935.

## CONSTRUCTION CONTRACTORS

- ST 02-0017-GIL 01/22/2002 In Illinois, construction contractors are deemed to be the end users of tangible personal property they purchase for incorporation into real property. As such, contractors incur Use Tax liability for such

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purchases based upon the cost price of the tangible personal property. See 86 Ill. Adm. Code 130.1940 and 130.2075.

- ST 02-0138-GIL 06/25/2002 In Illinois, construction contractors are deemed end users of tangible personal property purchased for incorporation into real property. As end users of such tangible personal property, contractors incur Use Tax liability for such purchases based upon the cost price of the tangible personal property. 86 Ill. Adm. Code 130.1940 and 130.2075.
- ST 02-0159-GIL 07/19/2002 Construction contractors incur Retailers' Occupation Tax liability when they engage in selling any kind of tangible personal property (over-the-counter sales) to purchasers without permanently affixing the tangible personal property to real estate. See 86 Ill. Adm. Code 130.1940.
- ST 02-0162-GIL 07/19/2002 Persons who permanently affix tangible personal property to real estate act as construction contractors and incur Use Tax liability on their cost price of tangible personal property they physically incorporate into realty. See 86 Ill. Adm. Code 130.1940.
- ST 02-0184-GIL 08/16/2002 Construction contractors who physically incorporate tangible personal property into real estate owned by exempt organizations that hold tax exempt "E" numbers can purchase such property tax-free by providing their suppliers with the certification described in 86 Ill. Adm. Code 130.2075(d), as well as the "E" number of the group into whose real estate that property will be incorporated.
- ST 02-0251-GIL 11/18/2002 Under Illinois law, a person who takes tangible personal property off the market by converting it into real estate is deemed to be a construction contractor and is the legal end-user of the tangible personal property. The construction contractor, as the user, incurs Illinois Use Tax and local Retailers' Occupation Tax reimbursement liabilities when the tangible personal property that will be converted into real estate is purchased from registered Illinois suppliers. See 86 Ill. Adm. Code 130.1940.
- ST 02-0261-GIL 12/06/2002 Construction contractors incur a Use Tax liability on the cost price of items such as trees and shrubs that they plant in the ground for their customers. See 86 Ill. Adm. Code 130.1965(c)(2).

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- ST 02-0264-GIL 12/11/2002 Construction contractors that make improvements to real estate by taking materials off the market and permanently affixing them to real estate owe Use Tax on the cost price of those materials. See 86 Ill. Adm. Code 130.2075.
- ST 02-0265-GIL 12/12/2002 In Illinois, construction contractors are deemed end users of tangible personal property purchased for incorporation into real property. As end users of such tangible personal property, contractors incur Use Tax liability for such purchases based upon the cost price of the tangible personal property. See 86 Ill. Adm. Code 130.1940.

## DELIVERY CHARGES

- ST 02-0069-GIL 03/28/2002 As a technical proposition, handling charges represent a retailer's cost of doing business, and are consequently always included in gross charges subject to tax. See, 86 Ill. Adm. Code 130.410.
- ST 02-0092-GIL 04/25/2002 As a technical proposition, handling charges represent a retailer's cost of doing business, and are consequently always included in gross charges subject to tax. See, 86 Ill. Adm. Code 130.410.
- ST 02-0112-GIL 05/15/2002 Charges for shipping are gross receipts subject to ROT when they are part of the selling price of the tangible personal property being sold. See, 86 Ill. Adm. Code 130.415.
- ST 02-0144-GIL 06/28/2002 Charges for shipping are gross receipts subject to ROT when they are part of the selling price of the tangible personal property being sold. See, 86 Ill. Adm. Code 130.415.
- ST 02-0214-GIL 09/25/2002 Charges for shipping are gross receipts subject to Retailers' Occupation Tax when they are part of the selling price of the tangible personal property being sold. See 86 Ill. Adm. Code 130.415.
- ST 02-0224-GIL 10/22/2002 Charges for freight are gross receipts subject to ROT when they are part of the selling price of the tangible personal property being sold. See, 86 Ill. Adm. Code 130.415.

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ST 02-0232-GIL 10/24/2002 Transportation and delivery charges are not taxable if it can be shown that the charges are separately contracted for and the charges are actually reflective of the costs of shipping. To the extent the transportation and delivery charges exceed the costs of shipping, the charges will be subject to tax. See 86 Ill. Adm. Code 130.415.

ST 02-0272-GIL 12/27/2002 Transportation and delivery charges are not taxable if it can be shown that the charges are agreed to separately from the selling price of the tangible personal property sold, and the charges are actually reflective of the costs of shipping. To the extent the transportation and delivery charges exceed the costs of shipping, the charges will be subject to tax. See 86 Ill. Adm. Code 130.415.

## DRUGS

ST 02-0100-GIL 04/02/2002 Medicines administered to animals do not qualify for the low rate of tax applicable to medicines and drugs. See 86 Ill. Adm. Code 130.310.

## ELECTRICITY EXCISE TAX

ST 02-0021-PLR 08/05/2002 "Use" does not include the exercise of right or power over electricity for the generation, production, transmission, distribution, delivery or sale of electricity in the regular course of business or the use of electricity for such purposes. See 35 ILCS 640/2-3.

ST 02-0043-GIL 02/25/2002 Entities that qualify under Public Act 92-310 are no longer required to file Form RPU-13 and remit Electricity Excise Tax to the Illinois Department of Revenue. These entities satisfy their Electricity Excise Tax liability by paying the tax directly to their suppliers. See Public Act 92-310.

ST 02-0107-GIL 05/09/2002 Public Act 92-0310, effective August 9, 2001, amended the definition of "delivering supplier" in Section 2-3 of the Electricity Excise Tax Law to exclude BOMAs. Therefore, BOMAs are required to pay the appropriate amount of tax to their suppliers and are not required to file

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returns or remit tax directly to the Department after that date. See 86 Ill. Adm. Code 511.100.

## ENTERPRISE ZONES

- ST 02-0012-PLR 06/10/2002 If a retailer is located in a jurisdiction that has an enterprise zone ordinance restricting the scope of the enterprise zone exemption, then such ordinance restrictions will apply to and control the taxability of all sales of building materials made in that jurisdiction. See 86 Ill. Adm. Code 130.1951(a) and (c).
- ST 02-0071-GIL 03/29/2002 Effective January 1, 2002, a retailer is no longer required to be located in the municipality or county that created the enterprise zone into which the building materials are to be incorporated in order to take the enterprise zone deduction. 35 ILCS 120/5k.
- ST 02-0079-GIL 04/04/2002 This letter discusses the changes to the enterprise zone building materials exemption as a result of Public Act 91-0954. See 35 ILCS 120/5k.
- ST 02-0203-GIL 09/17/2002 This letter discusses the new provisions of P. A. 92-0779 with regard to sales of building materials for incorporation into real estate located in Illinois enterprise zones. See 35 ILCS 120/5k.
- ST 02-0231-GIL 10/24/2002 Window blinds that are physically installed into real estate can qualify for the enterprise zone building materials exemption from sales tax. See 86 Ill. Adm. Code 130.1951.

## EXEMPT ORGANIZATIONS

- ST 02-0009-PLR 05/20/2002 Hospitals that are exclusively charitable and have been issued exemption numbers by the Department do not incur sales tax liability on sales of food made from a cafeteria operated for the benefit of its employees that is not open to the public. See 86 Ill. Adm. Code 130.2005.

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- ST 02-0011-GIL 01/16/2002 The United States State Department, Office of Foreign Missions, issues tax exemption identification cards to certain accredited diplomatic personnel and consular offices under the authority of the Foreign Missions Act (22 U.S.C. 4301 et seq.). These cards can be presented at point of sale to document exemption from sales tax. See 86 Ill. Adm. Code 130.2080(c) and 130.Illustration A.
- ST 02-0012-GIL 01/16/2002 The United States State Department, Office of Foreign Missions, issues tax exemption identification cards to certain accredited diplomatic personnel and consular offices under the authority of the Foreign Missions Act (22 U.S.C. 4301 et seq.). These cards can be presented at point of sale to document exemption from sales tax. See 86 Ill. Adm. Code 130.2080(c) and 130.Illustration A.
- ST 02-0013-GIL 01/17/2002 Organizations that are exclusively religious, educational, or charitable can make application to the Department for exemption identification numbers required to make tax-free purchases of tangible personal property for use or consumption. 86 Ill. Adm. Code 130.2007.
- ST 02-0023-GIL 01/24/2002 Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, or charitable, receive exemption identification numbers (an "E" number). See 86 Ill. Adm. Code 130.2007.
- ST 02-0023-PLR 08/13/2002 A school does not incur Retailers' Occupation Tax liability on its operation of a cafeteria or other dining facility which is conducted on the school's premises, and which confines its selling to the students and employees of the school. See 86 Ill. Adm. Code 130.2005(b)(4).
- ST 02-0087-GIL 04/12/2002 While the sale of tangible personal property at retail by exclusively religious, educational or charitable organizations or governmental entities is generally subject to Retailer's Occupation Tax, there are three limited exceptions. See 86 Ill. Adm. Code 130.2005(a)(2-4).
- ST 02-0098-GIL 04/30/2002 Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, or charitable, receive an exemption identification number (an "E" number). See the enclosed copy of 86 Ill. Adm. Code 130.2007.

