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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Solicitation for Charitable Payroll Deductions
- 2) Code Citation: 80 Ill. Adm. Code 2650
- 3) Section Number: 2650.70 Proposed Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by Section 9 of the Illinois Personnel Code [20 ILCS 415/9] and Section 5 of the Voluntary Payroll Deductions Act of 1983 [5 ILCS 340/5].
- 5) A Complete Description of the Subjects and Issues Involved: As a result of a prior amendment to Section 2650.70, CMS agreed with JCAR upon adoption to review the fiscal impact of the change on Newly Qualified Charitable Organizations in their initial year of SECA participation and, if necessary, develop an alternative assessment scheme. The review did reflect an adverse affect; therefore Section 2650.70 is being amended to reflect a new assessment structure for Newly Qualified Charitable Organizations participating in SECA.
- 6) Will this rulemaking replace an 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 Objective: 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: Interested persons may submit written comments within 45 days after the date of publication to:

Gina Wilson
Illinois Department of Central Management Services
720 Stratton Office Building
Springfield, IL 62706
217/785-4510

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Charities participating in the SECA program will be affected.
 - 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 was not included on either of the two most recent regulatory agenda because: the need for the change was not known.

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE G: PAYROLL DEDUCTIONS
CHAPTER III: DEPARTMENT OF CENTRAL MANAGEMENT SERVICESPART 2650
SOLICITATION FOR CHARITABLE PAYROLL DEDUCTIONS

Section

2650.1	Definitions
2650.5	Entitlement
2650.10	Organization
2650.15	Annual Drive
2650.20	Recognition
2650.25	Request to Solicit Employees or Annuitants
2650.30	Prohibitions
2650.40	Code of Campaign Conduct
2650.50	Violation of Code of Campaign Conduct
2650.60	Committee on Campaign Conduct
2650.70	Allocation of Expenses to SECA Participants Membership

AUTHORITY: Implementing and authorized by Section 9 of the Illinois Personnel Code [20 ILCS 415/9] and Section 5 of the Voluntary Payroll Deductions Act of 1983 [5 ILCS 340/5].

SOURCE: Emergency rules adopted at 12 Ill. Reg. 6975, effective April 1, 1988, for a maximum of 150 days; emergency repealer adopted at 12 Ill. Reg. 10191, effective June 10, 1988, for a maximum of 150 days; adopted at 13 Ill. Reg. 3330, effective March 6, 1989; amended at 16 Ill. Reg. 11438, effective July 6, 1992; amended at 18 Ill. Reg. 3115, effective February 22, 1994; amended at 21 Ill. Reg. 11532, effective August 1, 1997; amended at 26 Ill. Reg. 5761, effective April 4, 2002; amended at 29 Ill. Reg. 2244, effective February 1, 2005; amended at 29 Ill. Reg. _____, effective _____.

Section 2650.70 Allocation of Expenses to SECA Participants Membership

- a) The Department shall allocate expenses in any of the following manners:
- 1) Expenses will be divided pro rata among all participating Qualified Charitable Organizations based on contributions from the prior campaign year.
 - 2) In any year in which a Newly Qualified Charitable Organization is

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

~~participating, each such Newly Qualified Organization Organizations~~ will contribute an amount equal to Y, where Y will be calculated as follows:

$$\frac{1}{\text{total number of participating organizations}} \times \frac{\text{Total expenses}}{.8} = Y$$

~~the percent of the total budget as if such expenses were divided equally among the participating charities. The remainder of the expenses will be allocated to the Qualified Charitable Organizations that participated in the previous year's campaign with each organization contributing a percent of the expenses proportionate to the percent of the total contributions each organization earned in the previous year's campaign.~~

For purposes of allocating expenses to the remaining Qualified Charitable Organizations, the amounts allocated to the Newly Qualified Charitable Organizations will then be subtracted from the total expenses, and the remainder will be divided pro rata among all the remaining Qualified Charitable Organizations based on percentage of total contributions received in the prior campaign year.

- 3) Expenses will be divided among all organizations ~~that which~~ participate directly in the SECA Campaign as a Qualified Charitable Organization or ~~that which~~ benefit from the SECA Campaign by receiving a distribution from a Qualified Charitable Organization.
 - 4) Any other reasonable manner that the Department deems appropriate.
- b) Each Qualified Charitable Organization will have 60 days after receipt of its assessment to submit payment. Newly Qualified Charitable Organizations will pay one half of their assessment by October 1 and the balance by March 1.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Education Purchasing Program
- 2) Code Citation: 44 Ill. Adm. Code 1110
- 3)

<u>Section Number</u> :	<u>Proposed Action</u> :
1110.10	New Section
1110.20	New Section
1110.30	New Section
1110.40	New Section
1110.50	New Section
1110.60	New Section
- 4) Statutory Authority: 105 ILCS 5/28A-20
- 5) A Complete Description of the Subjects and Issues Involved: These rules will implement the portion of P.A. 93-1036 (SB 3000 of 2004) that added Article 28A to the School Code, authorizing the Education Purchasing Program. By means of these rules, ISBE will designate itself, rather than another entity, as the state education purchasing entity. The rules will also state the criteria on which certification of education purchasing contracts and/or statewide education master contracts will be based. Once these contracts are certified, ISBE will make participation in them available to school districts so that they may benefit from the negotiated terms.
- 6) Will these proposed rules replace any emergency rules currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed rules contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a state mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this notice to:

Sally Vogl
Agency Rules Coordinator

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

Illinois State Board of Education
100 North First Street (W-475)
Springfield, Illinois 62777

(217) 782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: It is conceivable that charter schools may eventually have access to participation in education purchasing contracts.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) This rulemaking was not included in either of the 2 most recent agendas because: It was not apparent prior to publication of the January 2005 Agenda whether rulemaking would be needed to implement Article 28A of the School Code.

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER XIII: STATE BOARD OF EDUCATIONPART 1110
EDUCATION PURCHASING PROGRAM

Section

1110.10	Purpose and Scope
1110.20	Definitions
1110.30	State Education Purchasing Entity
1110.40	Certification of Education Purchasing Contracts
1110.50	Participation by School Districts
1110.60	Provision of Information and Definition of Key Categories

AUTHORITY: Implementing Article 28A of the School Code [105 ILCS 5/Art. 28A] and authorized by Section 28A-20 of the School Code [105 ILCS 5/28A-20].

SOURCE: Adopted at 29 Ill. Reg. _____, effective _____.

Section 1110.10 Purpose and Scope

The purpose of this Part is to create an education purchasing program and establish the process by which the State Board of Education will certify education purchasing contracts and identify and define key categories for such contracts in accordance with Section 28A-10 of the School Code [105 ILCS 5/28A-10].

Section 1110.20 Definitions

"Contracting entity" means a local government entity established pursuant to the laws of Illinois or another state, an agency of the State of Illinois or another state, a federal government entity, a not-for-profit entity established pursuant to the laws of Illinois or another state, a for-profit entity established pursuant to the laws of Illinois or another state, or a cooperative entity consisting of any two or more of the foregoing entities.

"Due advertisement" means public notice published at least 10 days before the bid date in a newspaper of general circulation in the locality of the contracting entity, or public notice otherwise determined by the State Superintendent of Education to

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

provide notification of the bidding opportunity to a wide variety of potential vendors.

"Education purchasing contract" means a contract that is procured and negotiated by a contracting entity, certified pursuant to this Part, and made available by the State Board of Education to school districts.

"Services" means the furnishing of labor, time or effort by a contractor, not involving the delivery of a specific end product other than reports or supplies that are incidental to the required performance.

"Statewide education master contract" shall mean a contract that is procured and negotiated by the State Board of Education and made available to school districts.

"Supplies" means all personal property, including but not limited to equipment, materials, printing and insurance, and the financing of those supplies.

Section 1110.30 State Education Purchasing Entity

The State Board of Education shall act as the State education purchasing entity pursuant to Section 28A-10 of the School Code [105 ILCS 5/28A-10].

Section 1110.40 Certification of Education Purchasing Contracts

- a) The State Superintendent of Education may certify an education purchasing contract for supplies or services upon determining that the education purchasing contract was awarded by the contract entity:
 - 1) to the lowest responsible bidder;
 - 2) considering conformity with specifications, terms of delivery, quality and serviceability; and
 - 3) after due advertisement.
- b) In addition to the certification process set forth in subsection (a) of this Section, the State Superintendent of Education may certify an education purchasing contract for services upon determining that the education purchasing contract was awarded by the contracting entity through a process consisting of all of the following elements:

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

- 1) solicitation of proposals through a request for proposals setting forth evaluation factors and stating the relative importance of price and other evaluation factors;
 - 2) due advertisement of the solicitation;
 - 3) separate evaluation and ranking of the price and non-price items of the proposals; and
 - 4) award to the responsible offeror whose proposal is determined to be most advantageous to the contracting entity, taking into consideration price and the other evaluation factors set forth in the request for proposals.
- c) No contract shall be certified as an education purchasing contract or a statewide education master contract without the consent of the vendor.

Section 1110.50 Participation by School Districts

Before soliciting bids or awarding contracts for supplies, materials, equipment, or services, a school district may review education purchasing contracts and consider them as bids. The school district may, without soliciting additional bids, purchase supplies, materials, equipment, or services through a certified education purchasing contract or statewide education master contract by executing a purchasing agreement provided through the State Board of Education.

Section 1110.60 Provision of Information and Definition of Key Categories

The State Board of Education shall provide contracting information and pricing for certified education purchasing contracts and statewide education master contracts on the agency's website and through additional means specifically designed to reach school district superintendents. On the agency's website, the State Board of Education shall:

- a) identify and define the categories of certified education purchasing contracts and statewide education master contracts; and
- b) describe the process for school districts' participation in these contracts, which shall be at their sole option.

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Notices, Records, Reports
- 2) Code Citation: 56 Ill. Adm. Code 2760
- 3) Section Number: 2760.128 Proposed Action:
New
- 4) Statutory Authority: 820 ILCS 405/204, 234, 245, 300, 302, 700, 1400, 1401, 1402, 1404, 1405, 1507, 1700, 1701, 1706, 1800, 1801, 2201 and 2208.
- 5) A Complete Description of the Subjects and Issues Involved: In an attempt to reduce paperwork and ease filing requirements, this rulemaking would extend the due date for employers who solely employ household workers so that they could file their wage and contribution reports on an annual basis.
- 6) Will the proposed amendment replace any emergency amendment currently in effect? 29 Ill. Reg. 6783; May 6, 2005
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain an incorporation by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives? 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 submit written comments to:

Gregory J. Ramel, Deputy Legal Counsel
Illinois Department of Employment Security
33 South State Street – Room 937
Chicago, IL 60603

312-793-4240

The Department requests the submission of written comments within 45 days after the publication of this notice. The Department will consider all written comments it receives

DEPARTMENT OF EMPLOYMENT SECURITY

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during the First Notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

The Department does not expect the proposed amendment to have any direct impact on small businesses, small municipalities and not for profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80 and 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as a small business, small municipality or not-for-profit corporation as part of any written comments submitted to the Department.

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small business, small municipalities and not for profit corporations affected: The Department does not expect the proposed amendment to have any direct impact on small businesses, small municipalities and not for profit.
 - B) Reporting, bookkeeping or other procedures required for compliance: Qualifying employers would be allowed to report annually instead of quarterly.
 - C) Types of professional skills necessary for compliance: The Agency supplies the forms necessary for annual filing, along with directions for completion.
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking replaces an emergency rule. Because of the emergency, it was not possible to summarize this rulemaking on a regulatory agenda.

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

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENT

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER c: RIGHTS AND DUTIES OF EMPLOYERSPART 2760
NOTICES, RECORDS, REPORTS

SUBPART A: GENERAL OBLIGATIONS

Section

- 2760.1 Posting And Maintaining Notices
2760.5 Identification Of Workers Covered By The Act
2760.10 Filing By Mail

SUBPART B: REPORTS AND RECORDS

Section

- 2760.100 Reports
2760.105 Reports Of Employing Units As To Their Status
2760.110 Employing Unit Terminating Business
2760.115 Records With Respect To Employment
2760.120 Employer's Contribution Report
2760.125 Employer's Wage Report
2760.128 [Wage Report Filing Extension For Employers That Employ Household Workers To Report Their Wages On An Annual Basis](#)
2760.130 Reporting "Excess" Wages
2760.135 Remittance Of Contributions Due And Use Of Transmittal Form
2760.140 Use Of Electronic Data Processing Media For Quarterly Reporting
2760.145 Correcting The "Employer's Contribution And Wage Report"
2760.150 Consequences Of An Error In The Preparation Of The "Employer's Contribution And Wage Report"

AUTHORITY: Implementing and authorized by Sections 204, 234, 245, 300, 302, 700, 1400, 1401, 1402, 1404, 1405, 1507, 1700, 1701, 1706, 1800, 1801, 2201 and 2208 of the Unemployment Insurance Act [820 ILCS 405/204, 234, 245, 300, 302, 700, 1400, 1401, 1402, 1404, 1405, 1507, 1700, 1701, 1706, 1800, 1801, 2201 and 2208].

SOURCE: Department of Labor, Bureau of Employment Security Regulations 4, 7 and 8, filed as amended May 3, 1977, effective May 13, 1977; Regulation 11 filed as amended May 4, 1977, effective May 14, 1977; Regulations 5 and 32 filed as amended June 23, 1977, effective July 3,

DEPARTMENT OF EMPLOYMENT SECURITY

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1977; Regulations 6 and 12 filed as amended September 12, 1977, effective September 12, 1977; rules repealed by operation of law on October 1, 1984; new rules adopted at 10 Ill. Reg. 6939, effective April 15, 1986; emergency amendment at 12 Ill. Reg. 222, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 13604, effective August 4, 1988; amended at 12 Ill. Reg. 16070, effective September 23, 1988; amended at 16 Ill. Reg. 3993, effective February 27, 1992; emergency amendment at 17 Ill. Reg. 13798, effective August 4, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 261, effective December 27, 1993; emergency amendment at 18 Ill. Reg. 2631, effective February 3, 1994, for a maximum of 150 days; emergency amendment modified at 18 Ill. Reg. 7492; emergency expired July 3, 1994; amended at 18 Ill. Reg. 14942, effective September 27, 1994; amended at 29 Ill. Reg. 1917, effective January 24, 2005; emergency amendment at 29 Ill. Reg. 6783, effective April 25, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. _____, effective _____.

SUBPART B: REPORTS AND RECORDS

Section 2760.128 Wage Report Filing Extension For Employers That Employ Household Workers To Report Their Wages On An Annual Basis

- a) This Section only applies to an employer who solely employs household workers with respect to whom the employer files federal unemployment taxes using Schedule H (Form 1040) or could file federal unemployment taxes using Schedule H (Form 1040) if the worker or workers were providing services in employment for purposes of the federal unemployment tax. For purposes of this Section, "household worker" has the meaning ascribed to it for purposes of Schedule H (Form 1040) and includes, but is not limited to, baby-sitters, cleaning people, housekeepers, nannies and maids.
- 1) Example: Joe Smith employs individuals to provide maid services in the private homes of his customers. For purposes of Schedule H (Form 1040), an employee is only considered a household worker if his or her services are provided in the employer's private home. This Section does not apply to Joe Smith since he is not eligible to use Schedule H because the services of his employees are not performed in his home.
 - 2) Example: Jane Smith is the sole proprietor of a trucking company that employs numerous drivers and office personnel. She also employs a nanny to care for her child in her home. This Section does not apply to Ms. Smith because, while the nanny is a household worker for purposes of Schedule H (Form 1040), performing her services in Ms. Smith's private home, Ms. Smith does not solely employ household workers.

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENT

- 3) Example: George Smith employs a housekeeper who is considered self-employed for purposes of the federal unemployment tax, and whose wages, therefore, are not subject to the federal tax. However, the services are employment under Illinois' Unemployment Insurance Act [820 ILCS 405]. Since Mr. Smith could have used Schedule H (Form 1040) to file federal unemployment taxes with regard to the housekeeper's services had she not been considered self-employed for purposes of the federal tax, this Section will apply regarding her services.
- b) Notwithstanding any other provisions of this Part to the contrary, if an employer to whom this Section applies notifies the Director, in writing, that he or she wishes to pay his or her quarterly contributions and submit his or her quarterly wage and contribution reports on an annual basis, then the Director shall extend the due date for filing the reports to April 15 of the calendar year immediately following the quarters to which the reports apply. An employer's failure to provide the notice may result in the Department's issuance of statements of account, indicating the employer is delinquent in the filing of wage reports or the payment of contributions, or both, as well as a Notice of Determination and Assessment of delinquent contributions, plus penalties and interest. If the employer does not protest a Determination and Assessment on a timely basis, the delinquency indicated in the Notice of Determination and Assessment will become a legally final debt of the employer's.

(Source: Added at 29 Ill. Reg. _____, effective _____)

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Payment Of Unemployment Contributions, Interest And Penalties
- 2) Code Citation: 56 Ill. Adm. Code 2765
- 3) Section Number: 2765.61 Proposed Action: New
- 4) Statutory Authority: 820 ILCS 405/212, 302, 500, 601, 602, 603, 612, 701, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701 and 2600.
- 5) A Complete Description of the Subjects and Issues Involved: In an attempt to reduce paperwork and ease filing requirements, this rulemaking would waive interest on quarterly unemployment insurance contributions, as long as they were paid in full by April 15 of the calendar year following the close of the quarters for which the contributions were due and set forth conditions for waiving penalties with regard to wage and contribution reports filed after the April 15 due date.
- 6) Will the proposed amendment replace any emergency amendment currently in effect? 29 Ill. Reg. 6788; May 6, 2005
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain an incorporation by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives? 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 submit written comments to:

Gregory J. Ramel, Deputy Legal Counsel
Illinois Department of Employment Security
33 South State Street – Room 937
Chicago, IL 60603

312-793-4240

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENT

The Department requests the submission of written comments within 45 days after the publication of this notice. The Department will consider all written comments it receives during the First Notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

The Department does not expect the proposed amendment to have any direct impact on small businesses, small municipalities and not for profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80 and 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as a small business, small municipality or not-for-profit corporation as part of any written comments submitted to the Department.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small business, small municipalities and not for profit corporations affected: The Department does not expect the proposed amendment to have any direct impact on small businesses, small municipalities and not for profit corporations.
- B) Reporting, bookkeeping or other procedures required for compliance: Qualifying employers would be allowed to report annually instead of quarterly.
- C) Types of professional skills necessary for compliance: The Agency supplies the forms necessary for annual filing, along with directions for completion.

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking replaces an emergency rule. Because of the emergency, it was not possible to summarize this rulemaking on a regulatory agenda.

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

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENT

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER c: RIGHTS AND DUTIES OF EMPLOYERS

PART 2765

PAYMENT OF UNEMPLOYMENT CONTRIBUTIONS, INTEREST AND PENALTIES

SUBPART A: GENERAL PROVISIONS

Section

- 2765.1 Unemployment Contributions Not Deductible From Wages
- 2765.5 Definitions
- 2765.10 Payment Of Contributions
- 2765.15 Liability For The Entire Year
- 2765.18 Liability Of A Third Party Purchaser Or Transferee For The Due And Unpaid Contributions, Interest And Penalties Of The Seller Or Transferor's Seller or Transferor
- 2765.20 Contributions Of Employers By Election
- 2765.25 Payments In Lieu Of Contributions
- 2765.30 When Payments In Lieu Of Contributions Payable
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- 2765.333 Effect Of Ineligibility Under Section 612 On Chargeability Under Section 1502.1 Of The Act
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AUTHORITY: Implementing and authorized by Sections 212, 302, 500, 601, 602, 603, 612, 701, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701 and 2600 of the Unemployment Insurance Act [820 ILCS 405/212, 302, 500, 601, 602, 603, 612, 701, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701 and 2600].

SOURCE: Adopted at 6 Ill. Reg. 3863, effective March 31, 1982; amended at 7 Ill. Reg. 13266, effective September 28, 1983; recodified at 8 Ill. Reg. 15027; amended at 11 Ill. Reg. 3972, effective February 23, 1987; amended at 11 Ill. Reg. 11743, effective June 26, 1987; amended at 11 Ill. Reg. 12882, effective July 22, 1987; emergency amendment at 12 Ill. Reg. 225, effective January 1, 1988, for a maximum of 150 days; emergency expired May 30, 1988; amended at 12 Ill. Reg. 11740, effective July 5, 1988; amended at 12 Ill. Reg. 17342, effective October 12, 1988; amended at 12 Ill. Reg. 20484, effective November 28, 1988; emergency amendment at 13 Ill. Reg. 11911, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 17410, effective October 30, 1989; amended at 14 Ill. Reg. 6218, effective April 16, 1990; amended at 14 Ill. Reg. 19886, effective November 29, 1990; amended at 15 Ill. Reg. 185, effective December 28, 1990; amended at 15 Ill. Reg. 11122, effective July 19, 1991; amended at 16 Ill. Reg. 2131, effective January 27, 1992; amended at 16 Ill. Reg. 12165, effective July 20, 1992; amended at 17 Ill. Reg. 308, effective December 28, 1992; amended at 17 Ill. Reg. 614, effective January 4, 1993; amended at 17 Ill. Reg. 10275, effective June 29, 1993; emergency amendment at 17 Ill. Reg. 13801, effective August 20, 1993, for a maximum of 150 days; emergency expired January 1, 1994; amended at 18 Ill. Reg. 14952, effective September 27, 1994; emergency amendment at 19 Ill. Reg. 16113, effective November 13, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 4307, effective February 29, 1996; amended at 25 Ill. Reg. 2011, effective January 18, 2001; emergency amendment at 29 Ill. Reg. 6788, effective April 25, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENT

Section 2765.61 Waiver Of Interest And Penalty For Employers Who Employ Household Workers And Who File Reports And Pay Contributions On An Annual Basis

- a) This Section shall only apply to an employer who has submitted the notice described in Section 2760.128(b).
- b) If an employer to whom this Section applies pays contributions by April 15 of the calendar year immediately following the quarter for which the contributions are due, the Director shall waive any interest imposed on such employer in accordance with Section 1401 of Act [820 ILCS 405/1401] for failure to comply with Section 1400 of the Act [820 ILCS 405/1400] with respect to that quarter. However, failure to pay by April 15 will result in the imposition of interest in accordance with Section 1401. It is not necessary for the employer to apply for such waiver as long as he or she pays contributions, as required by this Section, by April 15 of the calendar year immediately following the quarters for which contributions are due.
- Example: An individual to whom this Section applies intends to pay his contributions on an annual basis and reports his intent to the Director. However, because he forgets, he does not pay the contributions due until May of the year following the quarters in question. The Director will not waive any interest, and this individual will be liable for interest as of the dates that the payments were due under Section 1400; e.g., with regard to contributions due for the first quarter of a calendar year, April 30 of that year and not April 15 of the immediately following calendar year.
- c) When an employer to whom this Section applies does not submit all quarterly reports of wages paid to household workers during the calendar year, along with all quarterly reports of contributions due with respect to those wages, by April 15 of the immediately following calendar year but does so by September 30 of the following calendar year, the Director shall find good cause for waiving the penalties with regard to all of those reports except the latest to remain outstanding as of April 16 of the following calendar year. In assessing penalties for the failure to submit all reports by the April 15 due date, the 30-day period immediately following the April 15 due date will be considered as one month for purposes of Section 1402 of the Act [820 ILCS 405/1402]. It is not necessary for the employer to apply for a waiver as long as he or she submits all of the reports, as required by this Section, by September 30 of the calendar year immediately following the quarters for which the reports are due.

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- 1) Example: Joe Smith has properly notified the Director that he wishes to submit his quarterly wage and contribution reports annually. However, he only submits a wage and contribution report for the fourth quarter of 2005 by April 15, 2006. He submits his reports for the first, second and third quarters of 2005 on May 15, 2006. The Director will waive the late filing penalties for reports regarding the first and second quarters of 2005, but a penalty will be imposed for filing the report regarding the third quarter of 2005 one month late, in the amount provided in Section 1402 of the Act.
- 2) Example: Joe Smith has properly notified the Director that he wishes to submit his quarterly wage and contribution reports annually. However, he only submits his report for the fourth quarter of 2005 by April 15, 2006. He submits his reports for the first, second and third quarters of 2005 on October 1, 2006. Penalties shall be imposed with regard to the reports for the first, second and third quarters of 2005, in the amounts provided in Section 1402 of the Act.
- 3) Example: Joe Smith has properly notified the Director that he wishes to submit his quarterly wage and contribution reports annually. However, he fails to submit his reports for 2005 by April 15, 2006. He submits his reports for the first, second and third quarters of 2005 on September 15, 2006 but does not submit his report for the fourth quarter of 2005 until October 1, 2006. Penalties shall be imposed with regard to the reports for all 4 quarters of 2005, in the amounts provided in Section 1402 of the Act.

(Source: Added at 29 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: The Taking of Wild Turkeys – Fall Gun Season
- 2) Code Citation: 17 Ill. Adm. Code 715
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
715.30	Amendment
715.40	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to extend the time for the daily hunter registration of harvest from 8:00 p.m. to 10:00 p.m. and to update the list of sites open to hunting.
- 6) Will this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809
- 12) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations

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affected: None

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: January 2005

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFEPART 715
THE TAKING OF WILD TURKEYS – FALL GUN SEASON

Section

715.10	Hunting Season, Open Counties and Permit Quotas
715.20	Statewide Turkey Permit Requirements
715.21	Turkey Permit Requirements – Special Hunts
715.25	Turkey Permit Requirements – Landowner/Tenant Permits
715.30	Turkey Hunting Regulations
715.40	Regulations at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11].

SOURCE: Adopted at 13 Ill. Reg. 14950, effective September 6, 1989; amended at 14 Ill. Reg. 12421, effective July 20, 1990; amended at 15 Ill. Reg. 11618, effective August 2, 1991; amended at 16 Ill. Reg. 11101, effective June 30, 1992; amended at 17 Ill. Reg. 10858, effective July 1, 1993; amended at 18 Ill. Reg. 10013, effective June 21, 1994; amended at 19 Ill. Reg. 11806, effective August 3, 1995; amended at 20 Ill. Reg. 10898, effective August 5, 1996; amended at 21 Ill. Reg. 9110, effective June 26, 1997; amended at 22 Ill. Reg. 14866, effective August 3, 1998; amended at 23 Ill. Reg. 9091, effective July 28, 1999; amended at 24 Ill. Reg. 8965, effective June 19, 2000; amended at 25 Ill. Reg. 11460, effective August 14, 2001; amended at 26 Ill. Reg. 13855, effective September 5, 2002; amended at 27 Ill. Reg. 12650, effective July 21, 2003; amended at 28 Ill. Reg. 11904, effective July 27, 2004; amended at 29 Ill. Reg. _____, effective _____.

Section 715.30 Turkey Hunting Regulations

- a) Violation of this Section is a Class B misdemeanor (see 520 ILCS 5/2.9), except that hunting prior to ½ hour before sunrise or after ½ hour after sunset is a Class A misdemeanor with a minimum \$500 fine and a maximum \$5,000 fine in addition to other statutory penalties (see 520 ILCS 5/2.33(y)). It is unlawful:
 - 1) to use live or electronic turkey decoys, recorded calls, dogs or bait. An area is considered as baited during the presence of and for 10 consecutive days following the removal of bait;

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- 2) to take, or attempt to take, more than one wild turkey per valid permit (either sex may be harvested);
 - 3) to use any weapon except a shotgun. #4 shot is the largest and #7½ is the smallest size shot that may be legally used;
 - 4) to hunt except from ½ hour before sunrise to sunset during each day of the season;
 - 5) for any person to hunt wild turkeys without having a signed Wild Turkey Hunting Permit in possession, except that a person without a weapon may accompany a turkey hunter as a caller or observer;
 - 6) to transport a wild turkey without first affixing the adhesive-backed turkey permit securely around the leg. Leg tag must be affixed to the turkey immediately upon kill. No person shall leave a turkey that has been killed without properly attaching the turkey permit around the leg;
 - 7) for any person to shoot a wild turkey while it is in a tree before 7:00 a.m.; and
 - 8) to possess while in the field, during turkey season, any turkey permit issued to another person. (Permits are non-transferrable.)
- b) Successful hunters must register their harvest by ~~10:00~~ 10:08:00 p.m. on the same calendar day the turkey was taken by calling the toll-free telephone check-in system, and will be provided with a confirmation number to verify that they checked in their harvest. The confirmation number must be written by the hunter onto the leg tag. The leg tag must remain attached to the leg of the turkey until it is at the legal residence of the person who legally took or possessed the turkey and the turkey has been checked in. The turkey must remain whole (or field dressed) until it has been checked in.
- c) Failure to comply with the regulations in this Part is a Class B misdemeanor (see 520 ILCS 5/2.9).