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- ST 02-0113-GIL 05/17/2002 The Department rule on exempt organizations, 86 Ill. Adm. Code 130.2005(a)(4)(B), limits the exempt occasional dinners, rummage sales or similar fundraisers that can be held by exclusively religious, educational or charitable organizations to not more than two in any calendar year.
- ST 02-0195-GIL 09/09/2002 Organizations that have E numbers are also allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. These limited amounts of selling are described at 86 Ill. Adm. Code 130.2005(a)(2) through (a)(4).
- ST 02-0196-GIL 09/09/2002 Organizations that qualify as exclusively religious, charitable, or educational can apply to the Illinois Department of Revenue to obtain tax exemption identification (an "E" number) numbers. See 86 Ill. Adm. Code 130.2007.
- ST 02-0221-GIL 10/11/2002 Only sales to exempt organizations holding an E-number are exempt from sales tax, not sales to individual members of the organization. See 86 Ill. Adm. Code 130.2005.
- ST 02-0243-GIL 10/31/2002 While the sale of tangible personal property at retail by exclusively religious, educational or charitable organizations is generally subject to Retailer's Occupation Tax, there are three limited exceptions. See 86 Ill. Adm. Code 130.2005(a)(2-4).
- ST 02-0244-GIL 10/31/2002 Although federally chartered credit unions do not qualify as exempt organizations under Illinois law, they do not incur Use Tax liability when making purchases of tangible personal property for use or consumption because of a federal statute See 12 USC 1768 and 86 Ill. Adm. Code 130.2085.

## FARM MACHINERY &amp; EQUIPMENT

- ST 02-0044-GIL 02/25/2002 The Retailers' Occupation Tax does not apply to farm machinery and equipment that is used or leased for use primarily (over 50% of the time) in production agriculture or for use in State or federal agricultural programs. See 86 Ill. Adm. Code 130.305

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ST 02-0215-GIL 09/27/2002 In order for a transaction to qualify for exemption on the basis of the Farm machinery & Equipment exemption, a certification must be obtained containing the information set out at 86 Ill. Adm. Code 130.305(m).

## FOOD

ST 02-0008-PLR 05/17/2002 For purposes of the Illinois Retailers' Occupation Tax Act, food is "any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed, including food such as condiments, spices, seasonings, vitamins, bottled water and ice." See 86 Ill. Adm. Code 130.310(b)(1).

ST 02-0057-GIL 03/05/2002 A 1% sales tax rate, plus applicable local taxes, is applied to food sold for human consumption to be consumed off the premises where sold, drugs, medicines and medical appliances. See 86 Ill. Adm. Code 130.310.

ST 02-0101-GIL 05/01/2002 Soft drinks do not qualify for the low rate of tax that is applicable to certain food items. See 86 Ill. Adm. Code 130.310.

ST 02-0102-GIL 05/01/2002 Soft drinks do not qualify for the low rate of tax that is afforded certain food items. See 86 Ill. Adm. Code 130.310.

ST 02-0121-GIL 06/04/2002 86 Ill. Adm. Code 130.310(b) provides that food is "any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed, including food such as condiments, spices, seasonings, vitamins, bottled water and ice." See 86 Ill. Adm. Code 130.310(b)(1).

ST 02-0148-GIL 07/01/2002 Soft drinks do not qualify for the low rate of tax that is applicable to certain food items. See 86 Ill. Adm. Code 130.310.

ST 02-0161-GIL 07/19/2002 Soft drinks do not qualify for the low rate of tax that is applicable to certain food items. See 86 Ill. Adm. Code 130.310.

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- ST 02-0187-GIL 08/30/2002 Food is defined as any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed, including foods such as condiments, spices, seasonings, vitamins, bottled water and ice. See 86 Ill. Adm. Code 130.310.
- ST 02-0212-GIL 09/25/2002 For purposes of the Illinois Retailers' Occupation Tax Act, food is "any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed, including food such as condiments, spices, seasonings, vitamins, bottled water and ice." See 86 Ill. Adm. Code 130.310(b)(1).
- ST 02-0227-GIL 10/23/2002 With respect to food for human consumption which is to be consumed off the premises where it is sold, Retailers' Occupation Tax is imposed at the rate of 1%. See 86 Ill. Adm. Code 130.310.
- ST 02-0228-GIL 10/23/2002 Soft drinks do not include coffee, tea, non-carbonated water, various milk products, drinks containing 50% or more natural fruit or vegetable juice, powdered drink mixes or concentrated and reconstituted fruit juices. See 86 Ill. Adm. Code 130.310 (b)(5).
- ST 02-0229-GIL 10/24/2002 For purposes of the Illinois Retailers' Occupation Tax Act, food is "any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed, including food such as condiments, spices, seasonings, vitamins, bottled water and ice." See 86 Ill. Adm. Code 130.310(b)(1).
- ST 02-0236-GIL 10/25/2002 Food is defined as any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed, including foods such as condiments, spices, seasonings, vitamins, bottled water and ice. See 86 Ill. Adm. Code 130.310(b)(1).
- ST 02-0241-GIL 10/31/2002 If food is sold in automatic vending machines where an occupation tax is paid on such sales, the machines may be purchased tax free. See 86 Ill. Adm. Code 130.332.
- ST 02-0242-GIL 10/31/2002 For purposes of the Illinois Retailers' Occupation Tax Act, food is "any solid, liquid, powder or item intended by the seller primarily

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for human internal consumption, whether simple, compound or mixed, including food such as condiments, spices, seasonings, vitamins, bottled water and ice.” See 86 Ill. Adm. Code 130.310(b)(1).

- ST 02-0259-GIL 12/06/2002 This letter discusses the criteria used to determine the proper rate of taxation of food. See 86 Ill. Adm. Code 130.310.
- ST 02-0271-GIL 12/26/2002 For purposes of the Illinois Retailers' Occupation Tax Act, food is “any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed, including food such as condiments, spices, seasonings, vitamins, bottled water and ice.” See 86 Ill. Adm. Code 130.310(b)(1).

## FOOD, DRUGS &amp; MEDICAL APPLIANCES

- ST 02-0016-GIL 01/22/2002 A dietary supplement could be classified as a food taxed at the low rate of tax if it is not sold for immediate consumption. See 86 Ill. Adm. Code 130.310
- ST 02-0066-GIL 03/28/2002 Dietary supplements could be classified as food or they could be classified as drugs if the products purport on the label to have medicinal qualities. See 86 Ill. Adm. Code 130.310.
- ST 02-0108-GIL 05/09/2002 Incontinence pads for adults qualify for the low 1% State rate of tax. See 86 Ill. Adm. Code 130.310(c)(3).
- ST 02-0126-GIL 06/06/2002 A dietary supplement could be classified as a food taxed at the low rate of tax if it is not sold for immediate consumption. See Ill. Adm. Code 130.310
- ST 02-0252-GIL 11/20/2002 Medicines and medical appliances are not taxed at the normal state rate of 6.25%. These items are taxed at a lower State rate of 1%. See 86 Ill. Adm. Code 130.310.

## GOVERNMENTAL BODIES

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- ST 02-0065-GIL 03/28/2002 Generally, a government contractor who purchases items to fulfill his obligations under a contract with a governmental unit purchases those items for use. See, U.S. v. New Mexico, 455 U.S. 720, 102 S. Ct. 1373 (1982). However, if the contract with the governmental unit explicitly requires the contractor to sell those items to the governmental unit, the purchase of those items by the contractor can be structured as purchases for the purpose of resale to the governmental unit. See 86 Ill. Adm. Code 130.2076.
- ST 02-0125-GIL 06/06/2002 This letter discusses proper documentation of a tax-exempt sale to the U.S. Government. See 86 Ill. Adm. Code 130.2080.
- ST 02-0200-GIL 09/12/2002 This letter discusses the sale of commissary items in correctional institutions by an independent vendor. See 86 Ill. Adm. Code 130.2055.
- GRAPHIC ARTS
- ST 02-0045-GIL 02/26/2002 Equipment that may be sold tax-exempt 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 graphics arts product. See 35 ILCS 120/2-5(4).
- ST 02-0067-GIL 03/28/2002 Under the graphic arts machinery and equipment exemption, Retailers' Occupation Tax does not apply to sales of machinery and equipment, including repair and replacement parts, both new and used and including that manufactured on special order to be used primarily in graphic arts production. See 86 Ill. Adm. Code 130.325.
- ST 02-0088-GIL 04/24/2002 The Department's regulation at Section 130.325(b)(1)(D) provides that "[t]he graphic arts machinery and equipment exemption includes printing by methods of engraving, letterpress, lithography, gravure, flexography, screen, quick, and digital printing".
- ST 02-0124-GIL 06/06/2002 The Department's regulation at Section 130.325(b)(1)(D) provides that the graphic arts machinery and equipment exemption includes printing by methods including digital printing.

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ST 02-0140-GIL 06/26/2002 The Department's regulation at Section 130.325(b)(1)(D) provides that "[t]he graphic arts machinery and equipment exemption includes printing by methods of engraving, letterpress, lithography, gravure, flexography, screen, quick, and digital printing."

## GROSS RECEIPTS

ST 02-0036-GIL 02/07/2002 Discount coupons and gift certificates do not constitute a sale under the Retailers' Occupation Tax Act because no tangible personal property exchanges hands. In essence, a gift certificate or card is deemed an intangible and Use Tax is charged on the retailers purchase price of the item received upon tender of the certificate. 86 Ill. Adm. Code 130.2125(c).

ST 02-0041-GIL 02/25/2002 Sales of gift certificates and money orders represent the sale of intangibles, which are not subject to tax under the Retailers' Occupation Tax Act. Any fees charged incident to the sale of gift certificates and money orders are also not subject to tax under the Retailers' Occupation Tax Act as there has been no sale of tangible personal property. See 86 Ill. Adm. Code 130.120(a).

ST 02-0072-GIL 04/01/2002 Where retailers send merchandise to party hostesses who then distribute the merchandise to purchasers, shipping and handling charges are considered part of the retailer's costs of doing business and are subject to tax. See 86 Ill. Adm. Code 130.410.

ST 02-0091-GIL 04/25/2002 In computing Retailers' Occupation Tax liability, no deductions shall be taken by a taxpayer from gross receipts on account of the cost of the property sold, or any other cost of doing business. See 86 Ill. Adm. Code 130.410.

ST 02-0128-GIL 06/12/2002 A manufacturer's rebate that is applied to the purchase price of an automobile is generally part of the gross receipts subject to Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.101.