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 715.40 Regulations at Various Department-Owned or -Managed Sites

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- a) Statewide regulations shall apply for the following sites:

~~Jim Edgar Panther Creek State Fish and Wildlife Area (West Open Unit)~~

Kaskaskia River State Fish and Wildlife Area (except that area north of Hwy. 154, east of the Kaskaskia River and south of Risdon School Road and Beck's Landing access road)

Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26)

Mississippi River Pools 16, 17, 18

Mississippi River Pools 21, 22, 24

Nauvoo State Park (Max Rowe Unit only)

Rend Lake Project Lands (portion in Jefferson County only)

Weinberg-King State Park (Cecil White Unit)

- b) Statewide regulations shall apply except that all hunters must check in, check out, and report harvest at those sites listed below. Quotas, where listed, shall be on a first come-first served basis. Hunters shall not be allowed to sign in prior to 4 a.m. each day of the season.

Argyle Lake State Park

Big River State Forest

Cache River State Natural Area (Johnson County portion only)

Cypress Pond State Natural Area

Devil's Island State Fish and Wildlife Area

Dog Island Wildlife Management Area

Falling Down Prairie

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Ferne Clyffe State Park

Fort de Chartres Historic Site (muzzleloading shotguns only)

Giant City State Park

Hanover Bluff State Natural Area—~~Kopper Tract~~

Horseshoe Lake Conservation Area (public hunting area except for controlled goose hunting area)

~~I-24 Wildlife Management Area~~

Kinkaid Lake Fish and Wildlife Area

Pere Marquette State Park (only that portion of site south of Graham Hollow Road)

Ray Norbut State Fish and Wildlife Area

Sahara Woods State Fish and Wildlife Area
Saline County Conservation Area

Siloam Springs State Park

Siloam Springs State Park – Buckhorn Unit (resident hunters only)

Skinner Farm State Habitat Area

~~Snakeden Hollow State Fish and Wildlife Area—Ives Unit~~

Spoon River State Forest

Tapley Woods State Natural Area

Trail of Tears State Forest

Turkey Bluffs State Fish and Wildlife Area

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Union County Conservation Area – Firing Line Management Unit Only

WeinbergWeinburg-King State Park

WeinbergWeinburg-King State Park – Scripps Unit

Weinberg-King State Park – Spunky Bottoms Unit

- c) Statewide regulations shall apply except that all hunting is allowed by site-specific permit only. The Department of Natural Resources allocates permits for these areas through the lottery process set forth in Section 715.20. This permit is only valid for the specific site indicated on the permit.

Apple River Canyon State Park – Salem and Thompson Units

Crawford County Conservation Area

Jim Edgar Panther Creek State Fish and Wildlife Area

Jim Edgar Panther Creek State Fish and Wildlife Area (West Open Unit)

Meeker Habitat Area

Newton Lake Fish and Wildlife Area

Sam Parr State Park

Sand Ridge State Forest

Witkowsky State Wildlife Area

- d) Special program for hunters with disabilities. Statewide regulations shall apply unless designated otherwise by site regulations. Only disabled persons participating in the site's firearm deer hunt are eligible to participate. This hunt will run concurrent with the site's firearm deer hunt (refer to 17 Ill. Adm. Code 650.67 for hunt dates). Permits will be \$15 each; site specific for Rock Cut; issued at the site during check in for firearm deer hunting. Any additional availability will be publicly announced.

Rock Cut State Park

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- e) Violation of a site specific regulation is a Class B misdemeanor (see 520 ILCS 5/2.9).

(Source: Amended at 29 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: The Taking of Wild Turkeys – Fall Archery Season
- 2) Code Citation: 17 Ill. Adm. Code 720
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
720.30	Amendment
720.40	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10 and 2.11].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to extend the time for the daily hunter registration of harvest from 8:00 p.m. to 10:00 p.m. and to update the list of sites open to hunting.
- 6) Will this rulemaking contain an automatic repeal date? 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 Objective: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809
- 12) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations

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affected: None

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: January 2005

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFEPART 720
THE TAKING OF WILD TURKEYS – FALL ARCHERY SEASON

Section

720.10	Hunting Seasons and Counties Open to Hunting
720.20	Statewide Turkey Permit Requirements
720.25	Turkey Permit Requirements – Landowner/Tenant Permits
720.30	Turkey Hunting Regulations
720.40	Regulations at Various Department-Owned or -Managed Sites
720.50	Releasing or Stocking of Turkeys (Repealed)

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10 and 2.11].

SOURCE: Adopted and codified at 8 Ill. Reg. 7825, effective May 22, 1984; emergency amendments at 8 Ill. Reg. 20086, effective October 12, 1985, for a maximum of 150 days; emergency expired March 2, 1985; amended at 9 Ill. Reg. 14311, effective September 5, 1985; amended at 11 Ill. Reg. 9556, effective May 5, 1987; amended at 12 Ill. Reg. 12254, effective July 15, 1988; amended at 13 Ill. Reg. 12831, effective July 21, 1989; amended at 14 Ill. Reg. 12413, effective July 20, 1990; amended at 15 Ill. Reg. 11611, effective August 2, 1991; amended at 16 Ill. Reg. 11093, effective June 30, 1992; amended at 16 Ill. Reg. 15442, effective September 28, 1992; amended at 17 Ill. Reg. 281, effective December 28, 1992; amended at 17 Ill. Reg. 10850, effective July 1, 1993; amended at 18 Ill. Reg. 10104, effective June 21, 1994; amended at 19 Ill. Reg. 11799, effective August 3, 1995; amended at 20 Ill. Reg. 10890, effective August 5, 1996; amended at 21 Ill. Reg. 9102, effective June 26, 1997; amended at 22 Ill. Reg. 14856, effective August 3, 1998; amended at 23 Ill. Reg. 9082, effective July 28, 1999; amended at 24 Ill. Reg. 8956, effective June 19, 2000; amended at 25 Ill. Reg. 11448, effective August 14, 2001; amended at 26 Ill. Reg. 13867, effective September 5, 2002; amended at 27 Ill. Reg. 12658, effective July 21, 2003; amended at 28 Ill. Reg. 13612, effective September 24, 2004; amended at 29 Ill. Reg. _____, effective _____.

Section 720.30 Turkey Hunting Regulations

- a) It is unlawful:
 - 1) to use live or electronic turkey decoys, recorded calls, dogs or bait. An

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area is considered as baited during the presence of and for 10 consecutive days following the removal of bait;

- 2) to take, or attempt to take, more than 1 wild turkey per valid permit during the fall archery season (either sex may be harvested);
- 3) to use any weapon except a long, recurved or compound bow with a minimum pull of 40 pounds at some point within a 28 inch draw. Minimum arrow length is 20 inches, and broadheads must be used. Broadheads may have fixed or expandable blades, but they must be ~~barbless and~~ have a minimum $\frac{7}{8}$ inch diameter when fully opened. Broadheads with fixed blades must be metal or flint-, chert-, or obsidian-napped; broadheads with expandable blades must be metal. All other bows and arrows, including electronic arrow tracking systems, are illegal. Any mechanical device capable of maintaining a drawn or partially drawn position on a bow is illegal. Crossbows may be used as provided by 520 ILCS 5/2.33;
- 4) for any person having taken the limit of wild turkeys to further participate with a weapon in any hunting party for the purpose of taking additional turkeys;
- 5) for any person to hunt wild turkeys without having a signed Archery Wild Turkey Hunting Permit in possession, except that a person without a weapon may accompany a turkey hunter as a caller or observer;
- 6) to transport or move a wild turkey without first affixing and properly sealing the adhesive-backed turkey permit securely around the leg. Leg tag must be affixed to the turkey immediately upon kill. No person shall leave any turkey that has been killed without properly attaching the turkey permit around the leg; and
- 7) to possess, while in the field during archery turkey season, any turkey permit issued to another person.

- b) Successful hunters must register their harvest by ~~10:008:00~~ p.m. on the same calendar day the turkey was taken by calling the toll-free telephone check-in system, and will be provided with a confirmation number to verify that they checked in their harvest. The confirmation number must be written by the hunter onto the leg tag. The leg tag must remain attached to the leg of the turkey until it

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is at the legal residence of the person who legally took or possessed the turkey and the turkey has been checked in. The turkey must remain whole (or field dressed) until it has been checked in.

- c) Violation of this Section is a Class B misdemeanor (see 520 ILCS 5/2.9).

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 720.40 Regulations at Various Department-Owned or -Managed Sites

Statewide regulations shall apply for the following sites, except those sites designated below by asterisk (*) shall be open to archery turkey hunting without regard to firearm deer season. Those sites followed by (1) require hunters to check in and check out. Violation of a site specific regulation is a Class B misdemeanor (see 520 ILCS 5/2.9). Those sites followed by a (2) require hunters to obtain a permit from the site before hunting:

* Anderson Lake Conservation Area (1)

Apple River Canyon State Park – Salem and Thompson Units (1)

Argyle Lake State Park (1)

Beaver Dam State Park (2)

Big Bend State Fish and Wildlife Area (1)

Big River State Forest (1)

Cache River State Natural Area (1)

Campbell Pond Wildlife Management Area

Carlyle Lake Lands and Waters – Corps of Engineers Managed Lands

Carlyle Lake Wildlife Management Area (subimpoundment area closed 7 days prior to and during the southern zone waterfowl season)

Castle Rock State Park (1)

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Chain O'Lakes State Park (closed Wednesday through Sunday of pheasant season; opens Monday prior to pheasant season and closes Tuesday following close of pheasant season; reopens December 26 through the close of regular season) (1)

Chauncey Marsh (permit available at Red Hills State Park) (2)

Clinton Lake State Recreation Area (2)

Coffeen Lake State Fish and Wildlife Area (2)

Crawford County Conservation Area (1)

Cypress Pond State Natural Area (1)

Devil's Island State Fish and Wildlife Area

Dixon Springs State Park (1)

Dog Island Wildlife Management Area (1)

Eagle Creek State Park (2)

Falling Down Prairie (1)

Ferne Clyffe State Park (1)

Fort de Chartres Historic Site

Fort Massac State Park (1)

* Franklin Creek State Park (hunting in designated area only) (1)

Giant City State Park (1)

Green River State Wildlife Area (1)

Hamilton County Conservation Area (must possess valid site archery permit) (2)

Hanover Bluff State Natural Area (1)

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Harry "Babe" Woodyard State Natural Area (2)

Horseshoe Lake Conservation Area (Alexander County) (controlled goose hunting area closed 7 days prior to the Quota Zone goose season through the close of the Quota Zone goose season; remainder of the public hunting area open during the statewide season) (1)
(2)

* Horseshoe Lake State Park – Gabaret, Mosenthein and Chouteau Island Units (Madison County) (2)

~~I-24 Wildlife Management Area (1)~~

Iroquois County State Wildlife Area

Jim Edgar Panther Creek State Fish and Wildlife Area (2)

Johnson-Sauk Trail State Park (closed Wednesday through Sunday during site's pheasant permit season) (1)

Jubilee College State Park (1)

Kaskaskia River State Fish and Wildlife Area

Kickapoo State Park (2)

Kinkaid Lake Fish and Wildlife Area

~~Kishwaukee River State Fish and Wildlife Area (1)(2)~~

Lowden-Miller State Forest (1)

Mackinaw River State Fish and Wildlife Area (1)

Marseilles State Fish and Wildlife Area (closed each Friday, Saturday, and Sunday in October) (1)

Marshall State Fish and Wildlife Area (Duck Ranch Unit closed 7 days prior to the duck season through the close of duck season) (1)

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- * Matthiessen State Park (hunting in designated areas only; must have valid archery deer permit in possession to hunt turkeys; open concurrent with site archery deer season; during the statewide firearm deer seasons, hunters must meet orange clothing requirements) (1)

Mautino State Fish and Wildlife Area (2)

Meeker Habitat Area (obtain permit at Sam Parr State Park) (2)

Mermet Lake State Fish and Wildlife Area (1)

Middle Fork State Fish and Wildlife Area (2)

Mississippi Palisades State Park (November 1 through December 31) (2)

Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26)

Mississippi River Pools 16, 17 and 18

Mississippi River Pools 21, 22 and 24

Moraine View State Park (closed Wednesday through Sunday during site's controlled pheasant season) (2)

Nauvoo State Park (Max Rowe Unit only)

Newton Lake Fish and Wildlife Area (must possess valid site archery permit) (2)

Oakford Conservation Area

Peabody River King State Fish and Wildlife Area (east and north subunits closed November 1) (1)

Pere Marquette State Park (1)

Pyramid State Park

Pyramid State Park – East Conant Unit (2)

- * Ramsey Lake State Park (2)

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NOTICE OF PROPOSED AMENDMENTS

- * Randolph County Conservation Area
- | Ray Norbut State Fish and Wildlife Area (~~all hunting closes December 15 in Eagle Roost Area~~) (1)
- * Red Hills State Park (1)
- * Rend Lake Project Lands and Waters
- Sahara Woods State Fish and Wildlife Area (1)
- Saline County Conservation Area (1)
- * Sam Dale Lake Conservation Area (2)
- * Sam Parr State Park (1)
- Sand Ridge State Forest (2)
- * Sandy Ford Land and Water Reserve (1)
- Sanganois State Fish and Wildlife Area (2)
- | Sangchris Lake State Park (1) (2)
- * Shabbona Lake State Park (1)
- Shelbyville Lake – Corps of Engineers Managed Lands
- Shelbyville Wildlife Management Area (2)
- Sielbeck Forest Natural Area (1)
- | Siloam Springs State Park (1) (2)
- Siloam Springs State Park – Buckhorn Unit (resident hunters only) (1)(2)
- | Skinner Farm State Habitat Area (1)

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| Spoon River State Forest (1)

| ~~Snakeden Hollow Fish and Wildlife Area—Ives Unit (1)~~

* Spring Lake State Fish and Wildlife Area (2)

* Stephen A. Forbes State Park (2)

Tapley Woods State Natural Area (1)

Ten Mile Creek Fish and Wildlife Area (2)

Trail of Tears State Forest (1)

Turkey Bluffs State Fish and Wildlife Area

Union County Conservation Area (firing line unit – Statewide season, Public Hunting Area October 1 through October 31, reopens with the close of the Quota Zone goose season) (1)

* Washington County Conservation Area (1)

| Wayne Fitzgerald State Park (no hunting during controlled hunts as posted at the site) (1)

Weinberg-King State Park

Weinberg-King State Park – Cecil White Unit

Weinberg-King State Park – Scripps Unit (resident hunters only) (1)

| Weinberg-King State Park – Spunky Bottoms Unit (resident hunters only) (1)

Wildcat Hollow State Forest

Witkowsky State Wildlife Area (1)

(Source: Amended at 29 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Child Health Examination Code
- 2) Code Citation: 77 Ill. Adm. Code 665
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
665.100	Amendment
665.120	Amendment
665.410	Amendment
665.420	Amendment
665.430	Amendment
665.440	Repeal
665.450	New Section
- 4) Statutory Authority: Section 27-8.1 of the School Code [105 ILCS 5/27-8.1] and Section 6.2 of the Lead Poisoning Prevention Act [410 ILCS 45/6.2].
- 5) Complete Description of the Subjects and Issues Involved: Existing Rules require the administration of child health examinations as set out in the School Code. Currently, dental examinations are an additional examination that may be required by school authorities, and parents are encouraged to have their children examined in the same timeframe as the physical examinations. Public Act 93-946 (effective July 1, 2005) amended Section 27-8.1 of the School Code to make dental examinations mandatory for children in kindergarten and the second and sixth grades.

The proposed amendments will require dental examinations for all children in kindergarten, second and sixth grades. The proposed amendments revise existing requirements appropriately and describe the timeframe for the dental examinations, the dental examination record and waiver of the dental examination requirement.
- 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 rulemakings pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
665.100	Amendment	28 Ill. Reg. 15439

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

665.105	New Section	28 Ill. Reg. 15439
665.115	New Section	28 Ill. Reg. 15439
665.130	Amendment	28 Ill. Reg. 15439
665.140	Amendment	28 Ill. Reg. 15439
665.150	Amendment	28 Ill. Reg. 15439
665.160	Amendment	28 Ill. Reg. 15439
665.210	Amendment	28 Ill. Reg. 15439
665.220	Repealer	28 Ill. Reg. 15439
665.230	Amendment	28 Ill. Reg. 15439
665.260	Amendment	28 Ill. Reg. 15439
665.270	Amendment	28 Ill. Reg. 15439
665.290	Amendment	28 Ill. Reg. 15439
665.310	Amendment	28 Ill. Reg. 15439
665.610	Amendment	28 Ill. Reg. 15439
665.700	New Section	28 Ill. Reg. 15439
665.710	New Section	28 Ill. Reg. 15439
665.720	New Section	28 Ill. Reg. 15439

- 10) Statement of Statewide Policy Objective: This rulemaking will affect school districts.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Susan Meister
 Administrative Rules Coordinator
 Division of Legal Services
 Illinois Department of Public Health
 535 W. Jefferson St., Fifth Floor
 Springfield, Illinois 62761

217/782-2043
 e-mail rules@idph.state.il.us

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Elementary Schools

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- B) Reporting, bookkeeping or other procedures required for compliance: Yes
 - C) Types of professional skills necessary for compliance: Clerical
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: The need for the rulemaking was not apparent at the time that the Regulatory Agendas were developed.

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 i: MATERNAL AND CHILD HEALTH

PART 665
CHILD HEALTH EXAMINATION CODE

SUBPART A: GENERAL PROVISIONS

- Section
- 665.100 Statutory Authority
- 665.110 General Considerations (Repealed)

SUBPART B: HEALTH EXAMINATION

- Section
- 665.120 Health Examination Requirement
- 665.130 Signature of Physician
- 665.140 Time Examinations to be Conducted
- 665.150 Report Forms
- 665.160 Proof of Examination
- 665.210 Proof of Immunizations
- 665.220 Local School Authority
- 665.230 School Entrance
- 665.240 Basic Immunization
- 665.250 Proof of Immunity
- 665.260 Booster Immunizations
- 665.270 Compliance with the Law
- 665.280 Physician Statement of Immunity
- 665.290 List of Non-immunized Students

SUBPART C: VISION AND HEARING SCREENING

- Section
- 665.310 Vision and Hearing Screening

SUBPART D: DENTAL EXAMINATION

- Section
- 665.410 Dental Examination ~~Requirement~~[Recommendation](#)

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665.420	Dental Examination <u>Timetable</u>
665.430	Dental Examination Record
665.440	Guidelines (Repealed)
<u>665.450</u>	<u>Waiver of Dental Examination Requirement</u>

SUBPART E: EXCEPTIONS

Section	
665.510	Objection of Parent or Legal Guardian
665.520	Medical Objection

SUBPART F: VISION EXAMINATION

Section	
665.610	Vision Examination Recommendation
665.620	Vision Examination
665.630	Vision Examination Report
665.640	Indigent Students

665.APPENDIX A	Vision Examination Report
665.APPENDIX B	Vaccination Schedule for Haemophilus influenzae type b Conjugate Vaccines (Hib)

AUTHORITY: Implementing and authorized by Section 27-8.1 of the School Code [105 ILCS 5/27-8.1] and Section 6.2 of the Lead Poisoning Prevention Act [410 ILCS 45/6.2].

SOURCE: Emergency rule adopted at 4 Ill. Reg. 38, p. 275, effective September 10, 1980, for a maximum of 150 days; emergency rule adopted at 4 Ill. Reg. 41, p. 176, effective October 1, 1980, for a maximum of 150 days; adopted at 5 Ill. Reg. 1403, effective January 29, 1981; codified at 8 Ill. Reg. 8921; amended at 11 Ill. Reg. 11791, effective June 29, 1987; amended at 13 Ill. Reg. 11565, effective July 1, 1989; amended at 13 Ill. Reg. 17047, effective November 1, 1989; emergency amendment at 14 Ill. Reg. 5617, effective March 30, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14543, effective August 27, 1990; amended at 15 Ill. Reg. 7706, effective May 1, 1991; amended at 18 Ill. Reg. 4296, effective March 5, 1994; amended at 20 Ill. Reg. 11950, effective August 15, 1996; emergency amendment at 21 Ill. Reg. 11966, effective August 15, 1997, for a maximum of 150 days; emergency expired on January 1, 1998; amended at 26 Ill. Reg. 5921, effective July 1, 2002; amended at 26 Ill. Reg. 10689, effective July 1, 2002; amended at 29 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

DEPARTMENT OF PUBLIC HEALTH

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Section 665.100 Statutory Authority

The Illinois Department of Public Health (Department) is authorized under Section 27-8.1 of the School Code (~~Ill. Rev. Stat. 1991, ch. 122, par. 27-8.1~~) [105 ILCS 5/27-8.1] *to promulgate the rules and regulations specifying specify the examinations and procedures thatwhich shall constitute a health examination and a dental examination, and to promulgate rules and regulations specifying immunizations against preventable communicable diseases. (Section 27-8.1 of the School Code)*

(Source: Amended at 29 Ill. Reg. _____, effective _____)

SUBPART B: HEALTH EXAMINATION

Section 665.120 Health Examination Requirement

Health Examination for all public, private/independent and parochial school students in Illinois shall require a physical examination, protection from communicable disease, and vision and hearing screening according to the following rules of the Department. Dental examinations are required, as specified in Section 665.410. ~~Dental examinations are recommended as part of the health examination, but not mandatory.~~ Lead screening is required as part of the health examination, as specified in Section 665.140(f).

(Source: Amended at 29 Ill. Reg. _____, effective _____)

SUBPART D: DENTAL EXAMINATION

Section 665.410 Dental Examination Requirement~~Recommendation~~

Except as otherwise provided in this Subpart, all children in kindergarten and the second and sixth grades of any public, private, or parochial school shall have a dental examination in accordance with the timetable set forth in Section 665.420. The examination shall be performed by a licensed dentist. Each public, private, and parochial school must give notice of this dental examination requirement to the parents and guardians of students at least 60 days before May 15 of each school year. (Section 27-8.1(1.5) of the School Code) ~~It is strongly recommended that a dental examination be performed on all public, private/independent, and parochial school students by a licensed dentist.~~

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 665.420 Dental Examination Timetable

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- a) *Before May 15 of the school year, each child in kindergarten and the second and sixth grades shall present to the school proof of having been examined by a dentist in accordance with Section 27-8.1(1.5) of the School Code and the requirements of this Part. (Section 27-8.1(1.5) of the School Code) The examination must have taken place within 18 months prior to May 15 of the school year. If a dental examination is performed, it shall be conducted with one year:*
- 1) ~~Prior to the date of entering school (nursery school, special education, head start programs, operated by elementary school systems or secondary level school units or institutions of higher learning; and students transferring into Illinois schools from out of state or out of country);~~
 - 2) ~~Prior to the day of entering kindergarten or first grade;~~
 - 3) ~~Prior to the date of entering the fifth grade; and~~
 - 4) ~~Prior to the date of entering the ninth grade.~~
 - 5) ~~For students attending school programs where grade levels are not assigned examinations shall be completed prior to the date of entering and within one year prior to the age of 5, 10 and 15.~~
- b) *For the purposes of subsection (a), "proof of having been examined by a dentist" means submission of a Department-prescribed Dental Examination forms, signed and dated by a licensed dentist. Additional dental examinations of students may be required when deemed necessary by school authorities.*
- c) *If a child in the second or sixth grade fails to present proof of having been examined by a dentist by May 15, the school may hold the child's report card until one of the following occurs:*
- 1) *the child presents proof of a completed dental examination. (Section 27-8.1(1.5) of the School Code) Submission of a completed examination form, in accordance with subsection (b), constitutes proof of a completed dental examination;*
 - 2) *the child presents proof that a dental examination will take place within 60 days after May 15. (Section 27-8.1(1.5) of the School Code) A written*

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statement or appointment card, prepared by a dentist, dental hygienist, or his or her designee and signed by the child's parent or guardian, indicating the name of the child and the date and time of the scheduled dental examination, constitutes proof that a dental examination will take place; or

- 3) the child presents a Dental Examination Waiver Form, in accordance with Section 665.450 of this Part.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 665.430 Dental Examination ~~Record~~

~~The If performed, the~~ dental examination shall be recorded on the Dental Examination form Record prescribed by the Department for statewide use. The form is available on the Department's website. The completed form shall be presented to the local school authority. ~~The Dental Examination Record is the prescribed form by the Department.~~

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 665.440 Guidelines ~~(Repealed)~~

~~If the dental examination is performed, it shall be inclusive as indicated on the Dental Examination Record and with the Department of Public Health Dental Health Guidelines.~~

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 665.450 Waiver of Dental Examination Requirement

Children who show an undue burden or a lack of access to a dentist shall receive a waiver from the requirement for a dental examination. (Section 27-8.1(1.5) of the School Code) With the notice required in Section 665.410, the school or district shall provide notice of the availability of a waiver from the dental examination requirement, and shall include a Department-prescribed form that may be used to demonstrate the child's eligibility for a waiver.

- a) For the purposes of this Section, an undue burden or lack of access to a dentist includes, but is not limited to, the following circumstances:

- 1) The child is enrolled in the free and reduced lunch program and is not covered by private or public (Medicaid/KidCare) dental insurance.

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- 2) The child is enrolled in the free and reduced lunch program and is ineligible for public insurance (Medicaid/KidCare).
- 3) The child is enrolled in Medicaid/KidCare, but the parent or guardian is unable to find a dentist or dental clinic in the community that is able to see the child and accepts Medicaid/KidCare.
- 4) The child does not have any type of dental insurance, and there are no low-cost dental clinics in the community that will see the child.
- b) The Dental Examination Waiver Form shall be submitted to the school by May 15 of the school year. If the Dental Examination Waiver Form is not submitted by May 15, the school may hold the child's report card until the Dental Examination Waiver Form is submitted.

(Source: Added at 29 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Perinatal HIV Prevention Code
- 2) Code Citation: 77 IL. Adm. Code 699
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
699.10	New
699.20	New
699.30	New
699.100	New
699.200	New
699.300	New
699.400	New
699.410	New
699.420	New
APPENDIX A	New
- 4) Statutory Authority: Perinatal HIV Prevention Act [410 ILCS 335]; the AIDS Confidentiality Act [410 ILCS 305]; the AIDS Registry Act [410 ILCS 310]; the Communicable Disease Prevention Act [410 ILCS 315]; the Consent by Minors to Medical Procedures Act [410 ILCS 210]; and Sections 10 and 580 of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-10 and 2310-580].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed Perinatal HIV Prevention Code (77 Ill. Adm. Code 699) will allow the Illinois Department of Public Health to implement provisions of the Perinatal HIV Prevention Act [410 ILCS 335], signed into law by Governor Blagojevich in August 2003. For pregnant women who arrive in labor without a documented HIV test, rapid tests are a necessary safety net. When a positive HIV test is obtained and anti-retroviral medication is administered, HIV transmission to the infant can more likely be prevented. Intervening as late as labor can still reduce transmission by over 50%. These rules are designed to reduce barriers to routine HIV counseling and testing of pregnant women. They are consistent with the recommendations of the U.S. Centers for Disease Control and Prevention, the Institute of Medicine, the American College of Obstetricians and Gynecologists, and other national and state organizations.
- 6) Will this proposed rule replace any 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

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- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand any state mandates on units of local government.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written or e-mail comments may be submitted within 45 days after this issue of the *Illinois Register* to:
- Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
- 217-782-2043
(E-mail: rules@idph.state.il.us)
- 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: HIV counseling and offer of testing shall be documented in the woman's medical record. Any testing or test results shall be documented in accordance with the AIDS Confidentiality Act and the HIV/AIDS Confidentiality and Testing Code.
- C) Types of Professional skills necessary for compliance: All health care facilities providing medical care for labor or delivery services to a pregnant woman and her newborn infant shall develop and follow written policies and procedures concerning the delegation of the responsibilities for carrying out the counseling and testing requirements of this Part.
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2005

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER k. COMMUNICABLE DISEASE CONTROL AND IMMUNIZATIONSPART 699
PERINATAL HIV PREVENTION CODE

SUBPART A: GENERAL PROVISIONS

Section	
699.10	General Applicability
699.20	Definitions
699.30	Referenced Materials

SUBPART B: HIV PERINATAL COUNSELING AND TESTING

Section	
699.100	Perinatal Counseling and Testing

SUBPART C: HIV COUNSELING AND TESTING IN LABOR AND DELIVERY

Section	
699.200	HIV Counseling and Testing in Labor and Delivery

SUBPART D: COUNSELING AND TESTING POST-DELIVERY

Section	
699.300	HIV Testing of a Newborn Infant Post-Delivery

SUBPART E: HIV TESTING AND TEST RESULT DISCLOSURE

Section	
699.400	Approved HIV Tests
699.410	Written Informed Consent for HIV Testing
699.420	Test Result Disclosure

APPENDIX A Sample HIV Testing Forms

ILLUSTRATION A	Sample Written Refusal Form for Testing Newborn Infant
ILLUSTRATION B	Written Informed Consent to Perform a Rapid HIV Test in the Labor and Delivery Setting

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AUTHORITY: Implementing and authorized by the Perinatal HIV Prevention Act [410 ILCS 335]; the AIDS Confidentiality Act [410 ILCS 305]; the AIDS Registry Act [410 ILCS 310]; the Communicable Disease Prevention Act [410 ILCS 315]; the Consent by Minors to Medical Procedures Act [410 ILCS 210]; and Sections 2310-10 and 2310-580 of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-10 and 2310-580].