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- ST 02-0155-GIL 07/16/2002 Charges for the wait time associated with making a delivery of ready-mix must be included in the sales tax base for the sale. See 86 Ill. Adm. Code 130.410.
- ST 02-0175-GIL 08/07/2002 If a seller and buyer agree upon the installation charges separately from the selling price of the tangible personal property which is sold, then the receipts from the installation charges are not a part of the "selling price" of the tangible personal property which is sold. Instead such charges constitute a service charge, separately contracted for, which need not be included in the figure upon which the seller computes his Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.450.
- ST 02-0205-GIL 09/17/2002 When a retailer allows a purchaser a discount from the selling price on the basis of a discount coupon for which the retailer receives no reimbursement from any source, the amount of such discount is not subject to tax. See 86 Ill. Adm. Code 130.2135.
- ST 02-0213-GIL 09/25/2002 The Illinois Retailers' Occupation Tax (sales tax) is imposed upon the total gross receipts that are received by a retailer who makes a retail sale to an Illinois end user. See 86 Ill. Adm. Code 130.101.
- ST 02-0263-GIL 12/10/2002 Illinois Retailers' Occupation Tax is imposed upon gross receipts from the sale of tangible personal property to end-users and no deductions shall be taken by a taxpayer from gross receipts on account of the cost of the property sold, the cost of materials used, labor costs, or any other expense whatsoever. See 86 Ill. Adm. Code 130.410.

## HOTEL OPERATORS' TAX

- ST 02-0038-GIL 02/20/2002 The Hotel Operators' Occupation Tax Act imposes a tax upon persons engaged in the business of renting, leasing or letting rooms in a hotel. See 86 Ill. Adm. Code 480.101.
- ST 02-0042-GIL 02/25/2002 Receipts which are not in any way reasonably connected with or attributable to the renting, leasing or letting of rooms for use as living quarters or for sleeping or housekeeping accommodations are not subject to the Hotel Operators' Occupation Tax. See 86 Ill. Adm. Code 480.101(b)(6).

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ST 02-0173-GIL 08/06/2002 The Hotel Operators' Occupation Tax Act imposes a tax upon persons engaged in the business of renting, leasing or letting rooms in a hotel in Illinois. See 86 Ill. Adm. Code 480.101.

## INTERSTATE COMMERCE

ST 02-0048-GIL 02/26/2002 Under 86 Ill. Adm. Code 140.501(a), where tangible personal property is located in this State at the time of its transfer (or is subsequently produced in Illinois) as an incident to a sale of service, and is then delivered in Illinois, registered servicemen may not claim the Interstate Commerce exemption from Service Occupation Tax.

ST 02-0081-GIL 04/08/2002 For the interstate commerce exemption to apply, delivery of the goods outside of Illinois must actually be made. Sales are subject to sales tax and are not deemed to be in interstate commerce if the purchaser or his representative receives the physical possession of the property in Illinois, even if such property is immediately transported outside of Illinois. See 86 Ill. Adm. Code 130.605(a)(1) and (2).

## LEASING

ST 02-0006-PLR 03/21/2002 This letter determines that the synthetic lease described in the letter is a conditional sale for Illinois sales tax purposes. See 86 Ill. Adm. Code 2010(a).

ST 02-0032-GIL 02/05/2002 Lessors are subject to a Use Tax on their cost price of tangible personal property which they use by leasing in Illinois. See 86 Ill. Adm. Code 130.2010.

ST 02-0052-GIL 02/28/2002 Under Illinois law, "true leases" and "leases" that are actually conditional sales contracts are treated differently for Retailers' Occupation and Use Tax purposes. See 86 Ill. Adm. Code 130.2010.

ST 02-0106-GIL 05/03/2002 Lessors of automobiles for initial lease periods in excess of one year are subject to Use Tax liability on the purchase price of those

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automobiles even if the lease agreements provide for renewal options of less than those initial lease periods. See 86 Ill. Adm. Code 130.2010.

- ST 02-0114-GIL 05/17/2002 86 Ill. Adm. Code Section 130.2013 sets out the factors to be considered in determining whether a credit is available for the sale of an item of tangible personal property after it was leased by a person who is in the business of both selling and renting such property.
- ST 02-0139-GIL 06/25/2002 Under Illinois law, lessors under true lease agreements are deemed the users of items they purchase for rental purposes. Accordingly, lessors incur a Use Tax liability on such purchases. See 86 Ill. Adm. Code 130.2010.
- ST 02-0143-GIL 06/28/2002 86 Ill. Adm. Code Section 130.2010(a) sets out the factors to be considered in determining whether a transaction is a lease or a conditional sales contract for purposes of the Retailers' Occupation Tax Act.
- ST 02-0146-GIL 06/28/2002 The State of Illinois taxes leases differently for Retailers' Occupation Tax and Use Tax purposes than the majority of other states. See 86 Ill. Adm. Code 130.220.
- ST 02-0151-GIL 07/08/2002 Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased. See 86 Ill. Adm. Code 130.220.
- ST 02-0153-GIL 07/12/2002 86 Ill. Adm. Code Section 130.2010(a), sets out the factors to be considered in determining whether a transaction is a lease or a conditional sales contract for purposes of the Retailers' Occupation Tax Act.
- ST 02-0166-GIL 07/26/2002 Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased. As end users of tangible personal property located in Illinois, lessors owe Use Tax on their cost price of such property. See 86 Ill. Adm. Code 130.220.
- ST 02-0177-GIL 08/09/2002 Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased and owe Use Tax on their cost price of such property. See 86 Ill. Adm. Code 130.220.

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ST 02-0185-GIL 08/19/2002 86 Ill. Adm. Code Section 130.2010(a), sets out the factors to be considered in determining whether a transaction is a lease or a conditional sales contract for purposes of the Retailers' Occupation Tax Act.

ST 02-0207-GIL 09/18/2002 Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased. As end users of tangible personal property located in Illinois, lessors owe Use Tax on their cost price of such property. See 86 Ill. Adm. Code 130.220.

ST 02-0211-GIL 09/24/2002 Lease agreements that contain purchase options that are equal to the fair market value of the tangible personal property at the end of the lease term are considered true leases, and the lessors incur Use Tax liability on their cost price of tangible personal property purchased for rental purposes. See 86 Ill. Adm. Code 130.2010.

## LIQUOR TAX

ST 02-0040-GIL 02/25/2002 Under Article VII-A of the Liquor Control Act of 1934 (235 ILCS 5/1-1 et seq.), every warehousemen in Illinois who stores any alcoholic liquors for compensation shall make application to the Department for a Certificate of Registration for each location where alcoholic liquors are stored. See 86 Ill. Adm. Code 420.120.

## LOCAL TAXES

ST 02-0002-PLR 01/15/2002 The most important factor in determining jurisdiction for the local Retailers' Occupation Taxes is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 270.115.

ST 02-0003-GIL 01/02/2002 For the purpose of determining the local governmental unit whose tax is applicable, a retail sale, by a producer of coal or other mineral mined in Illinois, is a sale at retail at the place where the coal or

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other mineral mined in Illinois is extracted from the earth. 86 Ill Adm. Code 270.115(g)(1).

- ST 02-0010-PLR 05/21/2002 In general, the imposition of the various local occupation taxes in Illinois are triggered when "selling" occurs in a jurisdiction imposing a tax. The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 270.115.
- ST 02-0011-PLR 06/03/2002 The imposition of the various local sales taxes in Illinois are triggered when "selling" occurs in a jurisdiction imposing a tax. The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order or other contracting action in the making of the sales contract. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. 86 Ill. Adm. Code 270.115.
- ST 02-0013-PLR 06/20/2002 Taxpayers incur no locally imposed occupation tax on the sale of the tangible personal property when the purchase order is accepted outside of this State and the order is filled from an inventory located out-of-State. See for example 86 Ill. Adm. Code 270.115 regarding the Home Rule Municipal Retailers' Occupation Tax.
- ST 02-0015-PLR 07/05/2002 The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 270.115.
- ST 02-0016-PLR 07/08/2002 The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 270.115.
- ST 02-0018-PLR 07/31/2002 The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 270.115.

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- ST 02-0019-PLR 08/01/2002 The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 270.115.
- ST 02-0022-PLR 08/05/2002 The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 270.115.
- ST 02-0025-PLR 09/06/2002 The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order or other contracting action in the making of the sales contract. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. 86 Ill. Adm. Code 270.115.
- ST 02-0029-PLR 11/22/2002 This letter describes a situation in which the Department refuses to sanction a taxpayer's arrangement for fixing the location of certain purchases for local tax purposes.
- ST 02-0031-PLR 12/19/2002 The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 270.115.
- ST 02-0076-GIL 04/01/2002 For purposes of determining jurisdiction for local Retailers' Occupation Tax, the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 270.115.
- ST 02-0109-GIL 05/13/2002 In general, the imposition of the various sales tax related local taxes in Illinois are triggered when "selling" occurs in a jurisdiction imposing a tax. The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 270.115.

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- ST 02-0116-GIL 05/20/2002 In general, the imposition of the various local Retailers' Occupation Tax in Illinois are triggered when "selling" occurs in a jurisdiction imposing a tax. The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 270.115.
- ST 02-0147-GIL 06/28/2002 The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 270.115.
- ST 02-0150-GIL 07/08/2002 The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. 86 Ill. Adm. Code 270.115.
- ST 02-0156-GIL 07/16/2002 The regulation governing jurisdictional questions under the Home Rule Municipal Retailers' Occupation Tax does not apply to titled and registered tangible personal property. 86 Ill. Adm. Code 270.115.
- ST 02-0167-GIL 07/26/2002 In general, the imposition of the various sales tax related local taxes in Illinois are triggered when "selling" occurs in a jurisdiction imposing a tax. The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 270.115.
- ST 02-0194-GIL 09/06/2002 Retailers subject to Special County Retailers' Occupation Tax For Public Safety are authorized to pass on the cost of that tax to their customers. See 86 Ill. Adm. Code 670.101.
- ST 02-0216-GIL 09/30/2002 Local taxes are triggered when "selling" occurs in a jurisdiction imposing a tax. The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. Please see 86 Ill. Adm. Code 270.115.

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- ST 02-0233-GIL 10/25/2002 If purchase orders are accepted in a jurisdiction that imposes a local tax, that local tax will be incurred. See 86 Ill. Adm. Code 270.115(b).
- ST 02-0238-GIL 10/31/2002 It is the Department's opinion that the provisions of 65 ILCS 5/7-4-2 do not apply to distribution of State and local sales tax revenue to local jurisdictions.
- ST 02-0273-GIL 12/27/2002 The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 270.115.

## MANUFACTURER'S PURCHASE CREDIT

- ST 02-0003-PLR 01/25/2002 Purchasers of manufacturing machinery and equipment that qualifies for the manufacturing machinery and equipment exemption earn a credit in an amount equal to a fixed percentage of the tax which would have been incurred under the Use Tax or Service Use Tax. See 35 ILCS 105/3-85, 35 ILCS 110/3-70. This PLR rescinds letter ruling ST 01-0006-PLR.
- ST 02-0004-PLR 03/01/2002 Manufacturers and graphic arts producers do not earn Manufacturer's Purchase Credit (MPC) on purchases of manufacturing machinery and equipment or graphic arts machinery and equipment in transactions that are isolated or occasional sales by the seller. See 86 Ill. Adm. Code 130.331(a)(5).
- ST 02-0021-GIL 01/22/2002 Fuel used in a ready-mix cement truck to rotate the mixing drum will qualify as production related tangible personal property for purposes of using manufacturer's purchase credit. The amount of fuel used or consumed in transportation of the truck will not qualify as production related tangible personal property. The amount of fuel used in a qualifying manner to rotate the drum may be stated as a percentage of the entire amount of fuel used or consumed by the ready-mix truck. See 86 Ill. Adm. Code 130.331(b)(4)(E).

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- ST 02-0103-GIL 05/01/2002 Retailers are not responsible for determining whether the manufacturer's or graphic arts producer's MPC that is listed on an MPC certificate has expired or not. See 86 Ill. Adm. Code 130.331.
- ST 02-0104-GIL 05/01/2002 This letter describes why a prior Private Letter Ruling was rescinded regarding the amount of MPC earned on the purchase of special order molds and dies. See 86 Ill. Adm. Code 130.331.
- ST 02-0190-GIL 09/04/2002 Digital cameras do not qualify as production related tangible personal property for purposes of using Manufacturer's Purchase Credit. See 86 Ill. Adm. Code 130.331.

## MANUFACTURING MACHINERY &amp; EQUIPMENT

- ST 02-0017-PLR 07/12/2002 Exempt manufacturing equipment can include independent devices or tools separate from any machinery but essential to an integrated manufacturing or assembling process. See 86 Ill. Adm. Code 130.330(c)(3).
- ST 02-0018-GIL 01/22/2002 Exempt manufacturing equipment can include chemicals that effect a direct and immediate change upon a product being manufactured for sale or lease. See 86 Ill. Adm. Code 130.330(c)(6).
- ST 02-0020-GIL 01/22/2001 Exempt manufacturing equipment can include chemicals that effect a direct and immediate change upon a product being manufactured for sale or lease. See 86 Ill. Adm. Code 130.330(c)(6).
- ST 02-0025-GIL 01/25/2002 Exempt manufacturing equipment can include independent devices or tools separate from any machinery but essential to an integrated manufacturing or assembling process. See 86 Ill. Adm. Code 130.330(c)(3).
- ST 02-0029-GIL 01/21/2002 Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330.

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- ST 02-0053-GIL 02/28/2002 Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330.
- ST 02-0078-GIL 04/03/2002 Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330.
- ST 02-0089-GIL 04/24/2002 Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330.
- ST 02-0149-GIL 07/05/2002 Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330.
- ST 02-0154-GIL 07/15/2002 This letter discusses why the purchase of asphalt and concrete production machines by construction contractors who will transfer the product into roadways does not qualify because the contractors are using product themselves and not selling it.
- ST 02-0160-GIL 07/19/2002 Exempt manufacturing equipment can include independent devices or tools separate from any machinery but essential to an integrated manufacturing or assembling process. See 86 Ill. Adm. Code 130.330(c)(3).
- ST 02-0180-GIL 08/13/2002 Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330.

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- ST 02-0186-GIL 08/26/2002 Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330.
- ST 02-0209-GIL 09/23/2002 Exempt manufacturing equipment can include chemicals that meet the conditions set out in 86 Ill. Adm. Code 130.330(c)(6).
- ST 02-0223-GIL 10/22/2002 Exempt manufacturing equipment can include chemicals if they effect a direct and immediate change upon a product being manufactured pursuant to 86 Ill. Adm. Code 130.330(c)(6).
- ST 02-0268-GIL 12/23/2002 Manufacturing Equipment used by a manufacturer in nonoperational activities, such as disposal of waste, does not qualify for the manufacturing machinery and equipment exemption. See 86 Ill. Adm. Code 130.330(c)(3).

## MEDICAL APPLIANCES

- ST 02-0031-GIL 02/04/2002 A medical appliance is defined as an item that is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See 86 Ill. Adm. Code 130.310.
- ST 02-0049-GIL 02/27/2002 Generally, medical tools, devices and equipment used for diagnostic, rehabilitative and treatment purposes do not qualify for the reduced rate of tax for medical appliances as such items, while being used for treatment of patients, are not directly substituting for a malfunctioning part of the body. See 86 Ill. Adm. Code 130.310(c).
- ST 02-0111-GIL 05/15/2002 A medical appliance is defined as an item that is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See 86 Ill. Adm. Code 130.310(c).
- ST 02-0122-GIL 06/04/2002 The definition of a medical appliance is "an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body." See 86 Ill. Adm. Code 130.310.

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- ST 02-0136-GIL 06/21/2002 A medical appliance is defined as an item that is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See 86 Ill. Adm. Code 130.310(c).
- ST 02-0208-GIL 09/23/2002 Dental lab coats do not qualify as medical appliances. See 86 Ill. Adm. Code 130.310.
- ST 02-0219-GIL 10/08/2002 Medicines and medical appliances are not taxed at the normal rate of 6.25%. These items are taxed at a lower rate of 1%. See 86 Ill. Adm. Code 130.310.
- ST 02-0234-GIL 10/25/2002 Lenses for the eye that are permanently placed in the eyes of patients that have cataract surgery qualify for the low (1%) rate of tax as medical appliances. See 86 Ill. Adm. Code 130.310.

## MISCELLANEOUS

- ST 02-0005-GIL 01/09/2002 This letter discusses the Retailers' Occupation Tax Act, Service Occupation Tax Act, and Use Tax Act and their application to several transactional hypotheticals.
- ST 02-0027-GIL 01/31/2002 This General Information Letter provides suggestions for improvements to, but does not comment on the accuracy of, a private legal publication. See 86 Ill. Adm. Code 140.101
- ST 02-0032-PLR 12/19/2002 This PLR discusses sales tax issues raised by various aspects of a company's sales of steam. See 86 Ill. Adm. Code 130.1951.
- ST 02-0039-GIL 02/22/2002 This letter discusses the taxability of sales to Illinois customers made through the Internet. 86 Ill. Adm. Code 150.201.
- ST 02-0060-GIL 03/07/2002 This letter discusses possible sales tax, cigarette tax, and tobacco products tax consequences of selling tobacco products and cigarettes in Illinois from outside the State. See 35 ILCS 120/1 et seq.
- ST 02-0068-GIL 03/28/2002 This letter discusses the tax treatment of automobiles used in a "rent to own" business. See 35 ILCS 120/1 et seq.

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- ST 02-0093-GIL 04/25/2002 Applicants who have been approved to participate in the Direct Payment Program will be issued a Direct Pay Permit by the Department, which participants may provide to retailers in order to remit their tax liability directly to the Department. See 86 Ill. Adm. Code 130.2500.
- ST 02-0115-GIL 05/17/2002 This letter responds to an annual survey regarding coal mining equipment. See 86 Ill. Adm. Code 130.350.
- ST 02-0123-GIL 06/05/2002 This letter discusses the new regulatory provisions regarding sellers of floor coverings. See 86 Ill. Adm. Code 130.2101.
- ST 02-0130-GIL 06/12/2002 This letter is a follow up to ST 02-0068-GIL.
- ST 02-0131-GIL 06/12/2002 This letter discusses various issues related to the purchase of motor vehicles. See 86 Ill. Adm. Code 130.605.
- ST 02-0132-GIL 06/12/2002 This letter discusses “shipping and handling” charges and the tax consequences of reward credits. See 86 Ill. Adm. Code 130.401(c).
- ST 02-0168-GIL 08/01/2002 This letter describes the Retailers' Occupation Tax or Service Occupation Tax liability of a company that sells merchandise and services to entities providing workers compensation benefits. See 86 Ill. Adm. Code 130.310.
- ST 02-0169-GIL 08/05/2002 This letter responds to an annual survey. See 86 Ill. Adm. Code Part 130.
- ST 02-0220-GIL 10/09/2002 Charges for Internet monitoring services when no tangible personal property is being transferred to the customer are not subject to Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.101.
- ST 02-0230-GIL 10/24/2002 The amount of Retailers' Occupation Tax due is based upon a percentage of the gross receipts received from the sale of tangible personal property. See 35 ILCS 120/1 et seq. and the Department's regulations at 86 Ill. Adm. Code 130.401(d) and 86 Ill. Adm. Code 130.2145(c)(2)(C).

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- ST 02-0239-GIL 10/31/2002 This letter discusses “shipping and handling” charges and the tax consequence of reward credits. See 86 Ill. Adm. Code 130.401(c).
- ST 02-0254-GIL 12/02/2002 Section 11 of the Retailers’ Occupation Tax Act, 35 ILCS 120/11, sets forth provisions for the confidentiality of taxpayer information.
- ST 02-0270-GIL 12/26/2002 This letter responds to a taxpayer’s request for a copy of an earlier letter sent to it by the Department, and provides the Department’s website and other information. See 86 Ill. Adm. Code 1200.130.