SOURCE: Adopted at 29 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 699.10 General Applicability

- a) This Part implements the Perinatal HIV Prevention Act, which concerns the prevention of vertical transmission of HIV infection from mother to newborn infant during pregnancy or labor and delivery. Subpart A includes general provisions that apply to all Sections of the Part, such as definitions and administrative hearing rules.
- b) Subpart B concerns counseling and testing of pregnant women for the presence of antibodies to the human immunodeficiency virus (HIV). These provisions set forth the information that must be included in counseling by a health care professional; the written informed consent that a health care professional must obtain prior to performing an HIV test; and requirements for documentation of testing or test results in accordance with the Perinatal HIV Prevention Act and the AIDS Confidentiality Act.
- c) Subpart C provides for counseling and rapid HIV antibody testing in labor and delivery; the requirement for written informed consent for testing the pregnant woman; and post-delivery follow-up services for women who test positive for HIV.
- d) Subpart D provides for testing of a newborn infant when the mother does not have a documented HIV test result during the current pregnancy. Testing of the newborn infant is required upon delivery or within 48 hours after the newborn infant's birth, unless the parent or guardian provides written refusal for HIV testing of the newborn infant. Post-delivery follow-up services for newborn infants who test positive for HIV are also required.

Section 699.20 Definitions

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The following are definitions of terms used in this Part:

"Act" means the Perinatal HIV Prevention Act [410 ILCS 335].

"AIDS" means *acquired immunodeficiency syndrome*. (Section 3(b) of the AIDS Confidentiality Act)

"Antiretroviral Preventive Treatment" means a well-established method of preventing vertical HIV transmission.

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

"Health Care Facility" or "Facility" means *any hospital or other institution that is licensed or otherwise authorized to deliver health care services*. (Section 5 of the Act)

"Health Care Professional" means *a physician licensed to practice medicine in all its branches, a physician assistant who has been delegated the provision of health services by his or her supervising physician, or an advanced practice registered nurse who has a written collaborative agreement with a collaborating physician that authorizes the provision of health services*. (Section 5 of the Act)

"Health Care Services" means *any prenatal medical care or labor or delivery services to a pregnant woman and her newborn infant, including hospitalization*. (Section 5 of the Act)

"HIV" means *the human immunodeficiency virus or any other identified causative agent of AIDS*. (Section 3(c) of the AIDS Confidentiality Act)

"Legally Authorized Representative" means an individual who is authorized to consent to HIV testing and/or disclosure of HIV test results for an individual who is:

Under the age of 12,

Deceased,

Declared incompetent by a court of law, or

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Otherwise not competent to consent (for reasons other than age, such as the apparent inability to understand or communicate with the health care provider) as determined by the health care provider seeking such consent.

The following individuals shall be authorized to consent, in the stated order of priority:

For a living or deceased child under the age of 18:

Parent, legal guardian or other court-appointed personal representative,

Adult next-of-kin.

For a living or deceased adult age 18 or over:

Agent authorized by durable power of attorney for health care,

Legal guardian or other court-appointed personal representative,

Spouse,

Adult children,

Parent,

Adult next-of-kin.

"Perinatal" means of, relating to, or being the period around childbirth, especially the five months before and one month after birth.

"Physician" means a physician licensed to practice medicine under the Medical Practice Act of 1987 [225 ILCS 60].

"Rapid HIV Antibody Test" means a federal Food and Drug Administration (FDA) approved screening test to detect antibodies to HIV that can be collected and processed within a short interval of time (under 60 minutes).

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"Test" or "HIV Test" means a test to determine the presence of the antibody or antigen to HIV, or of HIV infection. (Section 3(g) of the AIDS Confidentiality Act)

"Vertical Transmission" means transmission of a pathogen such as HIV from mother to fetus or baby during pregnancy or birth.

Section 699.30 Referenced Materials

The following materials are referenced in this Part:

- a) Illinois Statutes
 - 1) AIDS Confidentiality Act [410 ILCS 305]
 - 2) Perinatal HIV Prevention Act [410 ILCS 355]
 - 3) Medical Practice Act of 1987 [225 ILCS 60].
 - 4) The Civil Administrative Code of Illinois [20 ILCS 2310]
- b) Illinois Administrative Rules
 - 1) AIDS Confidentiality and Testing Code (77 Ill. Adm. Code 697)

SUBPART B: HIV PERINATAL COUNSELING AND TESTING

Section 699.100 Perinatal Counseling and Testing

- a) *Every health care professional who provides health care services to a pregnant woman shall provide the woman with HIV counseling and offer HIV testing as early in the pregnancy as possible, unless she has already received an HIV test during the current pregnancy. (Section 10(a) of the Act)*
- b) *For women at continued risk of exposure to HIV infection, a repeat test should be offered late in pregnancy. (Section 10(a) of the Act)*
- c) *HIV counseling and offer of testing shall be documented in the woman's medical record. (Section 10(b) of the Act) Any testing or test results shall be documented*

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in accordance with the AIDS Confidentiality Act and the HIV/AIDS Confidentiality and Testing Code.

- d) All HIV counseling shall include, at minimum:
- 1) *The benefits of HIV testing for the pregnant woman, including the prevention of transmission;*
 - 2) *The benefit of HIV testing for the newborn infant, including interventions to prevent HIV transmission;*
 - 3) *The side effects of interventions to prevent HIV transmission;*
 - 4) *The statutory confidentiality provisions that relate to HIV and acquired immune deficiency syndrome (AIDS) testing;*
 - 5) *The voluntary nature of the testing, including the opportunity to refuse testing of a newborn infant in writing; (Section 10 of the Act)*
 - 6) Information about the natural history of HIV infection and HIV transmission;
 - 7) Information about the meaning of the test and test results, such as: the purpose, potential uses, and limitations of the test, rapid HIV test, rapid HIV test results and the need for confirmatory testing;
 - 8) Methods of preventing HIV transmission; and
 - 9) Information about the *availability of referrals for further information or counseling* (Section 5 of the AIDS Confidentiality Act).
- e) HIV testing shall be provided with the woman's written informed consent. "Written informed consent" means an agreement in writing executed by the subject of a test or the subject's legally authorized representative without undue inducement or any element of force, fraud, deceit, duress or other form of constraint or coercion, which entails at least the following:
- 1) *A fair explanation of the test, including its purpose, potential uses and limitations and the meaning of its results;*

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- 2) *A fair explanation of the procedures to be followed, including the voluntary nature of the test; the right to withdraw consent at any time; the right to anonymity to the extent provided by the AIDS Confidentiality Act with respect to participation in the test and disclosure of test results and the right to confidential treatment of information identifying the subject of the test and the results of the test, to the extent provided by law. (Section 3(d) of the AIDS Confidentiality Act)*

SUBPART C: HIV COUNSELING AND TESTING IN LABOR AND DELIVERY

Section 699.200 HIV Counseling and Testing in Labor and Delivery

- a) A health care facility providing medical care for labor or delivery services to a pregnant woman and her newborn infant shall develop and follow written policies and procedures concerning the delegation of the responsibilities for carrying out the counseling and testing requirements of Subparts C and D of this Part. These policies and procedures shall be provided to the Department upon request. Delegation of responsibilities shall be in accordance with other personnel policies of the facility and the Act.
- b) *Every health care professional or facility that cares for a pregnant woman during labor or delivery shall provide the woman with HIV counseling and offer rapid HIV testing, in accordance with Section 699.100(c) and (d) of this Part, if HIV test results are not already documented in the woman's medical record. HIV testing shall be provided with the woman's written informed consent in accordance with Section 699.100(e) of this Part. (Section 10 of the Act)*
- c) *No counseling or offer of testing is required if the woman's HIV status during the current pregnancy is already provided in her medical record. (Section 10 of the Act)*
- d) *The counseling and offer of testing shall be documented in the woman's labor and delivery medical record. Any testing or test results shall be documented in accordance with the AIDS Confidentiality Act and the HIV/AIDS Confidentiality and Testing Code in the woman's medical record. (Section 10 of the Act)*
- e) In addition to the counseling information required in Section 699.100(d) of this Part, when disclosing a positive result of a rapid HIV test to a pregnant woman, health care professionals shall provide the woman with post-delivery follow-up

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referrals to physicians or facilities with experience in providing services to women with HIV.

SUBPART D: HIV COUNSELING AND TESTING POST-DELIVERY

Section 699.300 HIV Testing of a Newborn Infant Post-Delivery

- a) Immediately after birth and *within 48 hours after birth, every health care professional or facility shall provide* to the parent or guardian an explanation that the newborn infant will be HIV tested when the mother's HIV status is not documented, unless there is a written refusal for HIV testing by the parent or guardian of the newborn infant. (Section 10(c) of the Act)
- b) *The health care professional or facility shall document in the woman's medical record that counseling and the offer of HIV testing* for the newborn infant were given in accordance with Section 699.100(c) and (d) of this Part, and whether the parent or guardian provided written refusal for HIV testing for the newborn infant. (Section 10(c) of the Act)
 - 1) The health care professional providing the positive result of an HIV test on a newborn infant shall provide to the parent or guardian an explanation of antiretroviral preventive treatment for HIV exposed newborn infants.
 - 2) When the newborn infant has tested positive, the health care professional providing information on antiretroviral preventive treatment for the newborn infant shall explain to the mother how the test detects HIV antibodies, offer HIV risk counseling, encourage HIV testing for the mother, and provide referrals to physicians or facilities that have experience treating women and children with HIV.
- c) *Consent for testing of a newborn infant shall be presumed when a health care professional or health care facility seeks to perform a test on a newborn infant whose mother's HIV status is not known, provided that the counseling required under Section 10(d) of the Act and subsection (d) of this Section has taken place and the newborn infant's parent or guardian has not indicated in writing that he or she refuses to allow the newborn infant to receive HIV testing.* (Section 10 of the Act)
- d) Counseling Requirements

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- 1) *Counseling required under this Subpart must be provided in accordance with the AIDS Confidentiality Act and must include the following:*
 - A) *The benefits of HIV testing for the pregnant woman, including the prevention of transmission.*
 - B) *The benefit of HIV testing for the newborn infant, including interventions to prevent HIV transmission.*
 - C) *The side effects of interventions to prevent HIV transmission.*
 - D) *The statutory confidentiality provisions that relate to HIV and AIDS testing.*
 - E) *The voluntary nature of the testing, including the opportunity to refuse testing in writing. (Section 10(d) of the Act)*
- 2) *The requirements for counseling and testing must be provided in accordance with the AIDS Confidentiality Act, with the exception of the requirement of consent for testing of newborn infants. (Section 10(e) of the Act)*

SUBPART E: HIV TESTING AND TEST RESULT DISCLOSURE

Section 699.400 Approved HIV Tests

HIV antibody testing shall be completed in accordance with 77 Ill. Adm. Code 697.100 (AIDS Confidentiality and Testing Code).

Section 699.410 Written Informal Consent for HIV Testing

No person may order an HIV test for a pregnant woman without first receiving the written informed consent of the subject of the test or subject's legally authorized representative. (Section 4 of the AIDS Confidentiality Act)

Section 699.420 Test Result Disclosure

Release of HIV test results shall be as described in 77 Ill. Adm. Code 697.140 (AIDS Confidentiality and Testing Code). Positive results from rapid HIV antibody tests may be released in accordance with 77 Ill. Adm. Code 697.100.

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Section 699.APPENDIX A Sample HIV Testing Forms

Section 699.ILLUSTRATION A Sample Written Refusal Form for Testing Newborn Infants

WRITTEN REFUSAL OF HIV ANTIBODY TESTING FOR A NEWBORN INFANT

Test Subject or Number: _____

Date: _____

Time: _____

As a parent or legal guardian of a newborn infant, I am not giving my permission for a Food and Drug Administration (FDA) approved test to detect whether my newborn infant has antibodies to HIV (human immunodeficiency virus).

I understand that:

The human immunodeficiency virus (HIV) is the virus that causes AIDS.

- One way in which HIV is spread is by sexual intercourse, so all sexually active women are potentially at risk for HIV infection.
- HIV can be passed from a mother to her baby during pregnancy, at delivery, and through breastfeeding.
- If I have HIV, it is a serious illness that can affect my health and the health of my baby.
- HIV antibody test results are confidential.

I have been counseled about HIV, including:

- The potential benefit of HIV testing for my newborn infant, including interventions to prevent transmission of infection from mother to child;
- Information about HIV infection and HIV transmission;
- Information about the meaning of the HIV test and the test results;
- The side effects of interventions to prevent HIV transmission;

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- Information about the availability of referrals and further counseling;
- The voluntary nature of the HIV testing, including the opportunity to refuse, in writing, testing of the newborn infant; and
- The confidentiality provisions that relate to HIV/AIDS testing.

I understand that I can refuse HIV testing of my newborn infant. I understand that testing should occur immediately after birth, but no later than 48 hours after birth. I understand that if my newborn infant receives medication no later than 48 hours after birth, the risk of transmission of HIV would be lowered. I understand that delaying testing to a later time will reduce or eliminate the chance that medication can be used to prevent my child from becoming HIV infected.

I understand that I have received a fair explanation of:

- The HIV test procedures to be followed;
- My right to withdraw my consent to an HIV test at any time;
- The right to anonymity to the extent provided by law with respect to participation in the HIV test and disclosure of test results, and the right to keep confidential information that identifies the subject of the HIV test and the test results.

I understand that if my newborn infant is tested for HIV, the results of the tests are placed in my newborn infant's record and reported to his/her health care provider, and positive results are reported to the Illinois Department of Public Health. Under Illinois law, confidential HIV information can be given only to people to whom I allow it to be given by my written approval, or to people who need to know my newborn infant's HIV status in order to provide medical care and services, including an authorized agent or employee of a health facility or health care provider, if the health facility or provider is authorized to obtain test results; those who are exposed to my newborn infant's blood/body fluids in the course of their employment; and organizations that review the health care services I receive. The law also allows my newborn infant's HIV information to be released under certain limited circumstances to persons whom I may designate through an authorization, to my legal representative, to my spouse, to the parent of the child, to public health officials as required by law, for payment for care and treatment, and those disclosures required for a temporary caretaker of a child taken into protective custody by the Department of Children and Family Services. The results also will be provided to the State

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and local health department to use this information to track the disease and to better plan prevention, health care, and other services.

I understand and agree that my REFUSAL of testing will be placed in my medical record. In addition, I understand that I may withdraw my REFUSAL of HIV testing for my newborn infant at any point in time.

I understand that HIV may be transmitted from me to my newborn infant during labor and delivery. I understand that if I refuse HIV testing for my newborn infant, he/she will not be able to promptly receive medication that lowers the risk of his/her becoming HIV infected. I understand that if HIV has already been transmitted to my child, not performing the test means he/she will not receive proper treatment. Delaying testing to a later time will reduce or eliminate the chance that medication can be used to prevent my child from becoming HIV infected. I understand that HIV infection causes serious illnesses and these illnesses could result in my newborn's death.

With the information presented above having been completely and clearly explained to me, and all of my questions having been answered, I refuse to authorize testing of my newborn infant for HIV.

Patient/Client Signature or Signature of Legally Authorized Representative

Date

Health Care Professional/Facility Witness

Date

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Section 699.APPENDIX A Sample HIV Testing Forms**Section 699.ILLUSTRATION B Written Informed Consent to Perform a Rapid HIV Test in the Labor and Delivery Setting****WRITTEN INFORMED CONSENT TO PERFORM A RAPID
HIV TEST IN THE LABOR AND DELIVERY SETTING**

Test Subject or
Number: _____ Date: _____
Time: _____

I hereby grant my permission for a test to detect whether I have antibodies to HIV (human immunodeficiency virus) in my body.

HIV testing is voluntary and requires your consent in writing. The purpose of rapid HIV testing is to show whether you are infected with HIV, the virus that causes AIDS.

If you are HIV infected, rapid HIV testing will allow you to receive immediate medication during labor and delivery to reduce the risk of transmitting HIV to your newborn, and will allow your baby to receive the same medication immediately after birth.

Before you consent to be tested for HIV, speak to your health care provider about:

- How HIV can be passed from person to person and mother to baby;
- Medication that may prevent the transmission of HIV from mother to baby;
- Illinois law that requires all newborn infants to be tested for HIV after birth unless the parent provides a written refusal; and
- The meaning of preliminary HIV test results and how a positive HIV test is confirmed.

If you agree with the following statements and want to consent to rapid HIV

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testing, please sign this form.

I have been counseled about the benefits of having a rapid HIV test and understand that:

- Human immunodeficiency virus (HIV) is the virus that causes AIDS.
- One of the ways in which HIV is spread is by sexual intercourse, so all sexually active women are potentially at risk for HIV infection.
- HIV can be passed from a mother to her baby during pregnancy, at delivery, and through breastfeeding;
- If I have HIV, it is a serious illness that can affect my health and the health of my baby.
- HIV antibody test results are confidential, and the law protects me from discrimination.

If I am found to be HIV infected, treatment is available to reduce the risk that HIV will be transmitted to my baby:

- If I have not yet delivered my baby, I may receive medication as soon as possible to reduce the chance of passing the virus to my baby.
- My baby may receive medication that reduces the risk of his/her becoming HIV infected.
- In many cases, medications prevent the risk of transmission of HIV. If these medications are given to me during labor and delivery, or to my newborn infant immediately after birth, the chance that my baby will be HIV infected is significantly reduced.
- If treatment is started, my health care provider will discuss with me any consequences of taking the medication.

I understand that a positive result does not mean that I have AIDS, but that my blood has been exposed to the human immunodeficiency virus, and antibodies to that virus are present in my body. I understand that if my test results are positive, I will be offered HIV counseling.

I understand that HIV test results may indicate that a person has HIV antibodies when the person does not have the antibodies (a false positive result) or the test may fail to detect that a person has antibodies to the virus when the person does in fact have these antibodies (a false negative result).

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The test that I am consenting to take will provide me and my health care provider with results within 12 hours:

- If I have the rapid HIV test, I will be given the results no later than 12 hours after my blood is drawn.
- If the rapid HIV test result is negative, no further testing will be done at this time.
- If my rapid HIV test result is negative, it most likely means that I am not infected with HIV, but it may not detect recent infection.
- A preliminary positive HIV test result means there is a possibility that I am HIV infected and that my baby may have been exposed to HIV. A second test, to confirm a preliminary positive HIV test result, will be done.
- I understand that if my preliminary test result is positive, I still may not have HIV infection (false positive tests can occur), but it may be best to start treatment to help prevent the transmission of infection to my baby while I wait for the confirmatory test result.

All preliminary positive test results will be confirmed:

- If the confirmatory HIV test result is negative, I will immediately be taken off of medication that was started to help prevent transmission of HIV from me to my baby.
- If the confirmatory test is positive, any medication that was given to help to prevent transmission of HIV from me to my baby will be continued.
- If the confirmatory test is positive, I will be referred to a physician for my own ongoing medical care.

Confidentiality of HIV Information:

If you take the HIV antibody test, your test results are confidential. Under Illinois law, confidential HIV information can be given only to people to whom you allow it to be given by your written approval, or to people who need to know your HIV status in order to provide medical care and services, including: an authorized agent or employee of a health facility or a health care provider if the health facility or provider is authorized to obtain test results; those who are exposed to blood/body fluids in the course of their employment; and organizations that review the services you receive. The law also allows your HIV information to be released under certain limited circumstances: to persons whom you may designate through an authorization; to

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your legal representative; to your spouse; to the parent of the newborn infant; to public health officials as required by law; for payment for care and treatment; those disclosures required for a temporary caretaker of a child taken into protective custody by the Illinois Department of Children and Family Services; and any other disclosure permitted by the AIDS Confidentiality Act.

I understand that my test results will be kept confidential to the extent provided by law. In addition, I understand that I may withdraw from the testing at any point in time prior to the completion of laboratory tests. I understand that my testing is voluntary.

I agree to be tested using a rapid HIV antibody test and I agree that I may be told of my test results.

I have been counseled that if the result of the rapid HIV antibody test is positive, then I must undergo additional testing to confirm whether I am HIV positive. I consent to that additional testing.

I understand that a positive result from my rapid HIV antibody test will be released to designated health care professionals to provide necessary treatment to prevent HIV transmission from mother to child.

I agree that if the result of my HIV test is positive or if the result of my rapid HIV antibody test is confirmed positive, I may be referred to another health care provider for follow-up testing and care. I consent to the release of my medical information, including my HIV test results and contact information, to that provider for the purpose of follow-up testing and care.

If I choose not to have a rapid HIV test, I understand that:

- I may be positive for HIV, which is a serious illness that can affect my health and the health of my baby.
- I may be positive for HIV and may not receive appropriate treatment for this serious illness.
- I may be HIV positive and my child is at risk of my transmitting HIV to him/her through labor and delivery. As a result, my child could also be HIV positive. I understand that HIV in my child is a serious illness (see above) and this illness (see above) could result in my newborn infant's death, unless my newborn infant is tested and treated.

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I have been advised about the purpose, potential uses, limitations, and meaning of the test results; the voluntary nature of the test; the right to withdraw consent at any time prior to the completion of laboratory tests; the medical risks if I refuse; and the confidentiality protections under the law. The information presented above has been completely and clearly explained to me, and all of my questions have been answered. I hereby authorize my physician or facility to collect an oral or blood specimen and perform an HIV antibody test on that specimen.

 Patient/Client Signature or Signature of Legally Authorized Representative

 Date

 Facility/Provider Witness

Placement of My Medical Information in My Newborn Infant's Medical Record

I understand that, in order to effectively treat my newborn infant, the results of the tests and my HIV status should be placed in my newborn infant's medical record. If this information is placed in my newborn infant's medical record, I understand that my test results and my HIV status in the newborn infant's medical record may be disclosed to those providing care and treatment to my newborn infant. I also understand that my information in my newborn infant's medical record may be disclosed to my spouse; to a legally authorized representative; to a person whom I have designated through an authorization (my written authorization permitting him or her to release my information); to my newborn infant at a later time; or to a court or other entity that has the legal authority to have access to my newborn infant's medical record.

YES. I consent to have my HIV test results and my HIV status placed in my newborn infant's medical record.

 Patient/Client Signature or Signature of Legally Authorized Representative

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Date

- NO.** I do not want my HIV test results and my HIV status placed in my newborn infant's medical record. I understand that this may adversely affect medical treatment for my newborn infant.

Patient/Client Signature or Signature of Legally Authorized Representative

Date

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Issuance of Licenses
- 2) Code Citation: 92 Ill. Adm. Code 1030
- 3) Section Numbers: 1030.91 Proposed Action: Amendment
- 4) Statutory Authority: Implementing changes to Section 5/6-113 of the Illinois Vehicle Code [625 ILCS 5/6-113] and authorized by Section 2-104(b) of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].
- 5) A Complete Description of the Subjects and Issues Involved: The amendments to Section 1030.91 address changes to the Illinois Vehicle Code related to the issuance of handicapped placards. Public Act 93-0182 broadens the issuing authority for Disabled Person Identification Cards to include other competent medical specialists as defined in this Section.
- 6) Will this rulemaking replace an 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? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
1030.83	New Section	29 Ill. Reg. 4912
1030.140	New Section	29 Ill. Reg. 3865

- 10) Statement of Statewide Policy Objective: The proposed amendments do not require expenditures by units of local government.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Texts of the proposed amendments are posted on Secretary of State's web site, www.sos.state.il.us/departments/index/home as part of the *Illinois Register*. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this notice to the:

Secretary of State
Office of the General Counsel
Nathan Maddox, Assistant General Counsel
298 Howlett

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Springfield, IL 62701

217-785-3094

- 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: None
 - C) Types of Professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas: because the need for this rulemaking was not anticipated at the time the agendas were prepared.

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

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1030
ISSUANCE OF LICENSES

Section	
1030.10	What Persons Shall Not be Licensed or Granted Permits
1030.11	Procedure for Obtaining a Driver's License/Temporary Visitor's Driver's License
1030.12	Driver's License Medical Advisory Board
1030.13	Denial of License or Permit
1030.15	Cite for Re-examination
1030.16	Physical and Mental Evaluation
1030.17	Errors in Issuance of Driver's License/Cancellation
1030.18	Medical Criteria Affecting Driver Performance
1030.20	Classification of Drivers – References
1030.30	Classification Standards
1030.40	Fifth Wheel Equipped Trucks
1030.50	Bus Driver's Authority, Religious Organization and Senior Citizen Transportation
1030.55	Commuter Van Driver Operating a For-Profit Ridesharing Arrangement
1030.60	Third-Party Certification Program
1030.63	Religious Exemption for Social Security Numbers
1030.65	Instruction Permits
1030.70	Driver's License Testing/Vision Screening
1030.75	Driver's License Testing/Vision Screening With Vision Aid Arrangements Other Than Standard Eye Glasses or Contact Lens(es)
1030.80	Driver's License Testing/Written Test
1030.81	Endorsements
1030.82	Charter Bus Driver Endorsement Requirements
1030.84	Vehicle Inspection
1030.85	Driver's License Testing/Road Test
1030.86	Multiple Attempts – Written and/or Road Tests
1030.88	Exemption of Facility Administered Road Test
1030.89	Temporary Licenses
1030.90	Requirement for Photograph and Signature of Licensee on Driver's License
1030.91	Disabled Person/Handicapped Identification Card
1030.92	Restrictions
1030.93	Restricted Local Licenses
1030.94	Duplicate or Corrected Driver's License or Instruction Permit
1030.95	Consular Licenses (Repealed)

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- 1030.96 Restricted Commercial Driver's License
- 1030.97 Invalidation of a Driver's License, Permit and/or Driving Privilege
- 1030.98 School Bus Commercial Driver's License
- 1030.100 Anatomical Gift Donor
- 1030.110 Emergency Medical Information Card
- 1030.115 Change-of-Address
- 1030.120 Issuance of a Probationary License
- 1030.130 Grounds for Cancellation of a Probationary License
- 1030.APPENDIX A Questions Asked of a Driver's License Applicant
- 1030.APPENDIX B Acceptable Identification Documents

AUTHORITY: Implementing Article I of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. I] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed March 30, 1971; amended at 3 Ill. Reg. 7, p. 13, effective April 2, 1979; amended at 4 Ill. Reg. 27, p. 422, effective June 23, 1980; amended at 6 Ill. Reg. 2400, effective February 10, 1982; codified at 6 Ill. Reg. 12674; amended at 9 Ill. Reg. 2716, effective February 20, 1985; amended at 10 Ill. Reg. 303, effective December 24, 1985; amended at 10 Ill. Reg. 18182, effective October 14, 1986; amended at 11 Ill. Reg. 9331, effective April 28, 1987; amended at 11 Ill. Reg. 18292, effective October 23, 1987; amended at 12 Ill. Reg. 3027, effective January 14, 1988; amended at 12 Ill. Reg. 13221, effective August 1, 1988; amended at 12 Ill. Reg. 16915, effective October 1, 1988; amended at 12 Ill. Reg. 19777, effective November 15, 1988; amended at 13 Ill. Reg. 5192, effective April 1, 1989; amended at 13 Ill. Reg. 7808, effective June 1, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 13898, effective August 22, 1989; amended at 13 Ill. Reg. 15112, effective September 8, 1989; amended at 13 Ill. Reg. 17095, effective October 18, 1989; amended at 14 Ill. Reg. 4570, effective March 8, 1990; amended at 14 Ill. Reg. 4908, effective March 9, 1990; amended at 14 Ill. Reg. 5183, effective March 21, 1990; amended at 14 Ill. Reg. 8707, effective May 16, 1990; amended at 14 Ill. Reg. 9246, effective May 16, 1990; amended at 14 Ill. Reg. 9498, effective May 17, 1990; amended at 14 Ill. Reg. 10111, effective June 11, 1990; amended at 14 Ill. Reg. 10510, effective June 18, 1990; amended at 14 Ill. Reg. 12077, effective July 5, 1990; amended at 14 Ill. Reg. 15487, effective September 10, 1990; amended at 15 Ill. Reg. 15783, effective October 18, 1991; amended at 16 Ill. Reg. 2182, effective January 24, 1992; emergency amendment at 16 Ill. Reg. 12228, effective July 16, 1992, for a maximum of 150 days; emergency expired on December 13, 1992; amended at 16 Ill. Reg. 18087, effective November 17, 1992; emergency amendment at 17 Ill. Reg. 1219, effective January 13, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2025, effective February 1, 1993; amended at 17 Ill. Reg. 7065, effective May 3, 1993; amended at 17 Ill. Reg. 8275, effective May 24, 1993; amended at 17 Ill. Reg. 8522, effective

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May 27, 1993; amended at 17 Ill. Reg. 19315, effective October 22, 1993; amended at 18 Ill. Reg. 1591, effective January 14, 1994; amended at 18 Ill. Reg. 7478, effective May 2, 1994; amended at 18 Ill. Reg. 16457, effective October 24, 1994; amended at 19 Ill. Reg. 10159, effective June 29, 1995; amended at 20 Ill. Reg. 3891, effective February 14, 1996; emergency amendment at 20 Ill. Reg. 8358, effective June 4, 1996, for a maximum of 150 days; emergency amendment repealed in response to an objection of the Joint Committee on Administrative Rules at 20 Ill. Reg. 14279; amended at 21 Ill. Reg. 6588, effective May 19, 1997; amended at 21 Ill. Reg. 10992, effective July 29, 1997; amended at 22 Ill. Reg. 1466, effective January 1, 1998; emergency amendment at 23 Ill. Reg. 9552, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13947, effective November 8, 1999; amended at 24 Ill. Reg. 1259, effective January 7, 2000; emergency amendment at 24 Ill. Reg. 1686, effective January 13, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 6955, effective April 24, 2000; emergency amendment at 24 Ill. Reg. 13044, effective August 10, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18400, effective December 4, 2000; amended at 25 Ill. Reg. 959, effective January 5, 2001; amended at 25 Ill. Reg. 7742, effective June 5, 2001; amended at 25 Ill. Reg. 12646, effective September 24, 2001; emergency amendment at 25 Ill. Reg. 12658, effective September 24, 2001, for a maximum of 150 days; emergency expired February 20, 2002; amended at 26 Ill. Reg. 9961, effective June 24, 2002; amended at 27 Ill. Reg. 855, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 7340, effective April 14, 2003, for a maximum of 150 days; emergency expired September 10, 2003; emergency amendment at 27 Ill. Reg. 16968, effective October 17, 2003, for a maximum of 150 days; emergency expired March 14, 2004; emergency amendment at 28 Ill. Reg. 384, effective January 1, 2004, for a maximum of 150 days; emergency expired May 29, 2004; amended at 28 Ill. Reg. 8895, effective June 14, 2004; amended at 28 Ill. Reg. 10776, effective July 13, 2004; amended at 29 Ill. Reg. 920, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2469, effective January 31, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. _____, effective _____.