## MOTOR FUEL TAX

- ST 02-0059-GIL 03/07/2002 This letter discusses the Motor Fuel Tax provisions in regard to off-highway use of fuel. See 35 ILCS 505/13.
- ST 02-0142-GIL 06/28/2002 The Motor Fuel Tax Law provides that a distributor of motor fuel or a supplier of special fuel may make tax-free sales to a municipal corporation owning and operating a local transportation system for public service in this State when an official certificate of exemption is obtained in lieu of the tax. See 35 ILCS 505/6 item 4 and 35 ILCS 505/6a item 2.
- ST 02-0191-GIL 09/05/2002 When the legal incidence of a tax is on the consumer, it is not considered to be part of the “selling price” of the tangible personal property for the purpose of calculating Retailers’ Occupation Tax. See 86 Ill. Adm. Code 130.445.
- ST 02-0210-GIL 09/23/2002 This letter discusses Motor Fuel Tax related to motor vehicles brought into the State by a manufacturer. See 35 ILCS 505/1 et seq.
- ST 02-0217-GIL 10/03/2002 The International Fuel Tax Agreement governs the taxation and reporting of fuel tax liabilities for “commercial motor vehicles” as that term is defined in Section 1.16 of the Motor Fuel Tax Law.
- ST 02-0222-GIL 10/15/2002 The International Fuel Tax Agreement governs the taxation and reporting of fuel tax liabilities for “commercial motor vehicles” as that term is defined in Section 1.16 of the Motor Fuel Tax Law.

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ST 02-0255-GIL 12/02/2002 The International Fuel Tax Agreement (IFTA) and the Department's regulations at 86 Ill. Adm. Code 500.300 prevent the Department from issuing multiple licenses to an IFTA licensee.

## MOTOR VEHICLES

ST 02-0090-GIL 04/24/2002 The sale of a vehicle that has previously been modified to make it usable by a disabled person is reported on Form ST-556. Retailers' Occupation Tax is incurred on the entire selling price of the vehicle at the preprinted rate for motor vehicles. See 86 Ill. Adm. Code 130.310.

ST 02-0133-GIL 06/12/2002 This letter discusses when tax is due on motor vehicles brought into Illinois for leasing purposes. See 35 ILCS 105/10.

ST 02-0249-GIL 11/07/2002 86 Ill. Adm. Code 150.310(a)(4) requires that tangible personal property that is brought into Illinois for temporary storage and subsequently transported outside this State for use must be used solely outside this State for the temporary storage exemption to apply.

## NEXUS

ST 02-0002-GIL 01/02/2002 The U. S. Supreme Court provides guidance on the issue of nexus in Quill v. North Dakota, 112 S. Ct. 1902 (1992).

ST 02-0008-GIL 01/14/2002 This letter discusses nexus issues related to a company and its newly created subsidiaries, which may be in the business of selling tangible personal property for use in Illinois. See 86 Ill. Adm. Code 150.201(i).

ST 02-0015-GIL 01/18/2002 In the context of a General Information Letter, the Department is unable to make nexus determinations because the amount of information required to make that determination is often best gathered by an auditor. See 86 Ill. Adm. Code 150.201.

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- ST 02-0019-GIL 01/22/2002 A “retailer maintaining a place of business in Illinois” as described in 86 Ill. Adm. Code 150.201(i) is required to register with the State as an Illinois Use Tax collector. See 86 Ill. Adm. Code 150.801.
- ST 02-0055-GIL 03/04/2002 A “retailer maintaining a place of business in Illinois” as described in 86 Ill. Adm. Code 150.201(i) is required to register with the State as an Illinois Use Tax collector. See 86 Ill. Adm. Code 150.801.
- ST 02-0058-GIL 03/05/2002 This letter discusses Service Occupation Tax and nexus issues related to a company with a subsidiary that has volunteered to collect Illinois sales tax. See 35 ILCS 115/1 et seq.
- ST 02-0127-GIL 06/10/2002 This letter discusses nexus and Service Occupation Tax issues related to sales of medical appliances from outside the State. See 86 Ill. Adm. Code 150.201.
- ST 02-0134-GIL 06/12/2002 A “retailer maintaining a place of business in Illinois” as described in 86 Ill. Adm. Code 150.201(i) is required to register with the State as an Illinois Use Tax collector. See 86 Ill. Adm. Code 150.801.
- ST 02-0137-GIL 06/21/2002 This letter discusses nexus issues. See 35 ILCS 105/1 et seq.
- ST 02-0181-GIL 08/15/2002 A “retailer maintaining a place of business in Illinois” as described in 86 Ill. Adm. Code 150.201(i), is required to register with the State as an Illinois Use Tax collector. See 86 Ill. Adm. Code 150.801.
- ST 02-0192-GIL 09/06/2002 This letter discusses nexus and other issues related to determining which sales taxes are owed. See 35 ILCS 105/1 et seq.
- ST 02-0246-GIL 10/31/2002 This letter discusses nexus and Service Occupation Tax issues. See 86 Ill. Adm. Code 150.201.
- ST 02-0248-GIL 11/06/2002 A “retailer maintaining a place of business in Illinois” as described in 86 Ill. Adm. Code 150.201(i) is required to register with the State as an Illinois Use Tax collector. See 86 Ill. Adm. Code 150.801, enclosed.
- ST 02-0269-GIL 12/23/2002 This letter discusses the issue of nexus. See Quill v. North Dakota, 112 S. Ct. 1902 (1992).

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## OCCASIONAL SALE

- ST 02-0010-GIL 01/14/2002 When persons sell tangible personal property which they are not otherwise engaged in the business of selling, such transactions may be occasional sales not subject to ROT. See 86 Ill. Adm. Code 130.110.
- ST 02-0026-PLR 11/06/2002 When a person sells tangible personal property which he is not otherwise engaged in the business of selling, the sale is an occasional sale not subject to ROT. See 86 Ill. Adm. Code 130.110.
- ST 02-0082-GIL 04/08/2002 When persons sell tangible personal property which they are not otherwise engaged in the business of selling, such transactions may be occasional sales not subject to ROT. See 86 Ill. Adm. Code 130.110.

## POLLUTION CONTROL FACILITIES

- ST 02-0170-GIL 08/05/2002 Purchasers of Pollution Control Facilities must give their sellers certifications as set out in 86 Ill. Adm. Code 130.335(a).
- ST 02-0197-GIL 09/11/2002 Equipment which is used for the primary purpose of reducing or eliminating pollution can qualify for the Pollution Control Facilities exemption. Equipment which provides an economic benefit cannot qualify for the exemption. See 86 Ill. Adm. Code 130.335.
- ST 02-0266-GIL 12/12/2002 No items qualify for the Pollution Control Facilities exemption in and of themselves. No transactions are exempt on the basis of the pollution control exemption unless certifications are obtained as described in 86 Ill. Adm. Code 130.335(a) of the Department's rules.

## PUBLIC UTILITY TAXES

- ST 02-0020-PLR 08/05/2002 System losses do not constitute electricity that is distributed to an end user. 35 ILCS 620/2a.1.

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ST 02-0030-GIL 02/04/2002 Section 2a.1 of the Public Utilities Revenue Act imposes a tax on the distribution of electricity in this State and a tax on the invested capital of electric cooperatives that are required to file reports with the Rural Utilities Service. See 35 ILCS 620/2a.1.

ST 02-0201-GIL 09/13/2002 Energy Assistance Charges and Renewable Energy Resources and Coal Technology Development Assistance Charges are statutorily considered charges for public utility services and are subject to Gas Revenue Tax liability when that tax is computed at the 5% rate on gross receipts. See 86 Ill. Adm. Code 470.101.

## RETURNS

ST 02-0014-GIL 01/17/2002 The provisions of Subpart M of the Retailers' Occupation Tax regulations provide that if a lessee operates a business on the lessor's premises under the identity of the lessor, the lessor must report and remit the lessee's tax on the lessor's Retailers' Occupation Tax return. See, 86 Ill. Adm. Code 130.1305.

ST 02-0176-GIL 08/09/2002 Taxpayers that conduct businesses at more than one location in the State are required to file a single consolidated return (multi-site return). See 86 Ill. Adm. Code 130.530.

## SALE AT RETAIL

ST 02-0006-GIL 01/11/2002 Persons engaged in the business of selling tangible personal property at retail are subject to the Retailers' Occupation Tax Act. 35 ILCS 120/2 (1998 State Bar Edition).

ST 02-0007-GIL 01/22/2001 Persons engaged in the business of selling tangible personal property at retail are subject to the Retailers' Occupation Tax Act. 35 ILCS 120/2 (1998 State Bar Edition).

ST 02-0028-PLR 11/18/02 Sales of intangible personal property are not taxable under the Retailers' Occupation Tax Act. 86 Ill. Adm. Code 130.120.

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- ST 02-0096-GIL 04/29/2002 Persons who permanently affix modular homes to real estate act as construction contractors and incur Use Tax liability on their cost price of the tangible personal property they physically incorporate into real estate. See 86 Ill. Adm. Code 130.2075.
- ST 02-0097-GIL 04/29/2002 Gross receipts derived from sales of certain items for \$0.50 or less through bulk vending machines are not sales at retail subject to Retailers' Occupation Tax. See 35 ILCS 120/1.
- ST 02-0099-GIL 04/30/2002 The Retailers' Occupation Tax Act imposes a tax upon persons engaged in the business of selling at retail tangible personal property. 35 ILCS 120/2 (2000 State Bar Edition).
- ST 02-0110-GIL 05/14/2002 The Retailers' Occupation Tax Act, 35 ILCS 120/1 et seq. (2000 State Bar Edition), imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption.

## SALE FOR RESALE

- ST 02-0050-GIL 02/27/2002 The sale of tangible personal property for the purpose of resale is not taxable so long as the seller obtains a Certificate of Resale in accordance with 86 Ill. Adm. Code 130.1405.
- ST 02-0061-GIL 03/07/2002 Certificates from purchasers on Certificates of Resale in lieu of resale numbers that describe the drop-shipment situation and the fact that purchasers have no contact with Illinois that would require them to be registered and that they choose not to obtain Illinois resale numbers would constitute evidence that this particular sale is a sale for resale despite the fact that no registration number or resale number is provided. See 86 Ill. Adm. Code 130.225.
- ST 02-0063-GIL 03/11/2002 Small toys and crayons given by a restaurant to children as part of their meal is generally considered part of the meal being transferred to those children and may be purchased for resale. See 86 Ill. Adm. Code 130.1401.

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- ST 02-0120-GIL 05/31/2002 This letter sets out how a standard drop shipment is treated in Illinois for Retailers' Occupation Tax and Use Tax purposes. See, 86 Ill. Adm. Code 130.325
- ST 01-0145-GIL 06/28/2002 A Certificate of Resale must contain the items of information set out in 86 Ill. Adm. Code 130.1405.
- ST 02-0163-GIL 07/22/2002 Certificates of resale must contain the information set out in 86 Ill. Adm. Code 130.1415(b).
- ST 02-0182-GIL 08/15/2002 Illinois law requires a Certificate of Resale to contain the information set out in 86 Ill. Adm. Code 130.1405(b).
- ST 02-0183-GIL 08/16/2002 Illinois law requires a Certificate of Resale to contain the information set out in 86 Ill. Adm. Code 130.1405(b).
- ST 02-0204-GIL 09/17/2002 In order for a Certificate of Resale to be valid in Illinois, it must contain the information set out in 86 Ill. Adm. Code 130.1405(b)
- ST 02-0218-GIL 10/07/2002 Certificates of Resale must contain the information in 86 Ill. Adm. Code 130.1405.
- ST 02-0258-GIL 12/04/2002 Certificates of Resale must contain the information if 86 Ill. Adm. Code 130.1405.

## SALE OF SERVICE

- ST 02-0022-GIL 01/23/2002 If a sale of service is made in Illinois and no tangible personal property of any kind is transferred incident to that sale of service, no Illinois sales tax or service tax would apply to that sale. See 86 Ill. Adm. Code 140.101
- ST 02-0070-GIL 03/29/2002 The purchase of tangible personal property that is transferred to service customers of an auto body shop may result in either Service Occupation Tax liability or Use Tax liability for the servicemen. 86 Ill. Adm. Code 140.101

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- ST 02-0075-GIL 04/01/2002 Physicians and surgeons are primarily engaged in professions that render services. To the extent they are engaged in such professions and are not engaged in the business of selling tangible personal property to purchasers for use or consumption, they are not required to report and remit Retailers' Occupation Tax measured by their receipts from engaging in such professions. See 86 Ill. Adm. Code 130.2020.
- ST 02-0095-GIL 04/26/2002 Physicians are generally subject to the Service Occupation Tax on tangible personal property transferred as an incident to the sale of service. See 86 Ill. Adm. Code 140.101.
- ST 02-0117-GIL 05/22/2002 Where a business provides repair services that are accompanied with the transfer of tangible personal property, such transactions are generally subject to tax liability under the Service Occupation Tax Act. See 86 Ill. Adm. Code 140.140(1).
- ST 02-0164-GIL 07/24/2002 The transfer of tangible personal property by automobile repairmen to customers incident to a repair job is a sale of service is subject to liability under the Service Occupation Tax Act.
- ST 02-0171-GIL 08/05/2002 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code Part 140.
- ST 02-0193-GIL 09/06/2002 Tangible personal property may be purchased for resale only if it is to be sold or is incorporated into an item that is to be sold. See 86 Ill. Adm. Code 130.410.
- ST 02-0198-GIL 09/11/2002 Repair work performed under a warranty may or may not be a taxable sale of service. See 86 Ill. Adm. Code 140.141 for explanations of the tax consequences of warranty repair work.

## SERVICE OCCUPATION TAX

- ST 02-0026-GIL 01/28/2002 Where a repairman provides repair services that are accompanied with the transfer of tangible personal property, such transactions are generally subject to tax liability under the Service Occupation Tax Act. See 86 Ill. Adm. Code 140.140(1).

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- ST 02-0028-GIL 01/31/2002 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code Part 140.
- ST 02-0056-GIL 03/05/2002 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code 140.101.
- ST 02-0077-GIL 04/01/2002 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code Part 140.
- ST 02-0083-GIL 04/11/2002 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code Part 140.
- ST 02-0158-GIL 07/18/2002 A pharmacist who remits Service Occupation Tax to the Department may make tax-free sales of prescription drugs to an organization that provides an exemption identification number issued by the Department.
- ST 02-0240-GIL 10/31/2002 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred as an incident of their sales of service. See 86 Ill. Adm. Code 140.101.
- ST 02-0260-GIL 12/06/2002 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred as an incident of their sales of service. See 86 Ill. Adm. Code 140.101.
- ST 02-0267-GIL 12/19/2002 The transfer of tangible personal property results in Service Occupation Tax liability rather than Retailers' Occupation Tax liability where the purchaser employs the seller primarily for its engineering skill to design and produce the property on special order, where the property has use or value only for the specific purpose for which it was produced and where the property has use or value only to the purchaser. See 86 Ill. Adm. Code 130.2155.

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## TAX COLLECTION

ST 02-0235-GIL 10/25/2002 Illinois law requires that all overcollections of tax must either be turned over to the Department or refunded to the customer. See, 35 ILCS 120/2-40.

## TELECOMMUNICATIONS EXCISE TAX

ST 02-0004-GIL 01/04/2002 Persons who provide satellite television services, including basic network channels, premium channels, pay per view movies, sporting events, etc., are generally not subject to the Telecommunications Excise Tax liability. See 35 ILCS 630/1 et seq.

ST 02-0005-PLR 03/07/2002 The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. See 86 Ill. Adm. Code 495.

ST 02-0024-PLR 08/20/2002 Any method that accurately approximates the Illinois portion of an interstate inter-office channel of a private line can be used in calculating Illinois Telecommunications Excise Tax liability.

ST 02-0033-GIL 02/06/2002 The Telecommunications Excise Tax Act imposes a tax on the act or privilege of originating or receiving intrastate or interstate telecommunications by persons in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers by such persons, 35 ILCS 630/3 and 4.

ST 02-0035-GIL 02/07/2002 The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. See 86 Ill. Adm. Code 495.

ST 02-0037-GIL 02/08/2002 The Telecommunications Excise Tax is imposed on the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for

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such telecommunications purchased at retail from retailers. See, generally, 86 Ill. Adm. Code 495.

- ST 02-0054-GIL 02/08/2002 Gross charges for teleconferencing services that include the reselling of telephone services are subject to the Telecommunications Excise Tax Act. See 86 Ill. Adm. Code Part 495.
- ST 02-0084-GIL 04/11/2002 The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. See 86 Ill. Adm. Code 495.
- ST 02-0118-GIL 05/23/2002 The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. See 86 Ill. Adm. Code 495.
- ST 02-0141-GIL 06/27/2002 The language of the Mobile Telecommunications Sourcing Conformity Act, P. A. 92-0474, indicates that all charges for mobile telecommunications services that are deemed to be provided by the customer's home service provider are authorized to be taxed regardless of where the mobile telecommunications services originate, terminate or pass through.
- ST 02-0165-GIL 07/25/2002 This letter amends ST-02-0005-PLR regarding provisions of the Telecommunications Excise Tax.
- ST 02-0257-GIL 12/04/2002 This letter answers questions regarding the application of the Mobile Telecommunications Sourcing Conformity Act to the Telecommunications Excise Tax Act and the Simplified Municipal Telecommunications Tax Act. See 35 ILCS 638/1 et seq.
- ST 02-0274-GIL 12/30/2002 Facsimile transmission services are subject to Illinois Telecommunications Excise Tax. See 86 Ill. Adm. Code 495.110

## TOBACCO PRODUCTS TAX ACT

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ST 02-0237-GIL 10/30/2002 Products Tax Act of 1995. See 35 ILCS 143/10-1 et seq.

## TRADE-INS

ST 02-0245-GIL 10/31/2002 Under Illinois law, a trade-in credit is available to a retailer when the purchaser trades in tangible personal property of like kind and character as that which is being sold by the retailer. See 86 Ill. Adm. Code 130.425.

## USE TAX

ST 02-0001-GIL 01/02/ The Department is authorized to utilize its best judgment and information to correct Use Tax returns. See 35 ILCS 105/3-10.

ST 02-0024-GIL 01/24/2002 Section 10 of the Use Tax Act, 35 ILCS 105/10, provides that a purchaser of a motor vehicle from an out-of-State retailer shall file a return (Form RUT-25, Motor Vehicle Use Tax Return) with the Department and remit the proper amount of tax due on the selling price of the motor vehicle within 30 days after such motor vehicle is brought into this State for use.

ST 02-0046-GIL 02/26/2002 Out-of-State sellers who fall under the definition of a "retailer maintaining a place of business in this State" (see 86 Ill. Adm. Code Sec. 150.201(i), enclosed), must register to collect Illinois Use Tax from Illinois customers and remit that tax to the Department.

ST 02-0073-GIL 04/01/2002 The interim use exemption is available to persons primarily engaged in selling tangible personal property when such persons lease property that is carried on their books as inventory or is otherwise available for sale during the lease period. See 86 Ill. Adm. Code 150.306.

ST 02-0074-GIL 04/04/2002 The Department is authorized to pursue unpaid Use Tax from Use Tax collectors on Illinois sales. See Section 8 of the Use Tax Act (35 ILCS 105/8)

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- ST 02-0085-GIL 04/12/2002 This letter discusses the sales tax treatment of cellular phones when they are either given away or sold.
- ST 02-0135-GIL 06/20/2002 According to 86 Ill. Adm. Code 150.401, the Use Tax shall whenever possible and practicable when collected, be stated as a distinct item separate and apart from the selling price of the tangible personal property.
- ST 02-0174-GIL 08/06/2002 If a direct mail firm accepts the purchase orders outside of Illinois, and its printing and mailing operations are conducted outside of the State of Illinois, no power or control is generally exercised over the property shipped in Illinois. Therefore, no taxable use of the property would be made in Illinois. See 86 Ill. Adm. Code 150.305.
- ST 02-0178-GIL 08/09/2002 Retailers are prohibited from advertising or holding out that they will absorb the purchaser's Use Tax obligation. See 86 Ill. Adm. Code 150.515.
- ST 02-0179-GIL 08/09/2002 Retailers are prohibited from advertising or holding out that they will absorb the purchaser's Use Tax obligation. See 86 Ill. Adm. Code 150.515.
- ST 02-0206-GIL 09/17/2002 Section 3 of the Use Tax Act (35 ILCS 105/3) imposes a tax upon the privilege of using in this State tangible personal property purchased at retail from a retailer.
- ST 02-0247-GIL 10/31/2002 This letter responds to a survey regarding Use Tax collection. See 86 Ill. Adm. Code 150.101
- ST 02-0250-GIL 11/14/2002 In order to prevent actual or likely multi-state taxation, the Use Tax does not apply to the use of tangible personal property in this State of tangible personal property that is acquired outside this State and caused to be brought into this State by a person who has already paid a tax in another state in respect to the sale, purchase, or use of that property, to the extent of the amount of the tax properly due and paid in the other state. See 86 Ill. Adm. Code 150.310.