Section 1030.91 Disabled Person/Handicapped Identification Card

- a) For purposes of this Section, the following definitions shall apply:

"Competent Medical Specialist" – a person licensed under the Medical Practice Act [225 ILCS 60], or similar law of another jurisdiction, to practice medicine in all of its branches, a physician assistant who has been delegated the authority to make this determination by his or her supervising physician, or an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to make this determination.

"Department" – Driver Services Department within the Office of the Secretary of

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State.

"Handicapped Identification Card" – a standard identification card defined in Section 4(a) of the Illinois Identification Card Act [~~15 ILCS 335/4(a)~~] (~~Ill. Rev. Stat. 1987, ch. 124, par. 4(a)~~) issued for no fee to persons who meet the definition of handicapped as defined in Section 1-159.1 of the Illinois Vehicle Code [~~625 ILCS 5/1-159.1~~](~~Ill. Rev. Stat. 1987, ch. 95½, par. 1-159.1~~) or who have a handicap so severe that it precludes him/her from obtaining an Illinois driver's license.

"Illinois Disabled Person Identification Card" – identification card issued pursuant to Section 4(b) of the Illinois Identification Card Act (~~Ill. Rev. Stat. 1987, ch. 124, par. 4(b)~~).

- b) If a person wishes to obtain an Illinois Disabled Person Identification Card pursuant to Section 4(b) of the Illinois Identification Card Act (~~Ill. Rev. Stat. 1987, ch. 124, par. 4(b)~~), he/she shall fill out an application form provided by the Department.
- c) The Disabled Person Identification Card application shall include the person's name, address, social security number, height, weight, hair color, eye color and date of birth. The applicant's ~~competent medical specialist~~ ~~physician~~ shall certify the type of disability that the person has as either physical, developmental, visual, hearing, or mental and the classification of the disability to be Class 1, Class 1a, Class 2, or Class 2a as defined in Section 4(a) of the Illinois Identification Card Act (~~Ill. Rev. Stat. 1987, ch. 124, par. 4(a)~~). The ~~competent medical specialist~~ ~~physician~~ shall sign the application and also print or type his/her name, business address and business phone number.
- d) If a person does not qualify for a Disabled Person Identification Card, he/she may apply for a Handicapped Identification Card and he/she shall complete an application as provided in subsections (b) and (c) except for the ~~competent medical specialist's~~ ~~physician's~~ certification as to the type of disability. The applicant must sign an affidavit contained on the application form stating that he/she meets the definition of a handicapped person as defined in Section 1-159.1 of the Illinois Vehicle Code (~~Ill. Rev. Stat. 1987, ch. 95½, par. 1-159.1~~) or that his/her handicap is so severe that it precludes him/her from obtaining an Illinois driver's license.
- e) The application forms shall not be accepted by the Department unless all portions

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of the form are completely filled out. Failure to complete the application properly shall result in the applicant's request being denied.

- f) If an applicant for a Handicapped Identification Card indicates on his/her application that he/she has a handicap so severe that it precludes him/her from obtaining an Illinois driver's license and it is determined that he/she has a valid Illinois driver's license, a Handicapped Identification Card shall be issued and the case shall be forwarded to the Driver Analysis Section of the Department for review and possible cancellation of the driver's license (92 Ill. Adm. Code 1040.80).

(Source: Amended at 29 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Cancellation, Revocation or Suspension of Licenses or Permits
- 2) Code Citation: 92 Ill. Adm. Code Part 1040
- 3) Section Number: 1040.35 Proposed Action: Amendment
- 4) Statutory Authority: Implementing Chapters 11, 2, and 3 of the Illinois Vehicle Code (625 ILCS 5/Ch. 11, 2, and 3) and authorized by Section 2-104(b) of the Illinois Vehicle Code (625 ILCS 5/2-104(b))
- 5) A Complete Description of the Subjects and Issues Involved: The Section to be amended provides for the "pre-conviction" suspension or revocation of a person who has been charged with a serious traffic offense (one of the offenses recited in the Section) and that also involved or resulted in great bodily harm to or the death of, another person. The Section provides that the Secretary of State may take action only when the Secretary has sufficient evidence to believe that the person committed the named offenses. The Section defines "sufficient evidence" and "great bodily harm". The Section states the procedure to be followed by the Secretary of State in taking action against the driving privileges of the person charged with the offense, and what actions follow after a disposition of the charges in the circuit court.

This Section has not been amended since its original promulgation in July 1994. This rulemaking seeks to update the Section in light of changes in the Illinois Vehicle Code and Criminal Code, and to clarify or state more precisely the intent of the terms and phrases defined in the Section.

- 6) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Are there any other proposed amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
1040.32	Amend	29 Ill. Reg. 5933 (29 April 2005, Issue 18)
1040.109	New Section	29 Ill. Reg. 5933 (29 April 2005, Issue 18)

- 9) Statement of Statewide Policy Objective: This proposed amendment will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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- 10) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on these proposed amendments may submit written comments no later than 45 days after the publication of this Notice to:

Marc Christopher Loro, Legal Advisor
Department of Administrative Hearings
200 Howlett Building
Springfield, Illinois 62756

(217) 785-8245
Fax: (217) 782-2192
mloro@ilsos.net

- 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: None
 - C) Types of Professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent regulatory agendas because: a decision had not been made which Department of the Office of the Secretary of State would file the rulemaking.
- 14) Does this amendment require the review of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? [30 ILCS 500/5-25] No

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1040

CANCELLATION, REVOCATION OR SUSPENSION OF LICENSES OR PERMITS

Section	
1040.10	Court to Forward Licenses and Reports of Convictions
1040.20	Illinois Offense Table
1040.25	Suspension or Revocation for Driving Without a Valid Driver's License
1040.29	2 or More Traffic Offenses Committed within 24 Months by a Person Under the Age of 21 Years
1040.30	3 or More Traffic Offenses Committed Within 12 Months
1040.31	Operating a Motor Vehicle During a Period of Suspension or Revocation
1040.32	Suspension or Revocation of Driver's Licenses, Permits or Identification Cards Used Fraudulently
1040.33	Suspension or Revocation of Driver's Licenses/Permits for Fictitious or Unlawfully Altered Person-with-Disabilities License Plate or Parking Decal or Device or Fraudulent Person-with-Disabilities License Plate or Parking Decal or Device
1040.35	Commission of an Offense Requiring Mandatory Revocation or Discretionary Suspension or Revocation Upon Conviction, <u>and Suspension or Revocation Upon a Local Ordinance Conviction</u>
1040.36	Suspension for Violation of Restrictions on Driver's License
1040.37	Suspension for Violation of Restrictions on Instruction Permit
1040.38	Commission of a Traffic Offense in Another State
1040.40	Repeated Convictions or Collisions
1040.41	Suspension of Licenses for Curfew Violations
1040.42	Fleeing and Eluding
1040.43	Illegal Transportation
1040.46	Fatal Accident and Personal Injury Suspensions or Revocations
1040.48	Vehicle Emission Suspensions
1040.50	Suspension of License of Commercial Vehicle Driver
1040.52	Driver Remedial Education Course
1040.55	Suspension for Driver's License Classification Violations
1040.60	Release of Information Regarding a Disposition of Court Supervision
1040.65	Offenses Occurring on Military Bases
1040.66	Invalidation of a Restricted Driving Permit
1040.70	Problem Driver Pointer System
1040.80	Cancellation of Driver's License Upon Issuance of a Handicapped Identification

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	Card
1040.100	Rescissions
1040.101	Reinstatement Fees
1040.102	Bankruptcy for Suspensions, Cancellations, Failure to Pay and Returned Checks Actions
1040.105	Suspension for 5 or More Tollway Violations and/or Evasions
1040.107	Suspension for Violation of 625 ILCS 5/11-907, Approaching a Stationary Emergency Vehicle
1040.108	Suspension for Failure to Make Report of Vehicle Accident Violations
1040.110	Bribery

AUTHORITY: Implementing Articles II and VII of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Arts. II and VII] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed September 22, 1972; amended at 3 Ill. Reg. 26, p. 282, effective June 30, 1979; amended at 5 Ill. Reg. 3533, effective April 1, 1981; amended at 6 Ill. Reg. 4239, effective April 2, 1982; codified at 6 Ill. Reg. 12674; amended at 8 Ill. Reg. 2200, effective February 1, 1984; amended at 8 Ill. Reg. 3783, effective March 13, 1984; amended at 8 Ill. Reg. 18925, effective September 25, 1984; amended at 8 Ill. Reg. 23385, effective November 21, 1984; amended at 10 Ill. Reg. 15265, effective September 4, 1986; amended at 11 Ill. Reg. 16977, effective October 1, 1987; amended at 11 Ill. Reg. 20659, effective December 8, 1987; amended at 12 Ill. Reg. 2148, effective January 11, 1988; amended at 12 Ill. Reg. 14351, effective September 1, 1988; amended at 12 Ill. Reg. 15625, effective September 15, 1988; amended at 12 Ill. Reg. 16153, effective September 15, 1988; amended at 12 Ill. Reg. 16906, effective October 1, 1988; amended at 12 Ill. Reg. 17120, effective October 1, 1988; amended at 13 Ill. Reg. 1593, effective January 23, 1989; amended at 13 Ill. Reg. 5162, effective April 1, 1989; amended at 13 Ill. Reg. 7802, effective May 15, 1989; amended at 13 Ill. Reg. 8659, effective June 2, 1989; amended at 13 Ill. Reg. 17087, effective October 16, 1989; amended at 13 Ill. Reg. 20127, effective December 8, 1989; amended at 14 Ill. Reg. 2944, effective February 7, 1990; amended at 14 Ill. Reg. 3664, effective February 7, 1990; amended at 14 Ill. Reg. 5178, effective April 1, 1990; amended at 14 Ill. Reg. 5560, effective March 22, 1990; amended at 14 Ill. Reg. 14177, effective August 21, 1990; amended at 14 Ill. Reg. 18088, effective October 22, 1990; amended at 15 Ill. Reg. 14258, effective September 24, 1991; amended at 17 Ill. Reg. 8512, effective May 27, 1993; amended at 17 Ill. Reg. 9028, effective June 2, 1993; amended at 17 Ill. Reg. 12782, effective July 21, 1993; amended at 18 Ill. Reg. 7447, effective May 3, 1994; amended at 18 Ill. Reg. 10853, effective June 27, 1994; amended at 18 Ill. Reg. 11644, effective July 7, 1994; amended at 18 Ill. Reg. 16443, effective October 24, 1994; amended at 20 Ill. Reg. 2558, effective January 26, 1996; amended at 21 Ill. Reg. 8398, effective June 30, 1997; amended at

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21 Ill. Reg. 10985, effective July 29, 1997; amended at 21 Ill. Reg. 12249, effective August 26, 1997; amended at 21 Ill. Reg. 12609, effective August 29, 1997; amended at 22 Ill. Reg. 1438, effective January 1, 1998; amended at 22 Ill. Reg. 5083, effective February 26, 1998; amended at 22 Ill. Reg. 13834, effective July 10, 1998; amended at 24 Ill. Reg. 1655, effective January 11, 2000; emergency amendment at 24 Ill. Reg. 8398, effective June 2, 2000, for a maximum of 150 days; emergency expired October 29, 2000; emergency amendment at 24 Ill. Reg. 16096, effective October 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 16689, effective October 30, 2000; amended at 25 Ill. Reg. 2723, effective January 31, 2001; amended at 25 Ill. Reg. 6402, effective April 26, 2001; emergency amendment at 26 Ill. Reg. 2044, effective February 1, 2002, for a maximum of 150 days; emergency expired June 30, 2002; emergency amendment at 26 Ill. Reg. 3753, effective February 21, 2002, for a maximum of 150 days; emergency expired July 20, 2002; amended at 26 Ill. Reg. 12373, effective July 25, 2002; amended at 26 Ill. Reg. 13684, effective August 28, 2002; amended at 29 Ill. Reg. 2441, effective January 25, 2005; amended at 29 Ill. Reg. _____, effective _____.

Section 1040.35 Administrative Revocation for Commission of an Offense Requiring Mandatory Revocation ~~or Discretionary Suspension or Revocation~~ Upon Conviction, and Suspension or Revocation Based Upon a Local Ordinance Conviction

- a) Local ordinance conviction. A person who has been convicted of a local ordinance violation which is similar to any of those offenses in Section 6-205 ~~and~~ 6-206 of the Illinois Vehicle Code (IVC) [625 ILCS 5/6-205 and 6-206] shall have his/her driving privileges revoked or suspended in the same manner as if he/she had been convicted of an offense contained within the Illinois Vehicle Code. An offense would be similar if the same elements were necessary to prove a local ordinance offense as are necessary to prove the offense as stated in the Illinois Vehicle Code.
- b) Administrative Revocation
- 1) When the Secretary of State has received sufficient evidence that a person has committed one or more of the following offenses or similar provisions of a local ordinance and these offenses, currently awaiting court disposition, resulted in great bodily harm ~~serious bodily injury~~ or death, the driving record of the individual shall be reviewed for possible driver's license revocation by the Department of Driver Services.
- A)H) Driving under the influence of alcohol, other drugs or a combination thereof. See Section 11-501 of the IVC [625 ILCS 5/11-501];

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- ~~B)2) Manslaughter or reckless-Reckless~~ homicide resulting from the operation of a motor vehicle. See Section 720 ILCS 5/9-3;
- ~~C)3)~~ Leaving the scene of a traffic accident involving death or personal injury. See Section 11-401 of the IVC [625 ILCS 5/11-401];
- ~~D)4)~~ Drag racing. See Section 11-504 of the IVC [625 ILCS 5/11-504];
- ~~E)~~ Aggravated reckless driving. See Section 11-503(c) of the IVC [625 ILCS 5/11-503];
- ~~F)~~ Any felony under the laws of this or any other State or the federal government in which a motor vehicle was an instrument of the offense. See Section 6-205(a)(3) of the IVC [625 ILCS 5/6-205].
- ~~e)~~ When the Secretary of State has received sufficient evidence that a person has been convicted of a provision of a local ordinance which is similar to any of those offenses in Section 6-206 of the Illinois Vehicle Code that results in a suspension, he/she shall have his/her driving privileges suspended in the same manner as if he/she had been convicted of an offense contained within the Illinois Vehicle Code.
- ~~2)d)~~ In determining whether ~~or not~~ action should be taken, the driving record and other sufficient evidence showing that the person has committed such an offense shall be examined. "Sufficient evidence" shall be defined as copies of court documents showing the person has been charged with one or more of the named offenses in subsection (b)(1) of this Section and:
- ~~1)~~ copies of court documents showing the charging or conviction of a person for one or more of the named offenses in subsection (b) of this Section and Section 6-206 of the Illinois Vehicle Code [625 ILCS 5/6-206]; or
- ~~A)2)~~ documentation, or copies of documentation, transcripts of coroner's ~~activitiesproceedings~~ describing an incident where ~~serious bodily injurygreat bodily harm~~ or death resulted from a motor vehicle accident where one or more of the named offenses in subsection (b)(1) of this Section was charged; or
- ~~B)3)~~ statementsaffidavits of eye witnesses and others with first hand

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knowledge concerning the matter ~~that~~which indicate that ~~great bodily~~serious bodily injury harm or death resulted from a motor vehicle accident where one or more of the named offenses in subsection (b)(1) of this Section was charged; or

~~C)4)~~ any other competent evidence. Examples of what would constitute other competent evidence include but are not limited to laboratory reports, accident reports and other documentation deemed important and probative by the state's ~~attorney~~attorneys.

~~3)e)~~ ~~This~~Such information shall be provided with a letter of transmittal from the appropriate state's ~~attorney~~attorneys.

~~4)f)~~ "~~Great bodily harm~~""Serious bodily injury" shall include but not be limited to any of the following~~be defined as~~:

~~A)1)~~ bodily injury ~~that~~which involves a substantial risk of death; ~~or~~

~~B)2)~~ unconsciousness; ~~or~~

~~C)3)~~ extreme physical pain; ~~or~~

~~D)4)~~ protracted ~~or permanent~~and obvious disfigurement; ~~or~~

~~E)5)~~ protracted ~~or permanent~~ loss or impairment of the function of a bodily member, organ, or mental faculty;~~:-~~

~~F)~~ bone fractures;

~~G)~~ distorted extremity or extremities;

~~H)~~ severely bleeding wound.

~~5)g)~~ If sufficient evidence is received from the ~~state's attorney~~State's Attorney and indicates that a person has committed one or more of the named offenses in subsection (b)(1) of this Section, and that these offenses, currently awaiting court disposition, involved a motor vehicle accident ~~that~~which caused ~~great bodily harm~~serious bodily injury or death, the driving privileges of the individual shall be revoked.

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- ~~6)h)~~ If the individual, whose driving privileges have been revoked under this Section, is adjudicated "guilty" by the court system, the revocation previously entered on his/her driving record in accordance with this Section, shall stand. This action does not preclude further suspension and/or revocation of driving privileges under another ~~Section~~section of the Illinois Vehicle Code.
- ~~7)i)~~ If the individual, whose driving privileges have been revoked under this Section, is adjudicated "not guilty" by the court system, the revocation previously entered on his/her driving record in accordance with this Section shall be rescinded. This action does not preclude further suspension and/or revocation of driving privileges under another ~~Section~~section of the Illinois Vehicle Code.
- ~~8)j)~~ If the individual, whose driving privileges have been revoked under this Section, is granted a disposition of "court supervision" by the court system, the revocation previously entered on his/her driving record in accordance with this Section shall be rescinded. This action does not preclude further suspension and/or revocation of driving privileges under another ~~Section~~section of the Illinois Vehicle Code.
- ~~9)k)~~ If the charges against an individual, whose driving privileges have been revoked under this Section, are reduced or altered in any manner ~~so such~~ that the ~~offenses~~offense(s) for which the individual is convicted ~~do not require~~is not a mandatory revocation ~~offense~~ under Section 6-205 of the Illinois Vehicle Code, the revocation previously entered on his/her driving record in accordance with this Section shall be rescinded. This action does not preclude further suspension and/or revocation of driving privileges under another ~~Section~~section of the Illinois Vehicle Code.
- ~~c)l)~~ **Administrative Hearing.** An individual, whose driving privileges have been revoked or suspended under this Section, may request an administrative hearing pursuant to ~~Section 2-118 of the IVC [625 ILCS 5/2-118]~~ and 92 Ill. Adm. Code 1001.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Rules of the Road – Handicapped Parking
- 2) Code Citation: 92 Ill. Adm. Code 1100
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1100.5	Amendment
1100.10	Amendment
1100.25	Amendment
1100.35	Amendment
1100.40	Amendment
- 4) Statutory Authority: Implementing changes to and authorized by Section 3-616 of the Illinois Vehicle Title and Registration Law and Section 11-1301.2 of the Illinois Rules of the Road [625 ILCS 5/3-616 and 11-1301.2].
- 5) A Complete Description of the Subjects and Issues Involved: The amendments to Sections 1100.5, 1100.10, 1100.25, 1100.35 and 1100.40 address changes to the Illinois Vehicle Code related to the issuance of handicapped placards. Public Act 93-0182 broadens the issuing authority for Disabled Person Identification Cards to include other competent medical specialists as defined in this Section.
- 6) Will this rulemaking replace an 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 Objective: The proposed amendments do not require expenditures by units of local government.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Texts of the proposed amendments are posted on Secretary of State's web site, www.sos.state.il.us/departments/index/home as part of the *Illinois Register*. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this notice to the:

Secretary of State
Office of the General Counsel
Nathan Maddox, Assistant General Counsel

SECRETARY OF STATE

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298 Howlett
Springfield IL 62701

217-785-3094

- 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: None
 - C) Types of Professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: The need for this rulemaking was not anticipated at the time the agendas were prepared.

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1100
RULES OF THE ROAD – HANDICAPPED PARKING

Section

1100.5	Definitions
1100.10	Application Procedures for Plates and Decals or Devices
1100.15	Authorized Issuing Agents for Person-with-Disabilities Parking Decals or Devices
1100.20	Person-with-Disabilities Parking Decals or Devices
1100.25	Random Professional Physician License Number Checks with the Department of <u>Financial and Professional Regulation</u> - <u>Division of Professional Regulation</u>
1100.30	Corporations, School Districts, and Special Education Cooperatives
1100.35	Revocation of Plates and Decals or Devices
1100.40	Revocation Authority for Plates and Decals or Devices

AUTHORITY: Implementing and authorized by Section 3-616 of the Illinois Vehicle Title and Registration Law and Section 11-1301.2 of the Illinois Rules of the Road [625 ILCS 5/3-616 and 11-1301.2].

SOURCE: Adopted at 4 Ill. Reg. 11, p. 74, effective February 29, 1980; codified at 6 Ill. Reg. 12703; amended at 9 Ill. Reg. 12868, effective August 2, 1985; amended at 12 Ill. Reg. 8448, effective May 2, 1988; old Part repealed and new Part adopted at 22 Ill. Reg. 2280, effective January 1, 1998; amended at 29 Ill. Reg. _____, effective _____.

Section 1100.5 Definitions

"Affirmation by an authorized agent" means the agent for said corporation, school district or special education cooperative attests that the individuals being transported are qualified under 625 ILCS 5/1-159.1 and are permanently disabled (i.e., indefinitely subject to a physical disability or a developmental disability as defined in Section 4A(a) of the Illinois Identification Card Act [15 ILCS 335/4A(a)]).

"Authorized holder" means an individual issued a person-with-disabilities license plate under 625 ILCS 5/3-616 or an individual issued a person-with-disabilities parking decal or device under 625 ILCS 5/11-1301.2.

"Competent medical specialist" means a person affirming that the applicant for a

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person-with-disabilities parking plate or decal or device is a disabled person in accordance with 625 ILCS 5/1-159.1. This person shall be licensed under the Medical Practice Act [225 ILCS 60], or similar law of another jurisdiction, to practice medicine in all of its branches, or a person specified in the Illinois Identification Card Act and the Illinois Vehicle Code, including a physician assistant who has been delegated the authority to make this determination by his or her supervising physician, or an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to make this determination [625 ILCS 5/3-616(a)].

~~"Certification by a licensed physician", as required by 625 ILCS 5/3-616(a), means a statement by a licensed medical doctor, affirming that the applicant for a person-with-disabilities parking plate or decal or device is a disabled person in accordance with 625 ILCS 5/1-159.1.~~

"Decal or device" means a card described in Section 1100.10(a) which, when displayed in a vehicle, authorizes the parking of the vehicle in parking spaces reserved for the disabled, and authorizes other parking privileges as outlined in 625 ILCS 5/11-1301.1. "Decal or device" does not mean a sticker with adhesive backing which is permanently affixed to the vehicle.

"False information" means any incorrect or inaccurate information concerning the name, date of birth, social security number, driver's license number, physician certification, or any other information required on the application for a person-with-disabilities license plate or parking decal or device that falsifies the content of the application.

"Fictitious person-with-disabilities license plate or parking decal or device" means any person-with-disabilities license plate or parking decal or device which has been issued by the Secretary of State or authorized unit of local government which was issued based upon false information contained on the required application.

"Fraudulent person-with-disabilities license plate or parking decal or device" means any person-with-disabilities license plate or parking decal or device which purports to be an official person-with-disabilities license plate or parking decal or device and has not been issued by the Secretary of State or an authorized unit of local government.

"Person with disabilities" means a natural person who, as determined by a

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licensed physician: cannot walk 200 feet without stopping to rest; cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device; is restricted by lung disease to such an extent that his or her forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than 60 mmhg on room air at rest; uses portable oxygen; has a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV, according to standards set by the American Heart Association (Classification of Functional Capacity and Objective Assessment of Patients with Diseases of the Heart, 7272 Greenville Avenue, Dallas, Texas, effective March 4, 1994, no subsequent dates and editions); or is severely limited in the person's ability to walk due to an arthritic, neurological, or orthopedic condition.

"Temporary disability" means a disability that lasts up to six months and is not permanent in nature.

"Unlawfully altered person-with-disabilities license plate or parking decal or device" means any persons with disabilities license plate or parking decal or device issued by the Secretary of State or authorized unit of local government which has been physically altered or changed in such a manner that false information, which may include but shall not be limited to incorrect expiration date or incorrect decal or device number, appears on the license plate or parking decal or device.