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## AUTOMOBILE RENTING TAX

ST 02-0030-PLR 12/17/2002 Extensions or renewals of automobile leases that have initial terms of more than one year are not subject to Automobile Renting Occupation and Use Tax liability if the initial lease term is for a period greater than one year. 86 Ill. Adm. Code 180.101. (This is a PLR.)

## CERTIFICATE OF REGISTRATION

ST 02-0256-GIL 12/03/2002 Businesses are required to obtain certificates of registration from the Department in order to lawfully sell tangible personal property at retail in this State. See 35 ILCS 120/2a. (This is a GIL.)

## CHARITABLE GAMES

ST 02-0253-GIL 12/01/2002 The provisions of the Raffles Act, 230 ILCS 15/1, govern the conduct of raffles in Illinois. (This is a GIL.)

## COMPUTER SOFTWARE

ST 02-0027-PLR 11/12/2002 If transactions for the licensing of computer software meet all of the criteria provided in Section 130.1935(a)(1), neither the transfer of the software nor subsequent updates of that software will be subject to Retailers' Occupation Tax. (This is a PLR.)

ST 02-0225-GIL 10/22/2002 If transactions for the licensing of computer software meet all of the criteria provided in Section 130.1935(a)(1), neither the transfer of the software or the subsequent software updates will be subject to Retailers' Occupation Tax. (This is a GIL.)

ST 02-0226-GIL 10/23/2002 Sales of "canned" computer software are considered taxable retail sales in Illinois regardless of the manner of the transfer of that software. See 86 Ill. Adm. Code 130.1935. (This is a GIL.)

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ST 02-0262-GIL 12/10/2002 Sales of canned software are taxable regardless of the means of delivery. See 86 Ill. Adm. Code 130.1935. (This is a GIL.)

## CONSTRUCTION CONTRACTORS

ST 02-0251-GIL 11/18/2002 Under Illinois law, a person who takes tangible personal property off the market by converting it into real estate is deemed to be a construction contractor and is the legal end-user of the tangible personal property. The construction contractor, as the user, incurs Illinois Use Tax and local Retailers' Occupation Tax reimbursement liabilities when the tangible personal property that will be converted into real estate is purchased from registered Illinois suppliers. See 86 Ill. Adm. Code 130.1940. (This is a GIL.)

ST 02-0261-GIL 12/06/2002 Construction contractors incur a Use Tax liability on the cost price of items such as trees and shrubs that they plant in the ground for their customers. See 86 Ill. Adm. Code 130.1965(c)(2). (This is a GIL.)

ST 02-0264-GIL 12/11/2002 Construction contractors that make improvements to real estate by taking materials off the market and permanently affixing them to real estate owe Use Tax on the cost price of those materials. See 86 Ill. Adm. Code 130.2075. (This is a GIL.)

ST 02-0265-GIL 12/12/2002 In Illinois, construction contractors are deemed end users of tangible personal property purchased for incorporation into real property. As end users of such tangible personal property, contractors incur Use Tax liability for such purchases based upon the cost price of the tangible personal property. See 86 Ill. Adm. Code 130.1940. (This is a GIL.)

## DELIVERY CHARGES

ST 02-0224-GIL 10/22/2002 Charges for freight are gross receipts subject to ROT when they are part of the selling price of the tangible personal property being sold. See, 86 Ill. Adm. Code 130.415. (This is a GIL.)

ST 02-0232-GIL 10/24/2002 Transportation and delivery charges are not taxable if it can be shown that the charges are separately contracted for and the charges are

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actually reflective of the costs of shipping. To the extent the transportation and delivery charges exceed the costs of shipping, the charges will be subject to tax. See 86 Ill. Adm. Code 130.415. (This is a GIL.)

ST 02-0272-GIL 12/27/2002 Transportation and delivery charges are not taxable if it can be shown that the charges are agreed to separately from the selling price of the tangible personal property sold, and the charges are actually reflective of the costs of shipping. To the extent the transportation and delivery charges exceed the costs of shipping, the charges will be subject to tax. See 86 Ill. Adm. Code 130.415. (This is a GIL.)

## ENTERPRISE ZONES

ST 02-0231-GIL 10/24/2002 Window blinds that are physically installed into real estate can qualify for the enterprise zone building materials exemption from sales tax. See 86 Ill. Adm. Code 130.1951. (This is a GIL.)

## EXEMPT ORGANIZATIONS

ST 02-0221-GIL 10/11/2002 Only sales to exempt organizations holding an E-number are exempt from sales tax, not sales to individual members of the organization. See 86 Ill. Adm. Code 130.2005. (This is a GIL.)

ST 02-0243-GIL 10/31/2002 While the sale of tangible personal property at retail by exclusively religious, educational or charitable organizations is generally subject to Retailer's Occupation Tax, there are three limited exceptions. See 86 Ill. Adm. Code 130.2005(a)(2-4). (This is a GIL.)

ST 02-0244-GIL 10/31/2002 Although federally chartered credit unions do not qualify as exempt organizations under Illinois law, they do not incur Use Tax liability when making purchases of tangible personal property for use or consumption because of a federal statute See 12 USC 1768 and 86 Ill. Adm. Code 130.2085. (This is a GIL.)

## FOOD

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- ST 02-0227-GIL 10/23/2002 With respect to food for human consumption which is to be consumed off the premises where it is sold, Retailers' Occupation Tax is imposed at the rate of 1%. See 86 Ill. Adm. Code 130.310. (This is a GIL.)
- ST 02-0228-GIL 10/23/2002 Soft drinks do not include coffee, tea, non-carbonated water, various milk products, drinks containing 50% or more natural fruit or vegetable juice, powdered drink mixes or concentrated and reconstituted fruit juices. See 86 Ill. Adm. Code 130.310 (b)(5). (This is a GIL.)
- ST 02-0229-GIL 10/24/2002 For purposes of the Illinois Retailers' Occupation Tax Act, food is "any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed, including food such as condiments, spices, seasonings, vitamins, bottled water and ice." See 86 Ill. Adm. Code 130.310(b)(1). (This is a GIL.)
- ST 02-0236-GIL 10/25/2002 Food is defined as any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed, including foods such as condiments, spices, seasonings, vitamins, bottled water and ice. See 86 Ill. Adm. Code 130.310(b)(1). (This is a GIL.)
- ST 02-0241-GIL 10/31/2002 If food is sold in automatic vending machines where an occupation tax is paid on such sales, the machines may be purchased tax free. See 86 Ill. Adm. Code 130.332. (This is a GIL.)
- ST 02-0242-GIL 10/31/2002 For purposes of the Illinois Retailers' Occupation Tax Act, food is "any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed, including food such as condiments, spices, seasonings, vitamins, bottled water and ice." See 86 Ill. Adm. Code 130.310(b)(1). (This is a GIL.)
- ST 02-0259-GIL 12/06/2002 This letter discusses the criteria used to determine the proper rate of taxation of food. See 86 Ill. Adm. Code 130.310. (This is a GIL.)
- ST 02-0271-GIL 12/26/2002 For purposes of the Illinois Retailers' Occupation Tax Act, food is "any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed,

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including food such as condiments, spices, seasonings, vitamins, bottled water and ice.” See 86 Ill. Adm. Code 130.310(b)(1). (This is a GIL.)

## FOOD, DRUGS &amp; MEDICAL APPLIANCES

ST 02-0252-GIL 11/20/2002 Medicines and medical appliances are not taxed at the normal state rate of 6.25%. These items are taxed at a lower State rate of 1%. See 86 Ill. Adm. Code 130.310. (This is a GIL).

## GROSS RECEIPTS

ST 02-0263-GIL 12/10/2002 Illinois Retailers' Occupation Tax is imposed upon gross receipts from the sale of tangible personal property to end-users and no deductions shall be taken by a taxpayer from gross receipts on account of the cost of the property sold, the cost of materials used, labor costs, or any other expense whatsoever. See 86 Ill. Adm. Code 130.410. (This is a GIL.)

## LOCAL TAXES

ST 02-0029-PLR 11/22/2002 This letter describes a situation in which the Department refuses to sanction a taxpayer's arrangement for fixing the location of certain purchases for local tax purposes. (This is a PLR).

ST 02-0031-PLR 12/19/2002 The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 270.115. (This is a PLR.)

ST 02-0233-GIL 10/25/2002 If purchase orders are accepted in a jurisdiction that imposes a local tax, that local tax will be incurred. See 86 Ill. Adm. Code 270.115(b). (This is a GIL.)

ST 02-0238-GIL 10/31/2002 It is the Department's opinion that the provisions of 65 ILCS 5/7-4-2 do not apply to distribution of State and local sales tax revenue to local jurisdictions. (This is a GIL.)

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ST 02-0273-GIL 12/27/2002 The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 270.115. (This is a GIL.)

## MANUFACTURING MACHINERY &amp; EQUIPMENT

ST 02-0223-GIL 10/22/2002 Exempt manufacturing equipment can include chemicals if they effect a direct and immediate change upon a product being manufactured pursuant to 86 Ill. Adm. Code 130.330(c)(6). (This is a GIL.)

ST 02-0268-GIL 12/23/2002 Manufacturing Equipment used by a manufacturer in nonoperational activities, such as disposal of waste, does not qualify for the manufacturing machinery and equipment exemption. See 86 Ill. Adm. Code 130.330(c)(3). (This is a GIL.)

## MEDICAL APPLIANCES

ST 02-0219-GIL 10/08/2002 Medicines and medical appliances are not taxed at the normal rate of 6.25%. These items are taxed at a lower rate of 1%. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

ST 02-0234-GIL 10/25/2002 Lenses for the eye that are permanently placed in the eyes of patients that have cataract surgery qualify for the low (1%) rate of tax as medical appliances. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

## MISCELLANEOUS

ST 02-0032-PLR 12/19/2002 This PLR discusses sales tax issues raised by various aspects of a company's sales of steam. See 86 Ill. Adm. Code 130.1951. (This is a PLR.)

ST 02-0220-GIL 10/09/2002 Charges for Internet monitoring services when no tangible personal property is being transferred to the customer are not subject to

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Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.101.  
(This is a GIL.)

ST 02-0230-GIL 10/24/2002 The amount of Retailers' Occupation Tax due is based upon a percentage of the gross receipts received from the sale of tangible personal property. See 35 ILCS 120/1 et seq. and the Department's regulations at 86 Ill. Adm. Code 130.401(d) and 86 Ill. Adm. Code 130.2145(c)(2)(C).  
(This is a GIL.)

ST 02-0239-GIL 10/31/2002 This letter discusses "shipping and handling" charges and the tax consequence of reward credits. See 86 Ill. Adm. Code 130.401(c).  
(This is a GIL.)

ST 02-0254-GIL 12/02/2002 Section 11 of the Retailers' Occupation Tax Act, 35 ILCS 120/11, sets forth provisions for the confidentiality of taxpayer information. (This is a GIL.)

ST 02-0270-GIL 12/26/2002 This letter responds to a taxpayer's request for a copy of an earlier letter sent to it by the Department, and provides the Department's website and other information. See 86 Ill. Adm. Code 1200.130. (This is a GIL.)

## MOTOR FUEL TAX

ST 02-0217-GIL 10/03/2002 The International Fuel Tax Agreement governs the taxation and reporting of fuel tax liabilities for "commercial motor vehicles" as that term is defined in Section 1.16 of the Motor Fuel Tax Law. (This is a GIL.)

ST 02-0222-GIL 10/15/2002 The International Fuel Tax Agreement governs the taxation and reporting of fuel tax liabilities for "commercial motor vehicles" as that term is defined in Section 1.16 of the Motor Fuel Tax Law. (This is a GIL.)

ST 02-0255-GIL 12/02/2002 The International Fuel Tax Agreement (IFTA) and the Department's regulations at 86 Ill. Adm. Code 500.300 prevent the Department from issuing multiple licenses to an IFTA licensee. (This is a GIL.)

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## MOTOR VEHICLES

ST 02-0249-GIL 11/07/2002 86 Ill. Adm. Code 150.310(a)(4) requires that tangible personal property that is brought into Illinois for temporary storage and subsequently transported outside this State for use must be used solely outside this State for the temporary storage exemption to apply. (This is a GIL).

## NEXUS

ST 02-0246-GIL 10/31/2002 This letter discusses nexus and Service Occupation Tax issues. See 86 Ill. Adm. Code 150.201. (This is a GIL.)

ST 02-0248-GIL 11/06/2002 A “retailer maintaining a place of business in Illinois” as described in 86 Ill. Adm. Code 150.201(i) is required to register with the State as an Illinois Use Tax collector. See 86 Ill. Adm. Code 150.801, enclosed. (This is a GIL).

ST 02-0269-GIL 12/23/2002 This letter discusses the issue of nexus. See Quill v. North Dakota, 112 S. Ct. 1902 (1992). (This is a GIL.)

## OCCASIONAL SALE

ST 02-0026-PLR 11/06/2002 When a person sells tangible personal property which he is not otherwise engaged in the business of selling, the sale is an occasional sale not subject to ROT. See 86 Ill. Adm. Code 130.110. (This is a PLR).

## POLLUTION CONTROL FACILITIES

ST 02-0266-GIL 12/12/2002 No items qualify for the Pollution Control Facilities exemption in and of themselves. No transactions are exempt on the basis of the pollution control exemption unless certifications are obtained as described in 86 Ill. Adm. Code 130.335(a) of the Department's rules. (This is a GIL.)

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## SALE AT RETAIL

ST 02-0028-PLR 11/18/02 Sales of intangible personal property are not taxable under the Retailers' Occupation Tax Act. 86 Ill. Adm. Code 130.120. (This is a PLR).

## SALE FOR RESALE

ST 02-0218-GIL 10/07/2002 Certificates of Resale must contain the information in 86 Ill. Adm. Code 130.1405. (This is a GIL.)

ST 02-0258-GIL 12/04/2002 Certificates of Resale must contain the information if 86 Ill. Adm. Code 130.1405. (This is a GIL.)

## SERVICE OCCUPATION TAX

ST 02-0240-GIL 10/31/2002 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred as an incident of their sales of service. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

ST 02-0260-GIL 12/06/2002 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred as an incident of their sales of service. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

ST 02-0267-GIL 12/19/2002 The transfer of tangible personal property results in Service Occupation Tax liability rather than Retailers' Occupation Tax liability where the purchaser employs the seller primarily for its engineering skill to design and produce the property on special order, where the property has use or value only for the specific purpose for which it was produced and where the property has use or value only to the purchaser. See 86 Ill. Adm. Code 130.2155. (This is a GIL.)

## TAX COLLECTION

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ST 02-0235-GIL 10/25/2002 Illinois law requires that all overcollections of tax must either be turned over to the Department or refunded to the customer. See, 35 ILCS 120/2-40. (This is a GIL.)

## TELECOMMUNICATIONS EXCISE TAX

ST 02-0257-GIL 12/04/2002 This letter answers questions regarding the application of the Mobile Telecommunications Sourcing Conformity Act to the Telecommunications Excise Tax Act and the Simplified Municipal Telecommunications Tax Act. See 35 ILCS 638/1 et seq. (This is a GIL.)

ST 02-0274-GIL 12/30/2002 Facsimile transmission services are subject to Illinois Telecommunications Excise Tax. See 86 Ill. Adm. Code 495.110 (This is a GIL.)

## TOBACCO PRODUCTS TAX ACT

ST 02-0237-GIL 10/30/2002 Products Tax Act of 1995. See 35 ILCS 143/10-1 et seq. (This is a GIL.)

## TRADE-INS

ST 02-0245-GIL 10/31/2002 Under Illinois law, a trade-in credit is available to a retailer when the purchaser trades in tangible personal property of like kind and character as that which is being sold by the retailer. See 86 Ill. Adm. Code 130.425. (This is a GIL.)

## USE TAX

ST 02-0247-GIL 10/31/2002 This letter responds to a survey regarding Use Tax collection. See 86 Ill. Adm. Code 150.101. (This is a GIL.)

ST 02-0250-GIL 11/14/2002 In order to prevent actual or likely multi-state taxation, the Use Tax does not apply to the use of tangible personal property in this

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State of tangible personal property that is acquired outside this State and caused to be brought into this State by a person who has already paid a tax in another state in respect to the sale, purchase, or use of that property, to the extent of the amount of the tax properly due and paid in the other state. See 86 Ill. Adm. Code 150.310. (This is a GIL).

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## NOTICE OF PUBLICATION ERROR

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Register citation of adopted rulemaking and other pertinent action: 25 Ill. Reg. 5398
- 4) Explanation: Section 110 was omitted from publication of the Register text pages of adopted rulemaking. Text reads as follows:

## Section 130.110 Occasional Sales

- a) Since the Act does not impose a tax upon persons who are not engaged in the business of selling tangible personal property, persons who make isolated or occasional sales thereof do not incur tax liability.
- b) For example, if a retailer sells tangible personal property, such as machinery or other capital assets, which he has used in his business and no longer needs, and which he does not otherwise engage in selling, he does not incur Retailers' Occupation Tax liability when selling such tangible personal property even if the sales are at retail and even if he may be required to make a considerable number of such sales in order to dispose of such tangible personal property, because such sales are isolated or occasional and do not constitute a business of selling tangible personal property at retail.
- c) However, construction contractors and real estate developers are not considered to be isolated or occasional sellers of tangible personal property to the extent noted in Section 130.1940(c) and (d) of this Part.
- d) Where persons engage primarily in the business of selling tangible personal property other than for use or consumption (such as the business of selling tangible personal property primarily to purchasers for resale), the mere fact that their sales for use or consumption may comprise but a small fraction of their total sales does not make the retail sales isolated or occasional. The vendor is liable for tax measured by his gross receipts from such retail sales.
- e) Regarding sale/leaseback situations, typically customer A purchases equipment from retailer B, and then sells it to lessor C who leases the equipment back to customer A. Customer A has paid tax when purchasing the equipment in the first transaction under a taxable retail sale and the second transaction where customer

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A sells the equipment to lessor C is a nontaxable occasional sale so long as A is not otherwise in the business of selling like-kind property.

- f) When a person purchases an item of tangible personal property with the intent of reselling the item to a purchaser for use or consumption, that person engages in conduct equivalent to holding himself out as a retailer. In such a situation, the initial purchase is a sale for resale and the subsequent sale is a taxable sale at retail subject to Retailers' Occupation Tax, not an occasional sale. For example, if a hospital possessing an exemption identification number issued by the Department purchases a computer system with the intent of reselling the computer system to a group of doctors, the hospital may not resell the computer system to the group of doctors without incurring Retailers' Occupation Tax. In this instance, the hospital is holding itself out as a retailer and its sale of the computer system to the group of doctors is taxable. The hospital should provide a Certificate of Resale to its supplier on the purchase of the computer system. It is improper for the hospital to use its exemption identification number to purchase the computer system in these circumstances.

(Source: Amended at 25 Ill. Reg. 5398, effective April 2, 2001)

# ILLINOIS ADMINISTRATIVE CODE

## Issue Index

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