"While the person with disabilities is present," as that term is used in 625 ILCS 5/11-1301.1, means that the person with disabilities must either exit or enter the vehicle while the vehicle is parked in a designated person-with-disabilities parking area or in an area where parking meter time restrictions are waived. In other words, an able-bodied driver cannot drop off the person with disabilities at the entrance to a facility, park in a person-with-disabilities parking space, and then return to pick up the person with disabilities.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 1100.10 Application Procedures for Plates and Decals or Devices

- a) If a person wishes to apply for a person-with-disabilities license plate, he/she must be resident of the State of Illinois and shall submit the following to the Secretary of State:

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- 1) The physician's certification on a form prescribed by the Secretary of State completed by the competent medical specialist~~physieian~~ and the applicant;
 - 2) The current registration card or a copy of the title if the vehicle is registered in the applicant's name or the title or the manufacturer's certificate of origin if the vehicle is not registered in the applicant's name; and
 - 3) The application form prescribed by the Secretary of State and statutory fee as provided for in Section 5/3-806 of the Certificates of Title and Registration of Vehicles Law of the Illinois Vehicle Code [625 ILCS 5/3-806].
- b) If a person wishes to apply for a person-with-disabilities parking decal or device, he/she must be a resident of the State of Illinois and shall submit the following to the Secretary of State or authorized unit of local government:
- 1) The physician's certification form completed by the competent medical specialist~~physieian~~ and applicant unless the person has been issued a disabled veteran or person-with-disabilities license and has a certification form on file or the person has an Illinois Disabled Person's ID card with a 1a or 2a classification as provided in Section 24 of the Illinois Identification Card Act; or
 - 2) A copy of the individual's State of Illinois identification card, disabled veteran identification card, person-with-disabilities identification card, or State of Illinois Driver's License. In the case of a person with disabilities who is under the age of 18, the identification card number of the minor's parent or legal guardian may be submitted.
- c) The physician certification form shall contain the following items:
- 1) The definition of a "person with disabilities" as outlined in 625 ILCS 5/1-159.1 and contained in Section 1100.5;
 - 2) An indication from the competent medical specialist~~physieian~~ as to the qualifying disability;
 - 3) Indication from the competent medical specialist~~physieian~~ whether the

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disability is permanent or temporary. If temporary, the competent medical specialist~~physician~~ shall also indicate the anticipated duration of the disability (not to exceed 6 months);

- 4) The certifying competent medical specialist~~'s physician's~~ name, address, telephone number, professional~~physician's~~ license number, and signature;
- 5) The applicant's name, address, telephone number, social security number, and driver's license number or State identification number;
- 6) The vehicle identification number and license plate number for the one or two primary vehicles used to transport the person with disabilities; and
- 7) The name, address, phone number, relationship to the disabled individual, and signature of the family member who is the owner of the vehicle upon which the person with disabilities relies for his/her mode of transportation, and that he/she does not own a vehicle in his/her name, if the vehicle is not owned by the applicant having the disability.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 1100.25 Random Professional~~Physician~~ License Number Checks with the Department of Financial and Professional Regulation~~-Division of Professional Regulation~~

- a) At least once every six months, the Secretary of State shall pull at random applications for person-with-disabilities license plates or decals or devices. DFPR-DPR shall verify that the name of the competent medical specialist~~physician listed~~ certifying to the disability matches the licensing number listed on the application form, and that the competent medical specialist~~physician~~ is licensed by DFPR-DPR under that licensure number. DFPR-DPR shall notify the Secretary of State of the results of the match.
- b) In the instance that DFPR-DPR finds that a competent medical specialist~~physician~~ is not licensed by DFPR-DPR under the licensure number listed on the application, the Secretary of State shall begin proceedings for the revocation of plates or decals or devices outlined in Section 1100.35 of this Part. (~~92 Ill. Adm. Code 1100~~)

(Source: Amended at 29 Ill. Reg. _____, effective _____)

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Section 1100.35 Revocation of Plates and Decals or Devices

- a) Upon receipt of a written complaint that a person-with-disabilities plate or decal or device is being used by a non-disabled person, the Secretary of State shall attempt to verify the license plate or decal or device owner's eligibility for the plate or decal or device.
- b) In determining eligibility, the Secretary of State shall notify the license plate or decal or device owner that the complaint has been received regarding the misuse of the license plate or decal or device. The Secretary shall also request that the license plate or decal or device owner submit an updated certification by a competent medical specialist~~physician~~ that the owner is disabled as defined by 625 ILCS 5/1-159.1 and Section 1100.5 of this Part.
- 1) If the competent medical specialist~~physician~~ chosen by the license plate/decal or device owner indicates on the certification form that the owner does not have a qualifying disability, the person-with-disabilities license plate and/or decal or device shall be revoked in accordance with 625 ILCS 5/3-704(11).
 - 2) If the competent medical specialist~~physician~~ indicates that the disability is temporary in nature, not permanent, the license plate and/or permanent decal or device shall be revoked in accordance with 625 ILCS 5/3-704(11). Upon revocation of the permanent decal or device, a temporary decal or device shall be issued according to the guidelines outlined in Section 1100.20 above.
 - 3) If the competent medical specialist~~physician~~ affirms that the individual has a permanent qualifying disability, no revocation action shall be taken.
- c) If a person-with-disabilities license plate is revoked in accordance with 625 ILCS 5/3-704(11), a passenger plate (or other appropriate license plate) shall be issued.
- d) Any person whose person-with-disabilities parking plate or decal is revoked in accordance with 625 ILCS 5/3-704(11) may request a hearing to be conducted pursuant to 92 Ill. Adm. Code 1001, Subpart A or Subpart C, as the person may choose.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

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Section 1100.40 Revocation Authority for Plates and Decals or Devices

- a) Under authority granted in 625 ILCS 5/3-704(11), person-with-disabilities license plates and decals or devices shall be revoked if determined to be issued to a person who is not disabled or determined to be used in an unlawful manner as outlined in 625 ILCS 5/11-1301.5 or 11-1301.6.
- b) The sources of acceptable proof of a person not being disabled are the written testament of a ~~competent medical specialist~~~~licensed physician~~, or the failure of an individual to obtain certification from a ~~competent medical specialist~~~~licensed physician~~ that the person has a qualifying disability.
- c) The sources of acceptable proof of the offenses described in subsection (a) ~~above~~ are court documents, Department of Vehicle Services applications, Driver Services facility applications, government entity documents, and law enforcement correspondence/reports.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Group Health Policy Mandate Applicability To Nonresident Certificateholders Not Employed In Illinois
- 2) Code Citation: 50 Ill. Adm. Code 2021
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2021.10	New Section
2021.20	New Section
2021.30	New Section
2021.40	New Section
2021.50	New Section
- 4) Statutory Authority: Implementing Section 352(c) and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/352(c) and 401]
- 5) Effective Date of Rules: May 1, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the principal office of the Division of Insurance and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: May 21, 2004; 28 Ill. Reg. 7228
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version:

The chapter heading was changed from "Department of Insurance" to "Department of Financial and Professional Regulation".

", Change in Status" was deleted from the Section 2021.40 title.

" was added after "Illinois Department of".

In Section 2021.20, "the effective date of this Part" was deleted and "May 1, 2005" was added at the end.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

In Section 2021.30, "Insurance" was changed to "Financial and Professional Regulation" within the definition of "Department".

In Section 2021.30, the following definitions were added:

Director means the Director of the Department of Financial and Professional Regulation-Division of Insurance of the State of Illinois or anyone to whom the Director's responsibilities and authority are lawfully delegated.

Division means the Illinois Department of Financial and Professional Regulation-Division of Insurance.

In Section 2021.40, the proposed text was deleted and the following was added:

- a) Policies filed pursuant to Section 352(c) of the Code must be accompanied by a statement that the policy does not need to provide State required coverages or services pursuant to this Section for nonresident certificateholders who are not employed in this State and:
 - 1) File informationally, pursuant to 50 Ill. Adm. Code 916.40, a letter specifically listing each state in which certificates will be issued.
 - 2) If certificates are issued in states not identified in subsection (a)(1), insurers must notify the Division in writing within 30 days after issuing the certificate.
 - 3) The letter must state and certify that the certificateholders are being provided the coverages or services that meet Illinois requirements or the applicable requirements of the state in which the certificates will be issued.
- b) Disclosure Requirements

Each certificate issued to a covered person must clearly state that at a minimum the certificateholder is receiving coverages or services as required by applicable Illinois law or the applicable law of the state in which the certificates will be issued.
- c) Certificates for which a company requests a formal approval by the Director for use in another state must be filed for approval, must meet the requirements of

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

subsections (a) and (b), and will only be approved by the Director for use in those specific states.

In Section 2021.50, the following changes were made:

A comma was added after "Code";

"and a master policy is issued in Illinois" was added after "Code,";

"for" was deleted before "certificates";

"policies and" was added before "certificates";

"residing and working" was changed to "residing or working";

", certificate policy forms" was deleted;

"Department" was changed to "Division"; and

All text after "for approval" was deleted, and the following was added: "and must demonstrate compliance with applicable Illinois laws and rules."

- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 14) Are there any rules pending on this Part? No
- 15) Summary and purpose of rulemaking: These new rules will establish requirements for filing group accident and health insurance policy forms with the Department to be used for policies where the master contract has situs in this State and where certificates will be issued only to certificateholders who neither reside nor work in Illinois.
- 16) Information and questions regarding these adopted rules shall be directed to:

Cindy Colonius
Department of Financial and Professional Regulation
Division of Insurance
320 West Washington Street
Springfield, Illinois 62767-0001

217/524-0663

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER Z: ACCIDENT AND HEALTH INSURANCE

PART 2021

GROUP HEALTH POLICY MANDATE APPLICABILITY TO NONRESIDENT
CERTIFICATEHOLDERS NOT EMPLOYED IN ILLINOIS

Section

2021.10	Purpose
2021.20	Applicability and Scope
2021.30	Definitions
2021.40	Filing and Disclosure Requirements
2021.50	Out-of-State Certificate Policy Forms That Require Illinois Approval

AUTHORITY: Implementing Section 352(c) and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/352(c) and 401].

SOURCE: Adopted at 29 Ill. Reg. 6901, effective May 1, 2005.

Section 2021.10 Purpose

The purpose of this Part is to establish requirements for filing group policy forms with the Illinois Department of Financial and Professional Regulation-Division of Insurance pursuant to Section 352(c) of the Illinois Insurance Code [215 ILCS 5/352(c)], to be used for policies where the master contract has situs in this State and where certificates will be issued only to certificateholders who neither reside nor work in Illinois.

Section 2021.20 Applicability and Scope

This Part applies to all group accident and health insurance policy forms, amendments, or certificate of insurance policy forms submitted pursuant to Section 352(c) of the Code on or after May 1, 2005.

Section 2021.30 Definitions

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

Department means the Illinois Department of Financial and Professional Regulation.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

Director means the Director of the Department of Financial and Professional Regulation-Division of Insurance of the State of Illinois or anyone to whom the Director's responsibilities and authority are lawfully delegated.

Division means the Illinois Department of Financial and Professional Regulation-Division of Insurance.

Section 2021.40 Filing and Disclosure Requirements

- a) Policies filed pursuant to Section 352(c) of the Code must be accompanied by a statement that the policy does not need to provide State required coverages or services pursuant to this Section for nonresident certificateholders who are not employed in this State and:
 - 1) File informationally, pursuant to 50 Ill. Adm. Code 916.40, a letter specifically listing each state in which certificates will be issued.
 - 2) If certificates are issued in states not identified in subsection (a)(1), insurers must notify the Division in writing within 30 days after issuing the certificate.
 - 3) The letter must state and certify that the certificateholders are being provided the coverages or services that meet Illinois requirements or the applicable requirements of the state in which the certificates will be issued.
- b) **Disclosure Requirements**

Each certificate issued to a covered person must clearly state that at a minimum the certificateholder is receiving coverages or services as required by applicable Illinois law or the applicable law of the state in which the certificates will be issued.
- c) Certificates for which a company requests a formal approval by the Director for use in another state must be filed for approval, must meet the requirements of subsections (a) and (b), and will only be approved by the Director for use in those specific states.

Section 2021.50 Out-of-State Certificate Policy Forms That Require Illinois Approval

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

Where an exemption is not sought under Section 352(c) of the Code, and a master policy is issued in Illinois, policies and certificates issued to persons residing or working out-of-state must be submitted to the Division for approval and must demonstrate compliance with applicable Illinois laws and rules.

ILLINOIS CRIMINAL JUSTICE INFORMATION AUTHORITY

NOTICE OF ADOPTED AMENDMENT

Corey-Anne Gulkewicz, Legal Counsel
Illinois Criminal Justice Information Authority
120 South Riverside Plaza, Suite 1016
Chicago, IL 60606-3997

(312) 793-0891

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

ILLINOIS CRIMINAL JUSTICE INFORMATION AUTHORITY

NOTICE OF ADOPTED AMENDMENT

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER III: ILLINOIS CRIMINAL JUSTICE INFORMATION AUTHORITYPART 1570
FEES FOR PROCESSING REQUESTS
FOR CONVICTION INFORMATION

Section

1570.10	Purpose and Authorization
1570.20	Definitions
1570.30	Form and Manner for Assisting in the Processing of Conviction Information
1570.40	Cost Criteria for the Fee to be Charged
1570.50	Fee Determination
1570.60	Notification of Fee Amount

AUTHORITY: Implementing and authorized by the Illinois Uniform Conviction Information Act [20 ILCS 2635].

SOURCE: Adopted at 18 Ill. Reg. 4679, effective March 14, 1994; emergency amendment at 22 Ill. Reg. 975, effective December 17, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 9557, effective May 26, 1998; amended at 29 Ill. Reg. 6907, effective May 1, 2005.

Section 1570.50 Fee Determination

- a) Pursuant to Section 1570.40, the Authority shall establish the maximum fee for each calendar year by September 30 of the preceding year. In establishing this fee amount, the Authority shall consult with representatives of criminal justice agencies, and representatives of municipal, civic, and business groups to:
 - 1) establish a reasonable estimate of the actual costs to participating criminal justice agencies throughout the State to comply with this Part, and
 - 2) determine if there would be an unreasonable negative impact or undue burden placed on requesters of conviction information.
- b) Pursuant to the Act, nothing herein shall be deemed to prevent a criminal justice agency from waiving or reducing the fee established pursuant to Section 1570.40.
- c) For the calendar year ~~2005-1998~~ and each year thereafter, the maximum fee established by the Authority that a criminal justice agency other than the

ILLINOIS CRIMINAL JUSTICE INFORMATION AUTHORITY

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Department of State Police may charge and assess under this Part shall be ~~\$2416~~.

(Source: Amended at 29 Ill. Reg. 6907, effective May 1, 2005)

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Radioactive Materials Transportation
- 2) Code Citation: 32 Ill. Adm. Code 341
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
341.10	New Section
341.20	New Section
341.25	New Section
341.30	New Section
341.40	New Section
341.50	New Section
- 4) Statutory Authority: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40], and Section 9 of the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20/9], and by Section 70 of the Nuclear Safety Law of 2004 [20 ILCS 3310/70].
- 5) Effective Date of Rules: May 2, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file at the Agency's headquarters located at 1035 Outer Park Drive, Springfield, Illinois and is available for public inspection.
- 9) Notice of Proposal Published in the Illinois Register: December 3, 2004; 28 Ill. Reg. 15388
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version:
 - 1) In Section 341.10(a), change the first sentence to "This Part applies to each licensee who transports licensed material outside the site where the licensee is authorized to possess and use the material or who transports the material on public highways or who delivers the material to a carrier for transport."
 - 2) In Section 341.10(b)(22), change "A1 and A2" to "A₁ and A₂".

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED RULES

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rule replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: This rulemaking will replace the current rules titled “Transportation of Radioactive Material” (32 Ill. Adm. Code 341). The Agency is taking this action because the requirements imposed by the U.S. Nuclear Regulatory Commission and U.S. Department of Transportation are no longer consistent with the requirements codified under 32 Ill. Adm. Code 341. The new standards set by the federal agencies will apply to each licensee who transports licensed material outside the site authorized for possession and use in a license, or where transport is on public highways or who delivers licensed material to a carrier for transport.
- 16) Information and questions regarding these adopted rules shall be directed to:

Kevin McClain
Chief Legal Counsel
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield, Illinois 62704

(217) 785-9880 (voice)
(217) 782-6133 (TDD)

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

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED RULES

TITLE 32: ENERGY

CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY

SUBCHAPTER b: RADIATION PROTECTION

PART 341

RADIOACTIVE MATERIALS TRANSPORTATION

Section

341.10	Scope
341.20	Incorporations by Reference
341.25	Definitions
341.30	General License
341.40	Records
341.50	Reports

AUTHORITY: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40], and Section 20/9 of the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20/9], and by Section 3310/70 of the Nuclear Safety Law of 2004 [20 ILCS 3310/70].

SOURCE: Adopted at 10 Ill. Reg. 17616, effective September 25, 1986; amended at 11 Ill. Reg. 5219, effective March 13, 1987; amended at 12 Ill. Reg. 2434, effective January 15, 1988; amended at 18 Ill. Reg. 4196, effective March 3, 1994; recodified from the Department of Nuclear Safety to the Illinois Emergency Management Agency at 27 Ill. Reg. 13641; old Part repealed and new Part adopted at 29 Ill. Reg. 6911, effective May 2, 2005.

Section 341.10 Scope

- a) This Part applies to each licensee who transports licensed material outside the site where the licensee is authorized to possess and use the material or who transports the material on public highways or who delivers the material to a carrier for transport. The licensee shall comply with the regulations in this Part, the applicable requirements of the U.S. Nuclear Regulatory Commission (NRC) in 10 CFR 71, published January 26, 2004 with corrections published February 10, 2004, exclusive of subsequent amendments or editions, and the applicable requirements of the U.S. Department of Transportation (U.S. DOT) regulations appropriate to the mode of transport in 49 CFR 170-189, published October 1, 2003 and updates published September 13, 2004 at 69 FR 55113, exclusive of subsequent amendments or editions.

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED RULES

- b) When the licensee is not in areas under the jurisdiction of U.S. DOT or NRC, but is in an area of jurisdiction of the State of Illinois as described in subsection (a) of this Section, the licensee shall comply with the following portions of U.S. DOT and NRC regulations, as applicable:
- 1) Packaging, 49 CFR 173, subparts A, B and I;
 - 2) Marking and labeling, 49 CFR 172, subpart D, paragraphs 172.400-172.407, 172.436-172.440 and subpart E;
 - 3) Placarding, 49 CFR 172, subpart F, paragraphs 172.500-172.519 and 172.556; and appendices B and C;
 - 4) Shipping papers and emergency information, 49 CFR 172, subparts C and G;
 - 5) Accident reporting, 49 CFR 171.15 and 171.16;
 - 6) Hazardous material shipper/carrier requirements, 49 CFR 107, subpart G;
 - 7) Hazardous material employee training, 49 CFR 172, subpart H;
 - 8) Definitions, 10 CFR 71.4;
 - 9) Transportation of licensed material, 10 CFR 71.5;
 - 10) Exemptions for low level material, 10 CFR 71.10(a);
 - 11) General license: NRC-approved package, 10 CFR 71.12;
 - 12) Previously approved package, 10 CFR 71.13(a) and (b);
 - 13) General license: DOT specification container material, 10 CFR 71.14;
 - 14) General license: Use of foreign approved package, 10 CFR 71.16;
 - 15) External radiation standards for all packages, 10 CFR 71.47;
 - 16) Assumptions as to unknown properties, 10 CFR 71.83;

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED RULES

- 17) Preliminary determinations, 10 CFR 71.85;
 - 18) Routine determinations, 10 CFR 71.87;
 - 19) Air transportation of plutonium, 10 CFR 71.88;
 - 20) Opening instructions, 10 CFR 71.89;
 - 21) Advance notification of shipment of irradiated reactor fuel and nuclear waste, 10 CFR 71.97; and
 - 22) Determination of A₁ and A₂, 10 CFR 71, appendix A.
- c) The licensee shall also comply with U.S. DOT regulations pertaining to the following modes of transportation:
- 1) Rail, 49 CFR 174, subparts A-D and K;
 - 2) Air, 49 CFR 175;
 - 3) Vessel, 49 CFR 176, subparts A-F and M; and
 - 4) Public highway, 49 CFR 177 and 390-397.
- d) If U.S. DOT regulations are not applicable to a shipment of licensed material as described in subsection (a) of this Section, the licensee shall conform to the standards and requirements of U.S. DOT specified in subsection (a) of this Section to the same extent as if the shipment or transportation were subject to U.S. DOT regulations. A request for modification, waiver or exemption from those requirements, and any notification referred to in those requirements, must be filed with, or made to, the Illinois Emergency Management Agency (Agency).

Section 341.20 Incorporations by Reference

All rules, standards, and guidelines of agencies of the United States or nationally recognized organizations or associations that are incorporated by reference in this Part are incorporated as of the date specified in the reference and do not include any later amendments or editions. Copies of these rules, standards or guidelines that have been incorporated by reference are available for public inspection and copying at the Illinois Emergency Management Agency, 1035 Outer Park Drive, Springfield, Illinois.

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED RULES

Section 341.25 Definitions

Definition of terms used in this Part are those in 49 CFR and 10 CFR 71.4, except that whenever a definition refers to evaluation or approval by the U.S. DOT or NRC and such evaluation or approval is the jurisdiction of the State of Illinois because it is an Agreement State, the Agency shall perform the evaluation and approval.

AGENCY NOTE: Some terms, such as Agency, that are not defined in 49 CFR or 10 CFR 71.4 may be found in Agency rules at 32 Ill. Adm. Code 310.

Section 341.30 General License

- a) A general license is hereby issued to any licensee of the Agency to transport, or to deliver to a carrier for transport, licensed material in a package that meets the requirements of U.S. DOT.
- b) The general license issued under subsection (a) of this Section applies only to a licensee who, prior to the licensee's first use of a package, has registered with the NRC.

Section 341.40 Records

- a) Each licensee shall maintain, for radioactive waste, a record of each shipment of radioactive material not exempt pursuant to U.S. DOT regulations, such as the shipping paper copy, for three years after the material is accepted by the initial carrier. For all other radioactive materials not exempt pursuant to U.S. DOT regulations, each licensee shall maintain a record of each shipment of radioactive material, such as the shipping paper copy, for 375 days after the material is accepted by the initial carrier. The record of each shipment shall show, where applicable:
 - 1) Identification of the packaging by model and serial number;
 - 2) Verification that there are no significant defects in the packaging as shipped;
 - 3) Volume and identification of coolant;

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED RULES

- 4) Type and quantity of licensed material in each package and the total quantity of each shipment;
 - 5) Date of the shipment;
 - 6) Name and address of the transferee;
 - 7) Address to which the shipment was made;
 - 8) Results of the determinations required by Section 341.10(b)(18) of this Part and by the conditions of the package approval; and
 - 9) In addition, for each item of irradiated fissile material:
 - A) Identification by model and serial number;
 - B) Irradiation and decay history to the extent appropriate to demonstrate that its nuclear and thermal characteristics comply with license conditions; and
 - C) Any abnormal or unusual condition relevant to radiation safety.
- b) The licensee shall make available to the Agency for inspection, at any time during shipment or upon 3 days notice after shipment, all records required by this Part. Records are only valid if stamped, initialed or signed and dated by authorized personnel or otherwise authenticated.
- c) The licensee shall maintain sufficient written records to furnish evidence of the quality of packaging. The records to be maintained include results of the determinations required by Section 341.10(b)(18) of this Part; design, fabrication and assembly records; results of reviews, inspections, tests and audits; results of monitoring work performance and materials analyses; and results of maintenance, modification and repair activities. Inspection, test and audit records must identify the inspector or data recorder, the type of observation, the results, the acceptability and the action taken in connection with any deficiencies noted. The records must be retained for 3 years after the life of the packaging to which they apply.

Section 341.50 Reports

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED RULES

The licensee shall report to the Agency within 30 days:

- a) Any instance in which there is significant reduction in the effectiveness of any approved Type B or fissile packaging during use;
- b) Details of any defects with safety significance in Type B or fissile packaging after first use, with the means employed to repair the defects and prevent their recurrence; and
- c) Instances in which the conditions of approval in the certificate of compliance were not observed in making a shipment.

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Transportation of Radioactive Material
- 2) Code Citation: 32 Ill. Adm. Code 341
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
341.10	Repeal
341.15	Repeal
341.20	Repeal
341.30	Repeal
341.40	Repeal
341.50	Repeal
341.60	Repeal
341.70	Repeal
341.80	Repeal
341.90	Repeal
341.100	Repeal
341.110	Repeal
341.120	Repeal
341.130	Repeal
341.140	Repeal
341.150	Repeal
341.160	Repeal
341.170	Repeal
341.180	Repeal
341.190	Repeal
341.200	Repeal
- 4) Statutory Authority: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40], and Section 9 of the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20/9], and by Section 70 Nuclear Safety Law of 2004 [20 ILCS 3310/70].
- 5) Effective Date of Repealer: May 2, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED REPEALER

- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file at the agency's headquarters located at 1035 Outer Park Drive, Springfield, Illinois and is available for public inspection.
- 9) Notice of Proposal Published in the Illinois Register: December 3, 2004; 28 Ill. Reg. 15396
- 10) Has JCAR issued a Statement of Objection to this repealer? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were necessary.
- 13) Will this repealer replace an emergency repealer currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Repealer: The Agency is taking this action because it has determined that the requirements currently codified at 32 Ill. Adm. Code 341 are no longer consistent with the requirements imposed by the U.S. Nuclear Regulatory Commission and U.S. Department of Transportation. This repealer is accompanied by a companion rulemaking, which contains the new version of the rules.
- 16) Information and questions regarding this adopted repealer shall be directed to:

Kevin McClain
Chief Legal Counsel
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield, Illinois 62704

(217) 785-9880 (voice)
(217) 782-6133 (TDD)

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Sewer Discharge Criteria
- 2) Code Citation: 35 Ill. Adm. Code 307
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
307.3900	Amend
307.4900	Amend
307.4902	Amend
307.4903	Amend
307.5201	Amend
- 4) Statutory Authority: 415 ILCS 5/7.2, 13, 13.3 and 27.
- 5) Effective Date of Amendments: April 26, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. The amendments update the incorporations of federal regulations by reference to include federal actions that occurred later than the edition of the Code of Federal Regulations already incorporated by reference. In one instance, this required citation to a Federal Register notice for amendments that occurred after publication of the latest edition of the Code of Federal Regulations.
- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted April 21, 2005, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of Proposal Published in Illinois Register: February 18, 2005; 29 Ill. Reg. 2611
- 10) Has JCAR issued a Statement of Objection to these amendments? No. Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).
- 11) Differences between Proposal and Final Version: A table that appears in the Board's opinion and order of April 21, 2005 in consolidated docket R05-4/R05-15 summarizes the differences between the amendments adopted in that order and those proposed by the

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Board in an opinion and order dated February 3, 2005, in consolidated docket R05-4/R05-15. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments.

The differences are limited to minor corrections and limited stylistic revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the February 18, 2005 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of April 21, 2005 in consolidated docket R05-4/R05-15, as indicated in item 11 above. See the April 21, 2005 opinion and order in consolidated docket R05-4/R05-15 for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The following briefly describes the subjects and issues involved in this rulemaking. A comprehensive description is contained in the Board's opinion and order of April 21, 2005, adopting amendments in consolidated docket R05-4/R05-15, which opinion and order is available from the address below.

The R05-4/R05-15 proceeding updates Part 307 of the Illinois wastewater pretreatment rules to correspond with amendments adopted by the United States Environmental Protection Agency (USEPA) which appeared in the Federal Register during two distinct update periods: January 1, 2004 through June 30, 2004 (docket R05-4) and July 1, 2004 through December 31, 2004 (docket R05-15).

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

USEPA amended the federal wastewater pretreatment regulations once during the period January 1, 2004 through June 30, 2004. That single action is summarized as follows:

Federal Action	Summary
May 6, 2004 (69 Fed. Reg. 25324)	USEPA published a correction to the July 1, 2003 edition of 40 C.F.R. 439. The corrections reinstate text inadvertently deleted from two pages of the regulations.

USEPA amended the federal wastewater pretreatment regulations on one occasion during the period July 1, 2004 through December 31, 2004. That action is summarized as follows:

Federal Action	Summary
July 30, 2004 (69 Fed. Reg. 45944)	USEPA adopted national emission standards for hazardous air pollutants for the plywood and composite wood products source category. A segment of this action amended the definition of "process wastewater," which is key to determining the applicability of the wastewater effluent limitations, guidelines, and wastewater pretreatment standards to the affected industries.
August 23, 2004 (69 Fed. Reg. 51892)	USEPA adopted effluent limitations guidelines and new source performance standards for concentrated aquatic animal production facilities. USEPA did not establish wastewater pretreatment standards for sources in this category.
September 8, 2004 (69 Fed. Reg. 54476)	USEPA amended the effluent limitations guidelines and new source performance standards for meat producing facilities. USEPA did not establish wastewater pretreatment standards for sources in this category.

Two sets of federal amendments required no corresponding action from the Board. The August 23, 2004 effluent limitations guidelines and new source performance standards for concentrated aquatic animal production facilities did not include wastewater pretreatment components. Similarly, the September 8, 2004 amendments to the effluent limitations guidelines and new source performance standards for meat producing facilities did not include wastewater pretreatment amendments.

Tables appear in the Board's opinion and order of April 21, 2005 in consolidated docket R05-

4/R05-15 that list numerous corrections and amendments that are not based on current

POLLUTION CONTROL BOARD

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federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the April 21, 2005 opinion and order in consolidated docket R05-4/R05-15.

Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

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

Please reference consolidated docket R05-4/R05-15 and direct inquiries to the following person:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312-814-6924

Request copies of the Board's opinion and order of April 21, 2005 at 312-814-3620. Alternatively, you may obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD

PART 307
SEWER DISCHARGE CRITERIA

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307.102	General Requirements (Renumbered)
307.103	Mercury (Renumbered)
307.104	Cyanide (STORET number 00720) (Renumbered)
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- 307.1801 Farm-Raised Catfish
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SUBPART J: SUGAR PROCESSING

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- 307.1902 Crystalline Cane Sugar Refining
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- 307.2001 Wool Scouring
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- 307.2004 Woven Fabric Finishing
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SUBPART BV: INK FORMULATING

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SUBPART CM: METAL MOLDING AND CASTING

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307.8110	Metal Powders

307.APPENDIX A References to Previous Rules (Repealed)

AUTHORITY: Implementing Sections 7.2, 13, and 13.3 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 13.3, and 27].

SOURCE: Adopted in R70-5, at 1 PCB 426, March 31, 1971; amended in R71-14, at 4 PCB 3, March 7, 1972; amended in R74-3, at 19 PCB 182, October 30, 1975; amended in R74-15, 16, at 31 PCB 405, at 2 Ill. Reg. 44, p. 151, effective November 2, 1978; amended in R76-17, at 31 PCB 713, at 2 Ill. Reg. 45, p. 101, effective November 5, 1978; amended in R76-21, at 44 PCB 203, at 6 Ill. Reg. 563, effective December 24, 1981; codified at 6 Ill. Reg. 7818; amended in R82-5, 10, at 54 PCB 411, at 8 Ill. Reg. 1625, effective January 18, 1984; amended in R86-44 at 12 Ill. Reg. 2592, effective January 13, 1988; amended in R88-11 at 12 Ill. Reg. 13094, effective July 29, 1988; amended in R88-18 at 13 Ill. Reg. 1794, effective January 31, 1989; amended in R89-3 at 13 Ill. Reg. 19288, effective November 17, 1989; amended in R88-9 at 14 Ill. Reg. 3100, effective February 20, 1990; amended in R89-12 at 14 Ill. Reg. 7620, effective May 8, 1990; amended in R91-5 at 16 Ill. Reg. 7377, effective April 27, 1992; amended in R93-2 at 17 Ill. Reg. 19483, effective October 29, 1993; amended in R94-10 at 19 Ill. Reg. 9142, effective June 23, 1995; amended in R95-22 at 20 Ill. Reg. 5549, effective April 1, 1996; amended in R97-23 at 21 Ill. Reg. 11930, effective August 12, 1997; amended in R99-4 at 23 Ill. Reg. 4413, effective March 31, 1999; amended in R99-17 at 23 Ill. Reg. 8421, effective July 12, 1999; amended in R00-15 at 24 Ill. Reg. 11640, effective July 24, 2000; amended in R01-5 at 25 Ill. Reg. 1735, effective January 11, 2001; amended in R01-25 at 25 Ill. Reg. 10867, effective August 14, 2001; amended in R03-13 at 27 Ill. Reg. 15095, effective September 10, 2003; amended in R04-1 at 28 Ill. Reg. 3076, effective February 6, 2004; amended in R04-18 at 28 Ill. Reg. 10661, effective July 13, 2004; amended in R05-4/R05-15 at 29 Ill. Reg. 6921, effective April 26, 2005.

SUBPART BD: TIMBER PRODUCTS PROCESSING

Section 307.3900 General Provisions

- a) Applicability. This Subpart BD applies to any timber products processing

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operation, and any plant producing insulation board with wood as the major raw material, ~~that~~which introduces or may introduce process wastewater pollutants into a POTW.

- b) General definitions. The Board incorporates by reference 40 CFR 429.11 (2004), as amended at 69 Fed. Reg. 45944, 46045 (July 30, 2004)~~(2003)~~. This incorporation includes no later amendments or editions.

(Source: Amended at 29 Ill. Reg. 6921, effective April 26, 2005)

SUBPART BN: PHARMACEUTICAL MANUFACTURING

Section 307.4900 General Provisions

- a) Applicability. This Subpart BN applies to any pharmaceutical manufacturing facility that introduces or may introduce process wastewater pollutants into a POTW. The Board incorporates by reference 40 CFR 439.0 (2004). This incorporation includes no later amendments or editions.
- b) General definitions. The Board incorporates by reference 40 CFR 439.1 (2004)~~(2003)~~. This incorporation includes no later amendments or editions.
- c) Monitoring requirements. The Board incorporates by reference 40 CFR 439.2 and Appendix A (2004)~~(2003)~~. This incorporation includes no later amendments or editions.
- d) General pretreatment standards. The Board incorporates by reference 40 CFR 439.3 (2004)~~(2003)~~. This incorporation includes no later amendments or editions.
- e) General limitation or standard for pH. The Board incorporates by reference 40 CFR 439.4 (2004)~~(2003)~~. This incorporation includes no later amendments or editions.

(Source: Amended at 29 Ill. Reg. 6921, effective April 26, 2005)

Section 307.4902 Extraction Products

- a) Applicability. This Section applies to discharges of wastewater resulting from the manufacture of pharmaceuticals by extraction into the collection system of a POTW.

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- b) Specialized definitions. The Board incorporates by reference 40 CFR 439.21 ~~(2004)(2003)~~. This incorporation includes no later amendments or editions.
- c) Existing sources.
- 1) The Board incorporates by reference 40 CFR 439.26 ~~(2004)(2003)~~. This incorporation includes no later amendments or editions.
 - 2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.
- d) New sources.
- 1) The Board incorporates by reference 40 CFR 439.27 ~~(2004)(2003)~~. This incorporation includes no later amendments or editions.
 - 2) No person subject to the pretreatment standards incorporated by reference in subsection (d)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.
 - 3) "New source" means any building, structure, facility, or installation the construction of which commenced after November 26, 1982.

(Source: Amended at 29 Ill. Reg. 6921, effective April 26, 2005)

Section 307.4903 Chemical Synthesis Products

- a) Applicability. This Section applies to discharges of wastewater resulting from the manufacture of pharmaceuticals by chemical synthesis into the collection system of a POTW.
- b) Specialized definitions. The Board incorporates by reference 40 CFR 439.31 ~~(2004)(2003)~~. This incorporation includes no later amendments or editions.
- c) Existing sources.
- 1) The Board incorporates by reference 40 CFR 439.36 ~~(2004)(2003)~~. This incorporation includes no later amendments or editions.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.
- d) New sources.
 - 1) The Board incorporates by reference 40 CFR 439.37 ~~(2004)(2003)~~. This incorporation includes no later amendments or editions.
 - 2) No person subject to the pretreatment standards incorporated by reference in subsection (d)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.
 - 3) "New source" means any building, structure, facility, or installation the construction of which commenced after November 26, 1982.

(Source: Amended at 29 Ill. Reg. 6921, effective April 26, 2005)

SUBPART BQ: TRANSPORTATION EQUIPMENT CLEANING

Section 307.5201 Tank Trucks and Intermodal Tank Containers Transporting Chemical and Petroleum Cargos

- a) Applicability. This Section applies to discharges of wastewater resulting from the cleaning of tank trucks and intermodal tank containers that have been used to transport chemical or petroleum cargos into the collection system of a POTW.
- b) Specialized definitions. None.
- c) Existing sources.
 - 1) The Board incorporates by reference 40 CFR 442.15 ~~(2004)(2003)~~. This incorporation includes no later amendments or editions.
 - 2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.
- d) New sources.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) The Board incorporates by reference 40 CFR 442.16 (2004), as amended at 70 Fed. Reg. 5058 (Feb. 1, 2005)~~(2003)~~. This incorporation includes no later amendments or editions.
- 2) No person subject to the pretreatment standards incorporated by reference in subsection (d)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.

(Source: Amended at 29 Ill. Reg. 6921, effective April 26, 2005)

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Numbers: Adopted Action:
 140.13 Amendment
 140.24 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: May 1, 2005
- 6) Do these amendments contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any materials 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: January 3, 2005; 29 Ill. Reg. 617
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences Between Proposal and Final Version: No changes have been made.
- 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 any emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? Yes

<u>Sections</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.3	Amendment	April 1, 2005 (29 Ill. Reg. 4679)
140.470	Amendment	April 1, 2005 (29 Ill. Reg. 4679)
140.471	Amendment	April 1, 2005 (29 Ill. Reg. 4679)
140.472	Amendment	April 1, 2005 (29 Ill. Reg. 4679)
140.473	Amendment	April 1, 2005 (29 Ill. Reg. 4679)
140.474	Amendment	April 1, 2005 (29 Ill. Reg. 4679)

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Amendments: These amendments provide clarification to the definition of "vendor" and further describe the Department's relationship with alternate payees.

In Section 140.13, the definition for "vendor" is expanded to include "provider" as an interchangeable term that has the same meaning as "vendor".

In Section 140.24, several changes are being made concerning alternate payees. The amendment further defines the circumstances under which the Department may permit individual practitioners in the Medical Assistance Program to designate an alternate payee and describes who may serve as an alternate payee. The changes preclude the designation of a payee or alternate payee that appoints, employs, or contracts with any person who is otherwise sanctioned under and state or federal healthcare program. Finally, alternate payees are required to accept and forward, to the provider, any remittance advice.

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

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002

(217) 524-0081

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

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMSPART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

- 140.1 Incorporation By Reference
- 140.2 Medical Assistance Programs
- 140.3 Covered Services Under Medical Assistance Programs
- 140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
- 140.5 Covered Medical Services Under General Assistance
- 140.6 Medical Services Not Covered
- 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
- 140.8 Medical Assistance For Qualified Severely Impaired Individuals
- 140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 140.10 Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Recovery of Money
- 140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.18 Effect of Termination on Individuals Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

140.20	Submittal of Claims
140.21	Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
140.22	Magnetic Tape Billings (Repealed)
140.23	Payment of Claims
140.24	Payment Procedures
140.25	Overpayment or Underpayment of Claims
140.26	Payment to Factors Prohibited
140.27	Assignment of Vendor Payments
140.28	Record Requirements for Medical Providers
140.30	Audits
140.31	Emergency Services Audits
140.32	Prohibition on Participation, and Special Permission for Participation
140.33	Publication of List of Terminated, Suspended or Barred Entities
140.35	False Reporting and Other Fraudulent Activities
140.40	Prior Approval for Medical Services or Items
140.41	Prior Approval in Cases of Emergency
140.42	Limitation on Prior Approval
140.43	Post Approval for Items or Services When Prior Approval Cannot Be Obtained
140.55	Recipient Eligibility Verification (REV) System
140.71	Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
140.72	Drug Manual (Recodified)
140.73	Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

Section	
140.80	Hospital Provider Fund
140.82	Developmentally Disabled Care Provider Fund
140.84	Long Term Care Provider Fund
140.94	Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95	Hospital Services Trust Fund
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)
140.98	Covered Hospital Services (Recodified)
140.99	Hospital Services Not Covered (Recodified)
140.100	Limitation On Hospital Services (Recodified)

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

- 140.101 Transplants (Recodified)
- 140.102 Heart Transplants (Recodified)
- 140.103 Liver Transplants (Recodified)
- 140.104 Bone Marrow Transplants (Recodified)
- 140.110 Disproportionate Share Hospital Adjustments (Recodified)
- 140.116 Payment for Inpatient Services for GA (Recodified)
- 140.117 Hospital Outpatient and Clinic Services (Recodified)
- 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
- 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
- 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
- 140.203 Limits on Length of Stay by Diagnosis (Recodified)
- 140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
- 140.350 Copayments (Recodified)
- 140.360 Payment Methodology (Recodified)
- 140.361 Non-Participating Hospitals (Recodified)
- 140.362 Pre July 1, 1989 Services (Recodified)
- 140.363 Post June 30, 1989 Services (Recodified)
- 140.364 Prepayment Review (Recodified)
- 140.365 Base Year Costs (Recodified)
- 140.366 Restructuring Adjustment (Recodified)
- 140.367 Inflation Adjustment (Recodified)
- 140.368 Volume Adjustment (Repealed)
- 140.369 Groupings (Recodified)
- 140.370 Rate Calculation (Recodified)
- 140.371 Payment (Recodified)
- 140.372 Review Procedure (Recodified)
- 140.373 Utilization (Repealed)
- 140.374 Alternatives (Recodified)
- 140.375 Exemptions (Recodified)
- 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
- 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

Section

140.400	Payment to Practitioners
140.402	Copayments for Noninstitutional Medical Services
140.405	SeniorCare Pharmaceutical Benefit
140.410	Physicians' Services
140.411	Covered Services By Physicians
140.412	Services Not Covered By Physicians
140.413	Limitation on Physician Services
140.414	Requirements for Prescriptions and Dispensing of Pharmacy Items – Physicians
140.416	Optometric Services and Materials
140.417	Limitations on Optometric Services
140.418	Department of Corrections Laboratory
140.420	Dental Services
140.421	Limitations on Dental Services
140.422	Requirements for Prescriptions and Dispensing Items of Pharmacy Items – Dentists
140.425	Podiatry Services
140.426	Limitations on Podiatry Services
140.427	Requirement for Prescriptions and Dispensing of Pharmacy Items – Podiatry
140.428	Chiropractic Services
140.429	Limitations on Chiropractic Services (Repealed)
140.430	Independent Clinical Laboratory Services
140.431	Services Not Covered by Independent Clinical Laboratories
140.432	Limitations on Independent Clinical Laboratory Services
140.433	Payment for Clinical Laboratory Services
140.434	Record Requirements for Independent Clinical Laboratories
140.435	Advanced Practice Nurse Services
140.436	Limitations on Advanced Practice Nurse Services
140.438	Imaging Centers
140.440	Pharmacy Services
140.441	Pharmacy Services Not Covered
140.442	Prior Approval of Prescriptions
140.443	Filling of Prescriptions
140.444	Compounded Prescriptions
140.445	Legend Prescription Items (Not Compounded)
140.446	Over-the-Counter Items
140.447	Reimbursement
140.448	Returned Pharmacy Items
140.449	Payment of Pharmacy Items

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

- 140.450 Record Requirements for Pharmacies
- 140.451 Prospective Drug Review and Patient Counseling
- 140.452 Mental Health Services
- 140.453 Definitions
- 140.454 Types of Mental Health Services
- 140.455 Payment for Mental Health Services
- 140.456 Hearings
- 140.457 Therapy Services
- 140.458 Prior Approval for Therapy Services
- 140.459 Payment for Therapy Services
- 140.460 Clinic Services
- 140.461 Clinic Participation, Data and Certification Requirements
- 140.462 Covered Services in Clinics
- 140.463 Clinic Service Payment
- 140.464 Hospital-Based and Encounter Rate Clinic Payments
- 140.465 Speech and Hearing Clinics (Repealed)
- 140.466 Rural Health Clinics (Repealed)
- 140.467 Independent Clinics
- 140.469 Hospice
- 140.470 Home Health Services
- 140.471 Home Health Covered Services
- 140.472 Types of Home Health Services
- 140.473 Prior Approval for Home Health Services
- 140.474 Payment for Home Health Services
- 140.475 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.476 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices for Which Payment Will Not Be Made
- 140.477 Limitations on Equipment, Prosthetic Devices and Orthotic Devices
- 140.478 Prior Approval for Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.479 Limitations, Medical Supplies
- 140.480 Equipment Rental Limitations
- 140.481 Payment for Medical Equipment, Supplies, Prosthetic Devices and Hearing Aids
- 140.482 Family Planning Services
- 140.483 Limitations on Family Planning Services
- 140.484 Payment for Family Planning Services
- 140.485 Healthy Kids Program
- 140.486 Illinois Healthy Women
- 140.487 Healthy Kids Program Timeliness Standards
- 140.488 Periodicity Schedules, Immunizations and Diagnostic Laboratory Procedures

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

140.490	Medical Transportation
140.491	Limitations on Medical Transportation
140.492	Payment for Medical Transportation
140.493	Payment for Helicopter Transportation
140.494	Record Requirements for Medical Transportation Services
140.495	Psychological Services
140.496	Payment for Psychological Services
140.497	Hearing Aids
140.498	Fingerprint-Based Criminal Background Checks

SUBPART E: GROUP CARE

Section	
140.500	Long Term Care Services
140.502	Cessation of Payment at Federal Direction
140.503	Cessation of Payment for Improper Level of Care
140.504	Cessation of Payment Because of Termination of Facility
140.505	Informal Hearing Process for Denial of Payment for New ICF/MR
140.506	Provider Voluntary Withdrawal
140.507	Continuation of Provider Agreement
140.510	Determination of Need for Group Care
140.511	Long Term Care Services Covered By Department Payment
140.512	Utilization Control
140.513	Notification of Change in Resident Status
140.514	Certifications and Recertifications of Care (Repealed)
140.515	Management of Recipient Funds – Personal Allowance Funds
140.516	Recipient Management of Funds
140.517	Correspondent Management of Funds
140.518	Facility Management of Funds
140.519	Use or Accumulation of Funds
140.520	Management of Recipient Funds – Local Office Responsibility
140.521	Room and Board Accounts
140.522	Reconciliation of Recipient Funds
140.523	Bed Reserves
140.524	Cessation of Payment Due to Loss of License
140.525	Quality Incentive Program (QUIP) Payment Levels
140.526	Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Repealed)
140.527	Quality Incentive Survey (Repealed)
140.528	Payment of Quality Incentive (Repealed)

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

140.529	Reviews (Repealed)
140.530	Basis of Payment for Long Term Care Services
140.531	General Service Costs
140.532	Health Care Costs
140.533	General Administration Costs
140.534	Ownership Costs
140.535	Costs for Interest, Taxes and Rent
140.536	Organization and Pre-Operating Costs
140.537	Payments to Related Organizations
140.538	Special Costs
140.539	Reimbursement for Basic Nursing Assistant, Developmental Disabilities Aide, Basic Child Care Aide and Habilitation Aide Training and Nursing Assistant Competency Evaluation
140.540	Costs Associated With Nursing Home Care Reform Act and Implementing Regulations
140.541	Salaries Paid to Owners or Related Parties
140.542	Cost Reports – Filing Requirements
140.543	Time Standards for Filing Cost Reports
140.544	Access to Cost Reports (Repealed)
140.545	Penalty for Failure to File Cost Reports
140.550	Update of Operating Costs
140.551	General Service Costs Updates
140.552	Nursing and Program Costs
140.553	General Administrative Costs Updates
140.554	Component Inflation Index (Repealed)
140.555	Minimum Wage
140.560	Components of the Base Rate Determination
140.561	Support Costs Components
140.562	Nursing Costs
140.563	Capital Costs
140.565	Kosher Kitchen Reimbursement
140.566	Out-of-State Placement
140.567	Level II Incentive Payments (Repealed)
140.568	Duration of Incentive Payments (Repealed)
140.569	Clients With Exceptional Care Needs
140.570	Capital Rate Component Determination
140.571	Capital Rate Calculation
140.572	Total Capital Rate
140.573	Other Capital Provisions
140.574	Capital Rates for Rented Facilities

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

- 140.575 Newly Constructed Facilities (Repealed)
140.576 Renovations (Repealed)
140.577 Capital Costs for Rented Facilities (Renumbered)
140.578 Property Taxes
140.579 Specialized Living Centers
140.580 Mandated Capital Improvements (Repealed)
140.581 Qualifying as Mandated Capital Improvement (Repealed)
140.582 Cost Adjustments
140.583 Campus Facilities
140.584 Illinois Municipal Retirement Fund (IMRF)
140.590 Audit and Record Requirements
140.642 Screening Assessment for Nursing Facility and Alternative Residential Settings and Services
140.643 In-Home Care Program
140.645 Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21 (Repealed)
140.646 Reimbursement for Developmental Training (DT) Services for Individuals With Developmental Disabilities Who Reside in Long Term Care (ICF and SNF) and Residential (ICF/MR) Facilities
140.647 Description of Developmental Training (DT) Services
140.648 Determination of the Amount of Reimbursement for Developmental Training (DT) Programs
140.649 Effective Dates of Reimbursement for Developmental Training (DT) Programs
140.650 Certification of Developmental Training (DT) Programs
140.651 Decertification of Day Programs
140.652 Terms of Assurances and Contracts
140.680 Effective Date Of Payment Rate
140.700 Discharge of Long Term Care Residents
140.830 Appeals of Rate Determinations
140.835 Determination of Cap on Payments for Long Term Care (Repealed)

SUBPART F: FEDERAL CLAIMING FOR STATE AND
LOCAL GOVERNMENTAL ENTITIES

- Section
140.850 Reimbursement of Administrative Expenditures
140.855 Administrative Claim Review and Reconsideration Procedure
140.860 County Owned or Operated Nursing Facilities
140.865 Sponsor Qualifications (Repealed)
140.870 Sponsor Responsibilities (Repealed)

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

140.875	Department Responsibilities (Repealed)
140.880	Provider Qualifications (Repealed)
140.885	Provider Responsibilities (Repealed)
140.890	Payment Methodology (Repealed)
140.895	Contract Monitoring (Repealed)
140.896	Reimbursement For Program Costs (Active Treatment) For Clients in Long Term Care Facilities For the Developmentally Disabled (Recodified)
140.900	Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Recodified)
140.901	Functional Areas of Needs (Recodified)
140.902	Service Needs (Recodified)
140.903	Definitions (Recodified)
140.904	Times and Staff Levels (Repealed)
140.905	Statewide Rates (Repealed)
140.906	Reconsiderations (Recodified)
140.907	Midnight Census Report (Recodified)
140.908	Times and Staff Levels (Recodified)
140.909	Statewide Rates (Recodified)
140.910	Referrals (Recodified)
140.911	Basic Rehabilitation Aide Training Program (Recodified)
140.912	Interim Nursing Rates (Recodified)

SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM

Section	
140.920	General Description
140.922	Covered Services
140.924	Maternal and Child Health Provider Participation Requirements
140.926	Client Eligibility (Repealed)
140.928	Client Enrollment and Program Components (Repealed)
140.930	Reimbursement
140.932	Payment Authorization for Referrals (Repealed)

SUBPART H: ILLINOIS COMPETITIVE ACCESS AND REIMBURSEMENT EQUITY (ICARE) PROGRAM

Section	
140.940	Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recodified)
140.942	Definition of Terms (Recodified)

DEPARTMENT OF PUBLIC AID

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140.944	Notification of Negotiations (Recodified)
140.946	Hospital Participation in ICARE Program Negotiations (Recodified)
140.948	Negotiation Procedures (Recodified)
140.950	Factors Considered in Awarding ICARE Contracts (Recodified)
140.952	Closing an ICARE Area (Recodified)
140.954	Administrative Review (Recodified)
140.956	Payments to Contracting Hospitals (Recodified)
140.958	Admitting and Clinical Privileges (Recodified)
140.960	Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
140.962	Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)
140.964	Contract Monitoring (Recodified)
140.966	Transfer of Recipients (Recodified)
140.968	Validity of Contracts (Recodified)
140.970	Termination of ICARE Contracts (Recodified)
140.972	Hospital Services Procurement Advisory Board (Recodified)
140.980	Elimination Of Aid To The Medically Indigent (AMI) Program (Emergency Expired)
140.982	Elimination Of Hospital Services For Persons Age Eighteen (18) And Older And Persons Married And Living With Spouse, Regardless Of Age (Emergency Expired)
140.TABLE A	Medichek Recommended Screening Procedures (Repealed)
140.TABLE B	Geographic Areas
140.TABLE C	Capital Cost Areas
140.TABLE D	Schedule of Dental Procedures
140.TABLE E	Time Limits for Processing of Prior Approval Requests
140.TABLE F	Podiatry Service Schedule
140.TABLE G	Travel Distance Standards
140.TABLE H	Areas of Major Life Activity
140.TABLE I	Staff Time and Allocation for Training Programs (Recodified)
140.TABLE J	HSA Grouping (Repealed)
140.TABLE K	Services Qualifying for 10% Add-On (Repealed)
140.TABLE L	Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Repealed)
140.TABLE M	Enhanced Rates for Maternal and Child Health Provider Services

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill.

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Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989;

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amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992;

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emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995;

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amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957,

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effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005.

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section 140.13 Definitions

"Department Policy". For purposes of this Part, "Department ~~policy~~[Policy](#)" shall

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mean the written requirements of the Department set forth in the Medical Assistance Program Handbooks, and the Department's written manuals, bulletins and releases. It shall also include any additional policy statements transmitted in writing to a vendor.

"Entity". For purposes of this Part, "entity" means any person, firm, corporation, partnership, association, agency, institution, or other legal organization.

"Investor". For purposes of this Part, "investor" shall mean any entity that owns (directly or indirectly) five percent or more of the shares of stock or other evidences of ownership of a vendor, or holds (directly or indirectly) five percent or more of the debt of a vendor, or owns and holds (directly or indirectly) three percent or more of the combined debt and equity of a vendor.

"Management Responsibility". For purposes of this Part, a person with management responsibility includes a person vested with discretion or judgment who either alone or in conjunction with others, conducts, administers or oversees either the general concerns of the vendor; or a portion of the vendor's concerns. A person with management responsibility shall specifically include the pharmacist in a pharmacy, the medical director of a laboratory, the administrator of a hospital or nursing home, the dispatcher in a transportation vendor, dispatchers and all individuals in charge of day to day operations of a non-emergency transportation vendor, the person or persons responsible for preparation and submittal of billings for services to the Department, and the manager of a group practice, clinic or shared health facility.

"Non-Emergency Transportation Vendor". For purposes of this Part, non-emergency transportation vendor shall mean any transportation provider identified in Section 140.490(a) other than those identified in Section 140.490(a)(1) and (a)(6).

"Technical or Other Advisor". For purposes of this Part, "technical or other advisor" shall mean any entity that provides any form of advice to a vendor regarding the vendor's business or participation in the Medical Assistance Program in return for compensation, directly or indirectly, in any form.

"Vendor". For purposes of this Part, "vendor" or "provider" shall mean a person, firm, corporation, association, agency, institution, or other legal entity that provides receiving payment or applying for authorization to receive payment for goods or services to a recipient or recipients, and is enrolled to participate in the

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Medical Assistance Program pursuant to 89 Ill. Adm. Code 140.11 and 140.12.

(Source: Amended at 29 Ill. Reg. 6945, effective May 1, 2005)

Section 140.24 Payment Procedures

- a) Payment of valid claims will be made by a State warrant (check) issued through the Office of the State Comptroller.
- b) All providers of medical services must designate a payee when enrolling in the Department's Illinois Medical Assistance Program.
 - 1) Providers enrolled as business entities are limited to one payee. A business entity is defined as any firm, corporation, partnership, agency, institution or other legal organization organized for the purpose of providing medically related professional services. A provider enrolled as a business entity may designate the corporate or partnership name as the payee. The mailing address for the payee must be the provider's service address, ~~or~~ the designated address of the provider's corporate or partnership office, or a designated address that will accept and forward the remittance advice to the business entity.
 - 2) Providers enrolled as individual practitioners are allowed to have more than one payee. An individual practitioner is defined as an individual person licensed by an authorized state agency to provide medical services. Payment may be mailed to an individual practitioner at one of the following addresses that will accept and forward the remittance advice to the individual practitioner:
 - A) The provider's service address; or
 - B) The provider's residence; or
 - C) The provider's designated address; or
 - D) The address of the provider's designated alternate payee pursuant to subsection (d) of this Section; or
 - E) The address of the entity specified according to an arrangement under Section 140.27(c) or (d).

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- c) A long term care facility and its corporate or partnership owner may request the facility's warrant be sent directly to the business office address of the corporate or partnership owner. After approval is given, the warrant will be issued in the name of the facility or corporate name doing business under the facility name, but sent to the business office address of the corporate or partnership owner rather than the facility.
- d) Individual practitioners may request the Department to designate an alternate payee. The Department may permit such a request if the Department determines that such designation is consistent with the provision of medical services to eligible recipients and~~The Department shall permit individual practitioners to designate an alternate payee if one of the following conditions is met:~~
- 1) The individual~~medical~~ practitioner has a contractual/salary arrangement, as a condition of employment with a hospital or professional school. A professional school is defined as a college or university offering a degree to qualify individuals for licensure to perform medical services; or
 - 2) The individual~~medical~~ practitioner has a contractual/salary arrangement with or is employed by ~~is part of~~ a practitioner owned group practice. The practitioner owned group practice must be owned by consisting of three or more full-time licensed individual practitioners who are eligible to participate in the Medical Assistance Program; or ~~or the equivalent thereof.~~
 - 3) ~~The medical practitioner is employed by a practitioner who requires, as a condition of employment, that the fees be turned over to the employer.~~
 - 34) The individual~~medical~~ practitioner has a contractual/salary arrangement or is employed by a governmental entity that requires, as a condition of employment, that the fees be turned over to the governmental entity; or.
 - 45) The individual~~medical~~ practitioner has a contractual/salary arrangement or is employed by a community mental health agency that is certified by the Department of Human Services under 59 Ill. Adm. Code 132. The community mental health agency must be and is enrolled as a provider in the ~~Illinois~~ Medical Assistance Program; or.
 - 56) The individual~~medical~~ practitioner has a contractual/salary arrangement or is employed by a Federally Qualified Health Center, Rural Health Center

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or Encounter Rate Clinic that is enrolled as a provider in the ~~Department's~~ Medical Assistance Program; or-

6) The individual practitioner has a contractual/salary arrangement or is employed by a hospital affiliate, as defined by the Hospital Licensing Act [210 ILCS 85].

e) The Department will not permit the designation of a payee or alternate payee that appoints, employs, or contracts with any person as an owner, officer, director, or individual with management or advisory responsibility who is terminated, suspended, or barred or has voluntarily withdrawn as a result of a settlement agreement, from any state or federal healthcare program.

(Source: Amended at 29 Ill. Reg. 6945, effective May 1, 2005)

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- 1) Heading of the Part: Specialized Health Care Delivery Systems
- 2) Code Citation: 89 Ill. Adm. Code 146
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
146.400	New Section
146.410	New Section
146.420	New Section
146.430	New Section
146.440	New Section
146.450	New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and the Hemophilia Care Act [410 ILCS 420]
- 5) Effective Date of Amendments: May 1, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any materials 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: February 4, 2005; 29 Ill. Reg. 1779
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version:

In Section 146.420(j), "Hemophilia" has been changed to "hemophilia".

In Section 146.450, the text in subsection (b) has been deleted and replaced with the following: "The Department's reimbursement shall be adjusted to reflect the Patient's Participation Fee, as applicable, and any amount that is eligible for payment or reimbursement by any hospital or medical insurance program, by any other government medical or financial assistance program, or by any charitable assistance program. (See 410 ILCS 420/1(7).)".

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- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency amendments currently in effect? Yes
- 14) Are there any other amendments pending on this Part? Yes

<u>Sections</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
146.500	New Section	April 1, 2005 (29 Ill. Reg. 4706)
146.510	New Section	April 1, 2005 (29 Ill. Reg. 4706)
146.520	New Section	April 1, 2005 (29 Ill. Reg. 4706)
146.530	New Section	April 1, 2005 (29 Ill. Reg. 4706)
146.540	New Section	April 1, 2005 (29 Ill. Reg. 4706)
146.550	New Section	April 1, 2005 (29 Ill. Reg. 4706)
146.560	New Section	April 1, 2005 (29 Ill. Reg. 4706)
146.570	New Section	April 1, 2005 (29 Ill. Reg. 4706)

- 15) Summary and purpose of amendments: New Subpart C, State Hemophilia Program, adds six new Sections to Part 146, Specialized Health Care Delivery Systems. This Program provides care for persons suffering from hemophilia who have financially qualified for the Program. The Program is a payer of last resort: after Medicare and/or private insurance, after other government agencies, and after a patient's determined participation fee, if applicable, and if the patient is not eligible for public assistance at the time services are provided.

Administrative rules concerning the State Hemophilia Program were recodified to the Department of Human Services in 1997 during the period of State agency reorganization. However, the Department of Public Aid is responsible for the administration of this Program.

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

Joanne Scattoloni
 Office of the General Counsel, Rules Section
 Illinois Department of Public Aid
 201 South Grand Avenue East, Third Floor
 Springfield, Illinois 62763-0002

217/524-0081

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

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMSPART 146
SPECIALIZED HEALTH CARE DELIVERY SYSTEMS

SUBPART A: AMBULATORY SURGICAL TREATMENT CENTERS

Section	General Description
146.100	General Description
146.105	Definitions
146.110	Participation Requirements
146.115	Records and Data Reporting Requirements
146.125	Covered Ambulatory Surgical Treatment Center Services
146.130	Reimbursement for Services

SUBPART B: SUPPORTIVE LIVING FACILITIES

146.200	General Description
146.205	Definitions
146.210	Structural Requirements
146.215	SLF Participation Requirements
146.220	Resident Participation Requirements
146.225	Reimbursement for Medicaid Residents
146.230	Services
146.235	Staffing
146.240	Resident Contract
146.245	Assessment and Service Plan and Quarterly Evaluation
146.250	Resident Rights
146.255	Discharge
146.260	Grievance Procedure
146.265	Records Requirements
146.270	Quality Assurance Plan
146.275	Monitoring
146.280	Termination or Suspension of SLF Provider Agreement
146.285	Voluntary Surrender of Certification
146.290	Geographic Groups
146.295	Emergency Contingency Plan
146.300	Waivers

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SUBPART C: STATE HEMOPHILIA PROGRAM

<u>146.400</u>	<u>Definitions</u>
<u>146.410</u>	<u>Patient Eligibility</u>
<u>146.420</u>	<u>Hemophilia Treatment Centers</u>
<u>146.430</u>	<u>Comprehensive Care Evaluation</u>
<u>146.440</u>	<u>Home Transfusion Arrangements</u>
<u>146.450</u>	<u>Obligations of the Department</u>

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13] and implementing the Hemophilia Care Act [410 ILCS 420].

SOURCE: Old Part repealed at 14 Ill. Reg. 13800, effective August 15, 1990; new Part adopted at 20 Ill. Reg. 4419, effective February 29, 1996; emergency amendment at 21 Ill. Reg. 13875, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4430, effective February 27, 1998; emergency amendment at 22 Ill. Reg. 13146, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19914, effective October 30, 1998; amended at 23 Ill. Reg. 5819, effective April 30, 1999; emergency amendment at 23 Ill. Reg. 8256, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13663, effective November 1, 1999; amended at 24 Ill. Reg. 8353, effective June 1, 2000; emergency amendment at 26 Ill. Reg. 14882, effective October 1, 2002, for a maximum of 150 days; amended at 27 Ill. Reg. 2176, effective February 1, 2003; emergency amendment at 27 Ill. Reg. 10854, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18671, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 12218, effective August 11, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 14214, effective October 18, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 852, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2014, effective January 21, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 4360, effective March 7, 2005; amended at 29 Ill. Reg. 6967, effective May 1, 2005.

SUBPART C: STATE HEMOPHILIA PROGRAMSection 146.400 Definitions

"Available Family Income" means the lesser of:

Base income minus the sum of:

\$5,500 and

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\$3,500 times the number of persons in the family, or

One-half of base income

"Base Income" means the income reported for State income tax purposes of all members of the family.

"Core Team" means a team that includes a board certified hematologist as a Hemophilia Service Director, a full-time board certified pediatric hematologist and/or board certified pediatrician (at a Treatment Center that serves children), a nurse coordinator, and a social worker.

"Extended Team" means a team of medical and support staff available as appropriate, and includes the following: patient's primary physician, physical therapist/physiatrist, orthopedist, infectious disease specialist, hepatologist, psychologist/psychiatrist, dentist/dental hygienist/oral surgeon, genetic counselor, nutritionist, gynecologist/obstetrician, pharmacist, education/vocation counselor and financial counselor.

"Department" means the Illinois Department of Public Aid.

"Eligible Hemophilia Services" means blood transfusions, blood derivatives, out-patient services, physicians' charges, medical supplies and appliances used in the treatment of persons eligible for the State Hemophilia Program.

"Hemophilia" means a bleeding tendency resulting from a genetically determined deficiency in the blood.

"Hemophilia Treatment Center" means a facility that has met the requirements set forth in Section 146.420 and has been designated as a Hemophilia Treatment Center by the Department.

"Patient" means a person meeting the eligibility requirements for the State Hemophilia Program as defined in Section 146.410.

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"Patient Participation Fee" means the amount of expenses for eligible hemophilia services that the patient or, in the case of a minor, the patient's parent or guardian will be responsible for on an annual basis.

(Source: Added at 29 Ill. Reg. 6967, effective May 1, 2005)

Section 146.410 Patient Eligibility

- a) An eligible person shall:
- 1) Be a resident of the State of Illinois; and
 - 2) Not be otherwise eligible for comprehensive benefits under the Public Aid Code [305 ILCS 5] or the Children's Health Insurance Program Act [215 ILCS 106]; and
 - 3) Submit an application form accompanied by a copy of the most recent State Income Tax Return (IL 1040) for the person or, in the case of a minor, for the person's parents or guardian; and
 - 4) Submit the Illinois Hemophilia Program Medical Form signed by the medical director of an approved Hemophilia Treatment Center to document the person has a diagnosis of hemophilia.
- b) On an annual basis, the patient shall:
- 1) Receive a complete comprehensive care evaluation in a Hemophilia Treatment Center, unless otherwise recommended by the center's director.
 - 2) Submit an application form accompanied by a copy of the most recent State Income Tax Return (IL 1040) for the patient or, in the case of a minor, for the patient's parents or guardian.
- c) Patient Participation Fee
- 1) The Patient Participation Fee will be determined annually and is equal to 20 percent of the patient's available family income.

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- 2) In cases where the family has more than one patient participating in the State Hemophilia Program, the Patient Participation Fee will be applied to the family as a unit.
 - 3) The patient or, in the case of a minor, the patient's parent or guardian will be notified in writing of the Patient Participation Fee.
- d) Hardship Cases
- 1) A hardship case refers to a patient who has been determined by the Department to owe a Patient Participation Fee and the patient or, in the case of a minor, the patient's parent or guardian believes the charge will cause financial hardship.
- A) The patient or, in the case of a minor, the patient's parent or guardian may request a redetermination of the Patient Participation Fee. The request shall include the following information:
- i) Reduction in family income since the previous year;
 - ii) Accrued medical bills for the entire family;
 - iii) Other illness in the family;
 - iv) Increased childcare costs;
 - v) Extraordinary expenses incurred during the previous year;
 - vi) Casualty losses experienced during the previous year; and
 - vii) Resources to which the family has access for medical care, vocational assistance and other supportive services.
- B) The patient or, in the case of a minor, the patient's parent or guardian may also submit a written narrative explaining any additional factors supporting the request for a reduction in the Patient Participation Fee.

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- 2) The Department shall review and evaluate each hardship request. Criteria used in the review shall include the number and severity of demands being made on the family's financial resources, the availability of assistance from other sources and the potential stress placed on the family if the Patient Participation Fee is not reduced.
- 3) The Department will respond in writing with its determination regarding the hardship request. The Department will take one of the following actions:
 - A) Make no changes in the Patient Participation Fee originally assigned to the patient.
 - B) Reduce the amount of the Patient Participation Fee; or
 - C) Remove the Patient Participation Fee.

(Source: Added at 29 Ill. Reg. 6967, effective May 1, 2005)

Section 146.420 Hemophilia Treatment Centers

Each Hemophilia Treatment Center must annually, in a format specified by the Department, attest that the services provided by the center include all of the following:

- a) Twenty-four hour attendance by a physician.
- b) A Core Team.
- c) An Extended Team readily available and accessible for evaluations or referrals.
- d) Pediatric hematology services.
- e) Dental program.
- f) Protocols for the management of complications of inherited bleeding disorders.
- g) Comprehensive psychosocial services and counseling.
- h) Genetic counseling and testing.

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- i) Access to laboratory services.
- j) A comprehensive home infusion therapy program that provides instruction, ongoing education, monitoring and supervision by medical professionals experienced in the management of hemophilia.
- k) Twenty-four hour emergency services with written treatment protocols and a hematologist on-call.
- m) Twenty-four hour availability of, or accessibility to, all products for treating hemophilia and related bleeding disorders as recommended by the National Hemophilia Foundation Medical and Scientific Advisory Committee.
- n) Active collaboration with local, State and national hemophilia organizations to provide outreach and education.
- o) Established linkages with private, public and voluntary service organizations and health care providers to assure a full-range of services to meet clinical and psychosocial needs of the patient and the patient's family.

(Source: Added at 29 Ill. Reg. 6967, effective May 1, 2005)

Section 146.430 Comprehensive Care Evaluation

- a) Each Hemophilia Treatment Center shall provide comprehensive care evaluations to patients. The components of the evaluation, specified in subsection (b) of this Section, need not all be performed at the same time or place.
- b) A comprehensive care evaluation shall include:
 - 1) Examination by a hematologist;
 - 2) Examination by a physical therapist and/or orthopedic surgeon;
 - 3) Dental examination;
 - 4) Psychosocial assessment by a qualified medical social worker or other qualified person;

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- 5) Appropriate radiographs as deemed necessary and ordered by the center director, the radiologist or orthopedist; and
- 6) Laboratory studies including inhibitor screen test, liver function tests, hepatitis B antigen and antibody tests, urinalysis and blood count.
- c) A summary of the findings of the comprehensive care evaluation and recommendations shall be provided to the patient's primary care physician by the Hemophilia Treatment Center.
- d) A review and summary of the findings signed by the center director shall be presented to the patient at the conclusion of the examination.
- e) A written statement by the center director indicating that the comprehensive care evaluation has been performed shall be sent to the State Hemophilia Program each year.

(Source: Added at 29 Ill. Reg. 6967, effective May 1, 2005)

Section 146.440 Home Transfusion Arrangements

- a) The State Hemophilia Program shall assist patients for whom the Hemophilia Treatment Center hematologists request assistance in securing and funding home transfusion materials, including the necessary anti-hemophilia factors. The obligation for training and supervision of patients shall remain with the center directors.
- b) The Hemophilia Treatment Center hematologists shall provide to the selected manufacturer's representative or other recognized provider a prescription for the required amount, type, and assay of the specific factor.

(Source: Added at 29 Ill. Reg. 6967, effective May 1, 2005)

Section 146.450 Obligations of the Department

- a) The Department shall reimburse enrolled providers for eligible hemophilia services for patients in the State Hemophilia Program.
- b) The Department's reimbursement shall be adjusted to reflect the Patient's Participation Fee, as applicable, and any amount that is eligible for payment or

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reimbursement by any hospital or medical insurance program, by any other government medical or financial assistance program, or by any charitable assistance program. (See 410 ILCS 420/1(7).)

(Source: Added at 29 Ill. Reg. 6967, effective May 1, 2005)

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- 1) Heading of the Part: Long Term Care Reimbursement Changes
- 2) Code Citation: 89 Ill. Adm. Code 153
- 3) Section Number: 153.125 Adopted Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 93-0841
- 5) Effective Date of Amendment: May 1, 2005
- 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 materials 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: January 14, 2005; 28 Ill. Reg. 1005
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: No changes have been made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this amendment replace any emergency amendment currently in effect? Yes
- 14) Are there any other amendments pending on this Part? Yes

<u>Sections</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
153.125	Amendment	April 1, 2005; 29 Ill. Reg. 4715
- 15) Summary and purpose of amendment: Pursuant to Public Act 93-0841, this amendment provides a three percent rate increase for nursing facilities, effective January 1, 2005.
- 16) Information and questions regarding this adopted amendment shall be directed to:

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Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002

217/524-0081

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

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NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER e: GENERAL TIME-LIMITED CHANGESPART 153
LONG TERM CARE REIMBURSEMENT CHANGES

Section

153.100	Reimbursement for Long Term Care Services
153.125	Long Term Care Facility Rate Adjustments
153.150	Quality Assurance Review (Repealed)

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

SOURCE: Emergency rules adopted at 18 Ill. Reg. 2159, effective January 18, 1994, for maximum of 150 days; adopted at 18 Ill. Reg. 10154, effective June 17, 1994; emergency amendment at 18 Ill. Reg. 11380, effective July 1, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16669, effective November 1, 1994; emergency amendment at 19 Ill. Reg. 10245, effective June 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16281, effective November 27, 1995; emergency amendment at 20 Ill. Reg. 9306, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14840, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 9568, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13633, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 13114, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16285, effective August 28, 1998; amended at 22 Ill. Reg. 19872, effective October 30, 1998; emergency amendment at 23 Ill. Reg. 8229, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12794, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13638, effective November 1, 1999; emergency amendment at 24 Ill. Reg. 10421, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15071, effective October 1, 2000; emergency amendment at 25 Ill. Reg. 8867, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 14952, effective November 1, 2001; emergency amendment at 26 Ill. Reg. 6003, effective April 11, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 12791, effective August 9, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11087, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17817, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 11088, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18880, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 10218, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15584, effective November 24, 2004; emergency amendment at 29 Ill. Reg. 1026, effective January 1, 2005, for a

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maximum of 150 days; emergency amendment at 29 Ill. Reg. 4740, effective March 18, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 6979, effective May 1, 2005.

Section 153.125 Long Term Care Facility Rate Adjustments

- a) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates established on July 1, 1996, shall be increased by 6.8 percent for services provided on or after January 1, 1997.
- b) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates and developmental training rates established on July 1, 1998, for services provided on or after that date, shall be increased by three percent. For nursing facilities (SNF/ICF) only, \$1.10 shall also be added to the nursing component of the rate.
- c) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates and developmental training rates established on July 1, 1999, for services provided on or after that date, shall include:
 - 1) an increase of 1.6 percent for SNF/ICF, ICF/MR and developmental training rates;
 - 2) an additional increase of \$3.00 per resident day for ICF/MR rates; and
 - 3) an increase of \$10.02 per person, per month for developmental training rates.
- d) Notwithstanding the provisions set forth in Section 153.100, SNF/ICF rates shall be increased by \$4.00 per resident day for services provided on or after October 1, 1999.
- e) Notwithstanding the provisions set forth in Section 153.100, SNF/ICF, ICF/MR and developmental training rates shall be increased 2.5 percent per resident day for services provided on or after July 1, 2000.
- f) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on July 1, 2001, shall be computed using the most recent cost reports on file with the Department no later than April 1, 2000, updated for inflation to January 1, 2001.

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- 1) The Uniform Building Value shall be as defined in 89 Ill. Adm. Code 140.570(b)(10), except that, as of July 1, 2001, the definition of current year is the year 2000.
 - 2) The real estate tax bill that was due to be paid in 1999 by the nursing facility shall be used in determination of the capital component of the rate. The real estate tax component shall be removed from the capital rate if the facility's status changes so as to be exempt from assessment to pay real estate taxes.
 - 3) For rates effective July 1, 2001, only, rates shall be the greater of the rate computed for July 1, 2001, or the rate effective on June 30, 2001.
 - 4) All accounting records and other documentation necessary to support the costs and other information reported on the cost report to be used in accordance with rate setting under Section 153.125(f) shall be kept for a minimum of two years after the Department's final payment using rates that were based in part on that cost report.
- g) Notwithstanding the provisions set forth in Section 153.100, intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled nursing facilities for persons under 22 years of age (SNF/Ped), shall receive an increase in rates for residential services equal to a statewide average of 7.85 percent. Residential rates taking effect March 1, 2001, for services provided on or after that date, shall include an increase of 11.01 percent to the residential program rate component and an increase of 3.33 percent to the residential support rate component, each of which shall be adjusted by the geographical area adjuster, as defined by the Department of Human Services (DHS).
- h) For developmental training services provided on or after March 1, 2001, for residents of long term care facilities, rates shall include an increase of 9.05 percent and rates shall be adjusted by the geographical area adjuster, as defined by DHS.
- i) Notwithstanding the provisions set forth in Section 153.100, daily rates for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 2.247 percent for services provided during the period beginning on April 11, 2002, and ending on June 30, 2002.

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- j) Notwithstanding the provisions set forth in Section 153.100, daily rates effective on July 1, 2002, for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be reduced to the level of the rates in effect on April 10, 2002.
- k) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on July 1, 2002 will be 5.9 percent less than the rates in effect on June 30, 2002.
- l) Notwithstanding the provisions set forth in Section 153.100, daily rates effective on July 1, 2003, for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 3.59 percent.
- m) Notwithstanding the provisions set forth in Section 153.100, developmental training rates effective on July 1, 2003, shall be increased by 4 percent.
- n) Notwithstanding the provisions set forth in Section 153.100, pending the approvals described in this subsection (n), nursing facility (SNF/ICF) rates effective July 1, 2004, shall be 3.0 percent greater than the rates in effect on June 30, 2004. The increase is contingent on approval of both the payment methodologies required under Article 5A-12 of the Public Aid Code [305 ILCS 5/5A-12] and the waiver granted under 42 CFR 433.68.
- o) Notwithstanding the provisions set forth in Section 153.100, the "Original Building Base Cost" for nursing facilities (SNF/ICF) which have been rented continuously from an unrelated party since prior to January 1, 1978, effective on July 1, 2004, shall be added to the capital rate calculation using the most recent cost reports on file with the Department no later than June 30, 2004. The "Original Building Base Cost" as defined in 89 Ill. Adm. Code 140.570 shall be calculated from the original lease information that is presently on file with the Department. This original lease information will be used to capitalize the oldest available lease payment from the unrelated party lease that has been in effect since prior to January 1, 1978, and continued to be in effect on December 31, 1999. Before the lease payment is capitalized, a 15 percent portion will be removed from the oldest available lease payment for movable equipment costs. After the lease payment is capitalized, a portion of the capitalized amount will be removed for land cost. The land cost portion is 4.88 percent. The remaining amount will be the facility's building cost. The construction/acquisition year for

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the building will be the date the pre-1978 lease began. The allowable cost of subsequent improvements to the building will be included in the original building base cost. The original building base cost will not change due to sales or leases of the facility after January 1, 1978.

- p) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on January 1, 2005 will be 3.0 percent more than the rates in effect on December 31, 2004.

(Source: Amended at 29 Ill. Reg. 6979, effective May 1, 2005)

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- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Number: 100.5060 Adopted Action:
New Section
- 4) Statutory Authority: 35 ILCS 5/501(b)
- 5) Effective Date of Amendment: April 26, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted 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: 28 Ill. Reg. 15740; December 10, 2004
- 10) Has JCAR issued a Statement of Objection to this amendment? 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 agreements issued by JCAR? Yes
- 13) Will this amendment replace any emergency amendment currently in effect? Yes. The companion emergency rulemaking was adopted at 28 Ill. Reg. 15858, effective November 29, 2004.
- 14) Are there any amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>IL Register Citation</u>
100.2140	Amendment	29 Ill. Reg. 2988, 02/25/05
100.2150	Amendment	29 Ill. Reg. 2988, 02/25/05
100.2330	Amendment	29 Ill. Reg. 2988, 02/25/05

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- 15) Summary and Purpose of Amendment: Section 501(b) of the IITA requires taxpayers to disclose to the Department participation in a reportable transaction. A "reportable transaction" is any transaction that must be disclosed under Treasury Regulations Section 1.6011-4 and includes any listed transaction that is required to be disclosed under Treasury Regulation Section 1.6011-4T or 1.6011-4. In general, disclosure is made by furnishing the Department a copy of the federal disclosure statement. This rulemaking implements the provisions of IITA Section 501(b).
- 16) Information and questions regarding this adopted amendment shall be directed to:

Paul Caselton
Deputy General Counsel - Income Tax
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

(217) 782-7055

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

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NOTICE OF ADOPTED AMENDMENT

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

SUBPART A: TAX IMPOSED

Section

- 100.2000 Introduction
100.2050 Net Income (IITA Section 202)

SUBPART B: CREDITS

Section

- 100.2100 Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))
100.2101 Replacement Tax Investment Credit (IITA 201(e))
100.2110 Investment Credit; Enterprise Zone (IITA 201(f))
100.2120 Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))
100.2130 Investment Credit; High Impact Business (IITA 201(h))
100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150 Training Expense Credit (IITA 201(j))
100.2160 Research and Development Credit (IITA 201(k))
100.2163 Environmental Remediation Credit (IITA 201(l))
100.2165 Education Expense Credit (IITA 201(m))
100.2170 Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2180 Credit for Residential Real Property Taxes (IITA 208)
100.2185 Film Production Services Credit (IITA 213)
100.2190 Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196 Employee Child Care Assistance Program Tax Credit (IITA 210.5)
100.2197 Foreign Tax Credit (IITA Section 601(b)(3))
100.2198 Economic Development for a Growing Economy Credit (IITA 211)
100.2199 Illinois Earned Income Tax Credit (IITA 212)

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

Section

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NOTICE OF ADOPTED AMENDMENT

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

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

Section

- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986
- 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
- 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

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

Section

- 100.2410 Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)
- 100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
- 100.2480 Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
- 100.2490 Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

SUBPART F: BASE INCOME OF INDIVIDUALS

Section

- 100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
- 100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

Section

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

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

Section

- 100.3000 Terms Used in Article 3 (IITA Section 301)
- 100.3010 Business and Nonbusiness Income (IITA Section 301)
- 100.3020 Resident (IITA Section 301)

SUBPART J: COMPENSATION

Section

- 100.3100 Compensation (IITA Section 302)

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- 100.3110 State (IITA Section 302)
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AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986;

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amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective

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November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005.

SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section 100.5060 Reportable Transactions**a) Requirement to Disclose Participation in Reportable Transactions**

1) In general. *For each taxable year in which a taxpayer is required to make a disclosure statement under Treasury Regulations Section 1.6011-4 (26 CFR 1.6011.4 (2004)) with respect to a reportable transaction in which the taxpayer participated in a taxable year for which a return is required under IITA Section 502, the taxpayer shall file a copy of such disclosure with the Department. (IITA Section 501(b)) A copy of such disclosure shall be filed at the time and in the manner provided under subsection (b) of this Section.*

2) Definitions. For purposes of this Section:

A) Reportable Transaction. A "reportable transaction" is any transaction that must be disclosed under Treasury Regulations Section 1.6011-4 and shall include any listed transaction that is required to be disclosed under Treasury Regulation Section 1.6011-4T or 1.6011-4 as of the earlier of the date disclosure is required under subsection (b)(1) of this Section or the date the taxpayer files its return to which such disclosure would need to be attached.

B) Listed Transaction. A "listed transaction" is any transaction entered into after February 28, 2000 that is the same as or substantially similar to one of the types of transactions that the IRS

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has identified by notice, regulation, or other form of published guidance as a listed transaction and that is required to be disclosed under Treasury Regulation Section 1.6011-4T or 1.6011-4.

b) Time and Manner for Making Disclosure

1) Time for Making Disclosure. Disclosure under this Section must be made by the due date (including extensions) of the return to which the disclosure statement must be attached as provided in this subsection (b), unless the date in which disclosure is required for federal income tax purposes for the same transaction is later, in which case disclosure must be made no later than the date in which disclosure is required for federal income tax purposes.

2) General Manner for Making Disclosure

A) Taxable years ending before December 31, 2004. In the case of a reportable transaction as to which disclosure is required for federal income tax purposes on a return filed for a taxable year ending before December 31, 2004:

i) In general. A copy of the federal income tax disclosure shall be attached to the return required under IITA Section 502 for the first taxable year for which a return is due (without regard to extensions) on or after July 30, 2004. The taxpayer may elect to attach a copy of the disclosure to the return for an earlier taxable year. In addition, a second copy of the federal income tax disclosure must be sent to the Department at an address designated by the Department for this purpose at the same time that disclosure is filed as required in this Section. In any case where disclosure is attached to a return and the disclosure relates to a transaction disclosed for federal income tax purposes for a taxable year other than the taxable year for which the Illinois return is made, the taxpayer must indicate on the disclosure the taxable year for which the disclosure was made for federal income tax purposes.

ii) When No Return is Due on or after July 30, 2004. If no return is required to be filed under Section 502 on or after

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July 30, 2004, the taxpayer shall file a copy of the federal income tax disclosure no later than the due date (including extensions) for the first return it would have been required to file (without regard to extensions) on or after July 30, 2004, had it continued to be required to file returns and continued using the same taxable year it used when it was last required to file an Illinois return. In addition, a second copy of the federal income tax disclosure must be sent to the Department at an address designated by the Department for this purpose at the same time that disclosure is filed as required in this Section.

EXAMPLE: Corporation A was required under Treasury Regulations Section 1.6011-4 to disclose reportable transactions by attaching Form 8886 and Schedule M-3 to its federal income tax return for its taxable year ending March 31, 2003. Corporation A may elect to attach copies of the Form 8886 and the Schedule M-3 to its Illinois income tax return for its taxable year ending March 31, 2004 and send a second copy of the Form 8886 and Schedule M-3 to the address designated by the Department. If it does not make this election, Corporation A is required to attach copies of the Form 8886 and the Schedule M-3 to its Illinois income tax return for the taxable year ending March 31, 2005, which is the first return for which the unextended due date falls on or after July 30, 2004. At the same time, Corporation A must send a second copy of the Form 8886 and Schedule M-3 to the address designated by the Department. In either case, Corporation A must indicate that the Form 8886 and the Schedule M-3 relate to its March 31, 2003 taxable year.

If Corporation A is not required to file an Illinois income tax return due on or after July 30, 2004, then it must file copies of its Form 8886 and Schedule M-3 with the Department by the due date (including extensions) that its March 31, 2005 return would have been required to be filed. Corporation A should indicate that the Form 8886 and Schedule M-3 relate to its March 31, 2003 taxable year.

B) Taxable years ending on and after December 31, 2004. In the case of a reportable transaction as to which disclosure is required for federal income tax purposes on a return filed for a taxable year ending on and after December 31, 2004, a copy of such disclosure shall be attached to the taxpayer's return required under IITA

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Section 502 for the same taxable year. In addition, a second copy of the federal income tax disclosure must be sent to the Department at an address designated by the Department for this purpose at the same time that disclosure is filed as required in this Section.

3) Special Rules for Making Disclosure of Certain Listed Transactions

- A) If a return is not required under IITA Section 502 for a taxable year in which a disclosure statement is required to be attached to a return pursuant to the special rule for listed transactions under Treasury Regulations Section 1.6011-4(e)(2), the taxpayer must file a copy of the disclosure with the Department if disclosure would have been required under IITA Section 501(b) and this Section if the transaction had been listed at the time the taxpayer filed its return reflecting either the tax consequences or a tax strategy described in the published guidance listing the transaction (or a tax benefit derived from tax consequences or a tax strategy described in the published guidance listing the transaction). A copy of the disclosure must be filed no later than the due date (including extensions) for the first return the taxpayer would have been required to file (without regard to extensions) on or after the date the transaction became a listed transaction, had the taxpayer continued to be required to file returns and continued using the same taxable year it used when it was last required to file an Illinois return.
- B) If a return is not required under Section 502 for a taxable year in which a disclosure statement is required to be attached to a return pursuant to Treasury Regulations Section 1.6011-4T with respect to a transaction that becomes a listed transaction on or after the date the taxpayer has filed its return for the first taxable year for which the transaction affected the taxpayer's or a partner's or a shareholder's Federal income tax liability, the taxpayer must file a copy of the disclosure with the Department if disclosure would have been required under IITA Section 501(b) and this Section if the transaction had been listed at the time the taxpayer filed its return for a taxable year for which the transaction affected the taxpayer's or a partner's or shareholder's Federal income tax liability. A copy of the disclosure must be filed no later than the

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due date (including extensions) for the first return the taxpayer would have been required to file (without regard to extensions) on or after the date the transaction became a listed transaction, had the taxpayer continued to be required to file returns and continued using the same taxable year it used when it was last required to file an Illinois return.

- 4) Making Disclosure of Items Disclosed under Treasury Regulations Section 1.6011-4(f)(1). If the Internal Revenue Service determines that a taxpayer's submission of a request for ruling under Treasury Regulations Section 1.6011-4(f)(1) satisfies the disclosure rules, the submission shall also satisfy the requirements of IITA Section 501(b) if the taxpayer provides the Department with a copy of the Internal Revenue Service ruling by the later of the date on which disclosure is otherwise required under this Section or 60 days after the date the ruling is issued.

c) Special Rules for Certain Taxpayers

- 1) Members of a Combined Group. Whenever a disclosure statement is required to be made by any member of a combined group under Treasury Regulations Section 1.6011-4T or Section 1.6011-4 and this Section with respect to any taxable year of the member that is taken into account in computing the group's combined net income for the common taxable year under IITA Section 502(e) and Subpart P of this Part, a copy of the disclosure shall be filed as required under this Section for each common taxable year. If a member of a combined group is required to file a disclosure statement under subsection (b)(2)(A) or (b)(3) of this Section with respect to a taxable year during which it was not a member of the combined group, a copy of the disclosure shall be filed with the combined return. The designated agent should indicate that the statement relates to a separate return year of the member and indicate the taxable year to which the disclosure relates.
- 2) Members of a Consolidated Group. In the case of a taxpayer that is a member of an affiliated group of corporations filing a consolidated income tax return for the taxable year for federal income tax purposes and that is required to make a disclosure statement under Treasury Regulations Section 1.6011-4T or Section 1.6011-4 and this Section, a copy of the disclosure shall be filed as required under this Section if, taking into account the rule of IITA Section 203(e)(2)(E), the taxpayer would be

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considered to have participated in the transaction for federal income tax purposes.

- 3) Members of a Unitary Business Group. Regardless of whether or not a disclosure statement is otherwise required of a taxpayer under this Section, any taxpayer that is a member of a unitary business group that includes another member that is required to make a disclosure statement under Treasury Regulations Section 1.6011-4T or Section 1.6011-4, with respect to any taxable year of any other member that is taken into account by the taxpayer in computing its Illinois net income under IITA Sections 202 and 304(e), must file a copy of the disclosure statement with the return for each taxable year.
 - 4) Composite Returns. If a taxpayer is required to make a disclosure under this Section with respect to a transaction engaged in during the taxable year by a partnership or Subchapter S corporation in which the taxpayer is a partner or shareholder, the taxpayer's obligation to make disclosure with respect to the transaction shall be met if the disclosure is made by the partnership or Subchapter S corporation on a timely composite return that includes the taxpayer.
- d) Exceptions. No disclosure is required with respect to a reportable transaction to the extent provided in this subsection (d).
- 1) A reportable transaction entered into after February 28, 2000 and before January 1, 2005 is not required to be disclosed if, before the time in which disclosure is otherwise required under IITA Section 501(b) and this Section, the taxpayer has filed an amended Illinois income tax return reporting Illinois net income and tax liability computed without the tax benefits of the reportable transaction.
 - 2) A reportable transaction entered into after February 28, 2000 and before January 1, 2005 is not required to be disclosed if, as a result of a federal audit, the Internal Revenue Service has made a determination with respect to the tax benefits of the reportable transaction and, before the time in which disclosure is otherwise required under IITA Section 501(b) and this Section, the taxpayer has filed an amended Illinois income tax return reporting Illinois net income and tax liability computed without the tax benefits of the reportable transaction other than the benefits determined to be allowable by the Internal Revenue Service.

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- 3) A reportable transaction is not required to be disclosed if, prior to the time in which disclosure is otherwise required under IITA Section 501(b) and this Section, the taxpayer has properly filed an application with the Internal Revenue Service for a change in method of accounting pursuant to a determination by the Internal Revenue Service that the change is necessary to reflect the proper tax treatment of the transaction.
- 4) A reportable transaction is not required to be disclosed under this Section on the basis that the transaction is a listed transaction if, prior to the time in which disclosure is otherwise required under IITA Section 501(b) and this Section, the Internal Revenue Service has removed the identification of transactions that are the same as or substantially similar to the transaction as listed transactions.
- 5) A reportable transaction is not required to be disclosed if, before the time in which disclosure is otherwise required under IITA Section 501(b) and this Section, the Department makes a determination by published guidance that a particular transaction or type of transaction is not required to be disclosed, notwithstanding that disclosure is required for the same transaction or type of transaction under Treasury Regulations Section 1.6011-4T or Section 1.6011-4.
- 6) Disclosure is not required under IITA Section 501(b) and this Section with respect to any transaction in which the requirements of Treasury Regulations Section 1.6011-4 are deemed satisfied pursuant to Treasury Regulations Section 1.6011-4(f)(3).
- e) Protective Disclosure. If a taxpayer participates in a reportable transaction with respect to a taxable year in which a return is not filed under IITA Section 502, the taxpayer may disclose the transaction in accordance with the provisions of this Section and indicate on the disclosure statement the taxpayer's position that a return is not required for the taxable year and that disclosure is being made on a protective basis. Disclosure made under this subsection (e) shall be deemed to meet the requirements of Section 501(b).

(Source: Added at 29 Ill. Reg. 6986, effective April 26, 2005)

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

<u>Section Numbers</u> :	<u>Adopted Action</u> :
130.101	Amendment
130.111	Amendment
130.120	Amendment
130.320	Amendment
130.325	Amendment
130.331	Amendment
130.341	New Section
130.552	Amendment
130.745	Amendment
130.ILLUSTRATION B	New Section
- 4) Statutory Authority: 35 ILCS 120/2b, 35 ILCS 120/12, P. A. 93-724, 93-840, 93-926, and 93-1033
- 5) Effective Date of Amendments: April 26, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, 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: 28 Ill. Reg. 15146; 11/19/04 and 29 Ill. Reg. 1874; 02/04/05
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: 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 in which 2 separately proposed rulemakings are now combined for adoption with 10 sections being amended or added.

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- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency amendments currently in effect? No. The emergency amendments to Sections 130.101, 130.111, 130.120, 130.320, 130.325, 130.331, 130.341 and 130.552 expired April 1, 2005.
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of amendments:

Sections 130.101, 130.111, 130.120, 130.320, 130.325, 130.331, 130.341 and 130.552:

This rulemaking implements the provisions of P.A. 93-724, which changes the statutory definition of “gasohol” to more accurately reflect industry definitions of this term. This rulemaking also makes numerous changes to implement the provisions of P.A. 93-840, which reinstates the manufacturer’s purchase credit program and the graphic arts machinery and equipment exemption, beginning September 1, 2004. Section 130.552 is also amended in response to P.A. 93-926, which allows liquor distributors and manufacturers to provide monthly sales totals to liquor retailers by electronic means, unless the retailer is unable to receive the information by electronic means. This rulemaking also amends Section 130.341 to set out the new tests applicable to persons claiming the commercial distribution fee sales tax exemption, as established in P.A. 93-1033. This rulemaking also amends Section 130.111 to clarify that when a person is engaged in the business of leasing aircraft or watercraft and in connection with such business sells any used aircraft or watercraft to a purchaser for use and not for resale, he is considered a retailer engaged in the business of selling tangible personal property at retail to the extent of the value of the aircraft or watercraft sold. This change is mandated by the provisions of P.A. 93-840 and 93-24.

Section 130.745: Section 2a of the Retailers Occupation Tax Act (35 ILCS 120) provides that it is unlawful for a person to engage in the business of selling tangible personal property at retail without a certificate of registration issued by the Department of Revenue. Section 2b provides authority to the Department of Revenue to revoke the certificate of registration of any person who violates the provisions of the Act and to obtain an injunction restraining the person from engaging in such business until a new certificate is issued.

Many businesses continue to operate after their certificates of registration have been revoked. This often results in the businesses incurring tax liabilities that are not paid,

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resulting in fiscal harm to the State. As noted above, operating without a certificate of registration is a violation of the law.

The adopted amendment provides that the Department of Revenue may post a notice at the place of business where the certificate of registration has been revoked. This will result in more efficient and effective enforcement of the Act and serve to protect the State from fiscal harm.

130.ILLUSTRATION B: A prototype of the sign posted at the businesses that have had their certificates of registration revoked had been appealed.

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

Samuel J. Moore
George Logan
Associate Counsels
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

217/782-2844

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 130
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AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

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

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at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15, 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196, effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003, for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26, 2005.

SUBPART A: NATURE OF TAX

Section 130.101 Character and Rate of Tax

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The Retailers' Occupation Tax Act (the Act) [35 ILCS 120] imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. *On and after January 1, 2001, prepaid telephone calling arrangements shall be considered tangible personal property subject to the tax imposed under the Act regardless of the form in which those arrangements may be embodied, transmitted, or fixed by any method now known or hereafter developed* (Section 2 of the Act). *"Prepaid telephone calling arrangements" means the right to exclusively purchase telephone or telecommunications services that must be paid for in advance and enable the origination of one or more intrastate, interstate, or international telephone calls or other telecommunications using an access number, an authorization code, or both, whether manually or electronically dialed, for which payment to a retailer must be made in advance, provided that, unless recharged, no further service is provided once that prepaid amount of service has been consumed. Prepaid telephone calling arrangements include the recharge of a prepaid calling arrangement. For purposes of this Section, "recharge" means the purchase of additional prepaid telephone or telecommunications services whether or not the purchaser acquires a different access number or authorization code. For purposes of this Section, "telecommunications" means that term as defined in Section 2 of the Telecommunications Excise Tax Act [35 ILCS 630]. "Prepaid telephone calling arrangement" does not include an arrangement whereby the service provider reflects the amount of the purchase as a credit on an account for a customer under an existing subscription plan.* (Section 2-27 of the Act) The tax is measured by the seller's gross receipts from such sales made in the course of such business. (For further information concerning "Gross Receipts", see Subpart D of this Part.)

- a) How to Determine Effective Rate
 - 1) For the purposes of the Retailers' Occupation Tax Act, any tax liability incurred in respect to a sale of tangible personal property made in the regular course of business shall be computed by applying, to the gross receipts from such sale, the tax rate in effect as of the date of delivery of such property, provided that if delivery occurs after the tax rate changes, in a transaction in which receipts were received before the date of the rate change and tax was paid on such receipts when received by the seller in accordance with Section 130.430 of this Part at the rate which was in effect when the seller received such receipts, no additional tax will be due or credit allowed because of the delivery of the property occurring after the rate changes.
 - 2) Furthermore, in the case of sales of building materials to real estate improvement construction contractors for use in performing construction

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contracts for third persons, if such property is delivered to the contractor after the effective date of a rate increase but will be used in performing a binding construction contract which was entered into before the effective date of the increase and under which the contractor is legally unable to shift the burden of the tax rate increase to his customer, the applicable tax rate will be the rate which was in effect before the effective date of the rate increase. Before a supplier may deliver materials to a construction contractor after the effective date of a tax rate increase at the rate which was in effect prior thereto, the purchasing contractor must give such supplier a written, signed certification stating that specifically described materials are being purchased for use in performing a binding contract which was entered into before the effective date of the rate increase (specifying such date) and under which the contractor is legally unable to shift the burden of the tax rate increase to his customer, identifying the construction contract in question by its date and by naming the contractor's construction work involved, and by giving the location on the job site where the construction contract is being performed or is to be performed.

b) Tax Rate in Effect

1) The effective rate from January 1, 1985, through December 31, 1989, is 5%. On and after January 1, 1990, the effective rate is 6.25%. *Beginning on July 1, 2000 through December 31, 2000, with respect to motor fuel and gasohol, the tax is imposed at the rate of 1.25%.* (Section 2-10 of the Act)

2) Definitions

A) *"Diesel Fuel" is defined as any petroleum product intended for use or offered for sale as a fuel for engines in which the fuel is injected into the combustion chamber and ignited by pressure without electric spark.* [35 ILCS 505/2]

B) *"Gasohol" means motor fuel that is ~~a blend of no more than 90% gasoline and at least 10% denatured ethanol~~ and gasoline that contains no more than 1.25% water by weight. The blend must contain 90% gasoline and 10% denatured ethanol. A maximum of one percent error factor in the amount of denatured ethanol used in the blend is allowable to compensate for blending equipment variations.* [35 ILCS 105/3-40]

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C) *"Motor Fuel" means all volatile and inflammable liquids produced, blended or compounded for the purpose of, or which are suitable or practicable for, operating motor vehicles. Among other things, "Motor Fuel" includes "Special Fuel". [35 ILCS 505/1.1]*

i) By way of illustration and not limitation, the following are considered motor fuel:

~~1)~~ Gasoline

~~2)~~ Diesel fuel

~~3)~~ Combustible gases (e.g., liquified petroleum gas and compressed natural gas) delivered directly into the fuel supply tanks of motor vehicles

~~4)~~ Gasohol.

ii) By way of illustration and not limitation, the following are not considered motor fuel:

~~1)~~ Avgas

~~2)~~ Jet fuel

~~3)~~ 1-K kerosene

~~4)~~ Combustible gases unless delivered directly into the fuel supply tanks of motor vehicles

~~5)~~ Heating oil (e.g., kerosene and fuel oil) unless delivered directly into the fuel supply tanks of motor vehicles, in which case it is considered diesel fuel.

D) *"Special Fuel" means all volatile and inflammable liquids capable of being used for the generation of power in an internal combustion engine except that it does not include gasoline as defined in Section 5, example (A) of the Motor Fuel Tax Law or*

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combustible gases as defined in Section 5, example (B) of the Motor Fuel Tax Law. "Special Fuel" includes diesel fuel. [35 ILCS 505/1.13]

- c) **Effective Date of New Taxes**
When something that has been exempted becomes taxable as to sales that are made on and after some particular date, the date of sale for this purpose shall be deemed to be the date of the delivery of the property. This is true even if such delivery is made under a contract that was entered into before the effective date of the new tax.
- d) **Relation of Retailers' Occupation Tax to Use Tax**
The Retailers' Occupation Tax is an occupation tax whose legal incidence is on the seller, rather than on the purchaser. However, with the enactment of the Use Tax Act in 1955 [35 ILCS 105], the retailer became a tax collector under that Act and is required to comply with the bracket systems or tax collection schedules prescribed in the Department's Use Tax Regulations for the collection of the Use Tax by retailers from users.

(Source: Amended at 29 Ill. Reg. 7004, effective April 26, 2005)

Section 130.111 Sale of Used Motor Vehicles, Aircraft, or Watercraft by Leasing or Rental Business

- a) Any person engaged in the business of leasing or renting motor vehicles, aircraft or watercraft, to others and who, in connection therewith, sells any used motor vehicle, aircraft or watercraft, to a purchaser or lessor for use and not for resale is a retailer selling tangible personal property at retail to the extent of the value of the vehicle, aircraft, or watercraft sold.
- b) For purposes of this Section, "motor vehicle" has the meaning prescribed in Section 1-157 of the Illinois Vehicle Code [625 ILCS 5/1-157]. "Motor vehicle" means a motor vehicle of the First Division, including a multipurpose passenger vehicle that is designed for carrying not more than 10 persons.
- c) For purposes of this Section, "aircraft" means any device used or designed to carry humans in flight as specified by the Department of Transportation by rule. (See 92 Ill. Adm. Code 14.105.) All devices required to be licensed as "aircraft" by the Federal Aviation Administration (FAA) are "aircraft". [620 ILCS 5/3]

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- d) For purposes of this Section, "watercraft" has the meaning prescribed in Section 15-5 of the Watercraft Use Tax Law [625 ILCS 158/15-5]. "Watercraft" means any watercraft 16 feet or greater in length, except kayaks and canoes. "Watercraft" includes any "personal watercraft" as defined in Section 1-2 of the Illinois Boat Registration and Safety Act [625 ILCS 45/1-2]. An example of a "personal watercraft" is a jet ski, regardless of its size or length.

(Source: Amended at 29 Ill. Reg. 7004, effective April 26, 2005)

Section 130.120 Nontaxable Transactions

The tax does not apply to receipts from sales:

- a) of intangible personal property, such as shares of stocks, bonds, evidences of interest in property, corporate or other franchises and evidences of debt;
- b) of real property, such as lands and buildings that are permanently attached to the land;
- c) of tangible personal property for purposes of resale in any form as tangible personal property, provided that the purchaser (except in the case of an out-of-State purchaser who will always resell and deliver the property to his customers outside Illinois) has an active registration number or active resale number from the Department and gives the number to the vendor in connection with certifying to the vendor that the sale to the purchaser is nontaxable on the ground of being a sale for resale (see Subparts B and N of this Part);
- d) of personal services, where rendered as such (see various rules relating to particular service occupations); however, for information concerning the tax on persons engaged in the business of making sales of service, see the Regulations pertaining to the Service Occupation Tax Act (86 Ill. Adm. Code 140);
- e) that are within the protection of the Commerce Clause of the Constitution of the United States (see Subpart F of this Part);
- f) that are isolated or occasional (see Section 130.110 of this Subpart);
- g) of newspapers and magazines (see Section 130.2105 of this Part);

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- h) that are made to any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, or any not-for-profit corporation, society, association, foundation, institution or organization that has no compensated officers or employees and that is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this subsection only if the limited liability company is organized and operated exclusively for educational purposes (see Section 130.2005 of this Part);
- i) that are made to any governmental body (see Section 130.2080 of this Part);
- j) through June 30, 2003, of pollution control facilities (see Section 130.335 of this Part);
- k) *of fuel consumed or used in the operation of ships, barges or vessels that are used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering on this State if the fuel is delivered by the seller to the purchaser's barge, ship or vessel while it is afloat upon that bordering river [35 ILCS 120/2-5(24)]* (see Section 130.315 of this Part);
- l) of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce (see Section 130.340 of this Part);
- m) of a motor vehicle in this State to a nonresident even though the motor vehicle is delivered to the nonresident in this State, if the motor vehicle is not to be titled in this State, and if a drive-away permit is issued to the motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code [625 ILCS 5/3-603], or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his home state (see Section 130.605);
- n) until December 31, 2001, of merchandise in bulk when sold from a vending machine for 1¢; on and after January 1, 2002, the exemption applies to merchandise in bulk when sold from a vending machine for ~~50¢~~~~\$0.50~~ or less (see 35 ILCS 120/1 and Section 130.2135 of this Part);
- o) of food and beverages by a person who is the recipient of a grant or contract under Title VII of the Older Americans Act of 1965 (42 USC 3021) and serves meals to participants in the Federal Nutrition Program for the Elderly in return for contributions established in amount by the individual participant pursuant to a schedule of suggested fees as provided for in the Federal Act;

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- p) of farm chemicals (see Section 130.1955 of this Part);
- q) of manufacturing machinery and equipment that qualifies for exemption under provisions of Section 130.330 of this Part;
- r) of services included in gross receipts for purposes of the Retailers' Occupation Tax and that are designated mandatory service charges by vendors of meals to the extent that the proceeds of the service charge are in fact turned over to the employees who would normally have received tips had the service charge policy not been introduced. Service charges that are used to fund or pay wages, labor costs, employee benefits or employer costs of doing business are taxable gross receipts;
- s) *of any petroleum product, if the seller is prohibited by federal law from charging tax to the purchaser* [35 ILCS 120/2-5(16)].
 - 1) For example, federal law prohibits sellers from charging tax to Amtrak when it purchases petroleum products. However, federal law does not relieve the seller of Retailers' Occupation Tax liability in these transactions. For that reason, the exemption set out in this subsection is necessary to relieve the seller of Retailers' Occupation Tax liability when making sales of petroleum products to Amtrak.
 - 2) The nontaxable transaction set out above is also applicable to local Retailers' Occupation Taxes imposed by municipalities, counties, the Regional Transportation Authority and Metro East Mass Transit District;
- t) *of farm machinery and equipment, both new and used including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture, or state or federal agricultural programs, including individual replacement parts for the machinery and equipment and including machinery and equipment purchased for lease* [35 ILCS 120/2-5(2)] (see Section 130.305);
- u) through June 30, 2003, *of distillation machinery and equipment, sold as a unit or kit, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as a motor fuel or as a component of motor fuel for personal use of the user and not subject to sale or resale* [35 ILCS 120/2-5(3)];

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- v) through June 30, 2003, and beginning again on September 1, 2004, of graphic arts machinery and equipment, including repair and replacement parts [35 ILCS 120/2-5(4)] (see Section 130.325);
- w) *a motor vehicle of the first division, a motor vehicle of the second division that is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat, or a motor vehicle of the second division that is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code that is used for automobile renting as defined in the Automobile Renting Occupation and Use Tax Act [35 ILCS 120/2-5(5)];*
- x) *of personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois [35 ILCS 120/2-5(6)] (see Section 130.2006);*
- y) through June 30, 2003, *of that portion of the selling price of a passenger car, the sale of which is subject to the replacement vehicle tax of the Illinois Vehicle Code [625 ILCS 5/3-2001] [35 ILCS 120/2-5(7)];*
- z) *of personal property sold to an Illinois county fair association for use in conducting, operating or promoting the county fair [35 ILCS 120/2-5(8)];*
- aa) *of personal property sold to any not-for-profit arts or cultural organization that establishes that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code (26 USCA 501) and that is organized and operated for the presentation or support of arts or cultural programming, activities, or services. On and after July 1, 2001, the qualifying organizations listed in this subsection (aa) must also be organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations [35 ILCS 120/2-5(9)] (see Section 130.2004 of this Part);*
- bb) *of personal property sold by a corporation, society, association, foundation, institution or organization that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the*

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personal property was not purchased by the enterprise for the purpose of resale by the enterprise [35 ILCS 120/2-5(10)] (see Section 130.2008);

- cc) *of legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America or the government of any foreign country and bullion [35 ILCS 120/2-5(11)], unless the items are transferred as jewelry and therefore subject to tax;*
- dd) *through June 30, 2003, of oil field exploration, drilling and production equipment [35 ILCS 120/2-5(19)] (see Section 130.345);*
- ee) *of photoprocessing machinery and equipment, including repair and replacement parts [35 ILCS 120/2-5(20)] (see Section 130.2000);*
- ff) *through June 30, 2003, of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment, including replacement parts and equipment [35 ILCS 120/2-5(21)] (see Section 130.350);*
- gg) *of fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers [35 ILCS 120/2-5(22)] (see Section 130.321);*
- hh) *of semen used for artificial insemination of livestock for direct agricultural production. [35 ILCS 120/2-5(26)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and date of signing and a statement that the semen purchased will be used for artificial insemination of livestock for direct agricultural production. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;*
- ii) *beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, of personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared*

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disaster area. [35 ILCS 120/2-5(30)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and the date of signing, a description of the items being purchased for donation, a statement that the property purchased will be donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area, and that entity's sales tax exemption identification number. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;

- jj) *beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, of personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.* [35 ILCS 120/2-5(31)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and date of signing, a description of the items being purchased, and a statement that the property purchased is for use in the performance of infrastructure repairs initiated on facilities located in the declared disaster area within six months after the disaster in this State resulting from a State or federally declared disaster area in Illinois or bordering Illinois. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;
- kk) *of a transaction in which the purchase order is received by a florist who is located outside Illinois, but who has a florist located in Illinois deliver the property to the purchaser or the purchaser's donee in Illinois* [35 ILCS 120/2-5(23)];
- ll) *until June 1, 2000, of horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America,*

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Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes [35 ILCS 120/2-5(27)];

- mm) *effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001, of computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act [35 ILCS 120/2-5(28)] (see Section 130.2011 of this Part);*
- nn) *effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001, of personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act [35 ILCS 120/2-5(29)] (see Section 130.2012 of this Part);*
- oo) *of tangible personal property sold to a common carrier by rail or motor that receives the physical possession of the property in Illinois and that transports the property, or shares with another common carrier in the transportation of the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois [35 ILCS 120/2-5(17)];*
- pp) *through June 30, 2003, of aggregate exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code [35 ILCS 120/7];*
- qq) beginning July 20, 1999, game or game birds purchased at:
 - 1) a game breeding and hunting preserve area licensed by the Department of Natural Resources (see Section 3.27 of the Wildlife Code [520 ILCS 5/3.27]);

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- 2) an exotic game hunting area licensed by the Department of Natural Resources (see Section 3.34 of the Wildlife Code [520 ILCS 5/3.34]); or
 - 3) a hunting enclosure approved through rules adopted by the Department of Natural Resources;
- rr) *beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This subsection (rr) does not apply to fundraising events:*
- 1) *for the benefit of private home instruction; or*
 - 2) *for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity [35 ILCS 120/2-5(34)];*
- ss) *of machinery or equipment used in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act. "High impact service facility" means a facility used primarily for the sorting, handling and redistribution of mail, freight, cargo, or other parcels received from agents or employees of the handler or shipper for processing at a common location and redistribution to other employees or agents for delivery to an ultimate destination on an item-by-item basis, and which:*
- 1) *will make an investment in a business enterprise project of \$100,000,000 or more;*
 - 2) *will cause the creation of at least 750 to 1,000 jobs or more in an enterprise zone established pursuant to the Illinois Enterprise Zone Act; and*
 - 3) *is certified by the Department of Commerce and Economic Opportunity~~Department of Commerce and Community Affairs~~ as contractually obligated to meet the requirements specified in subsection (11)(1) and (2) within the time period as specified by the certification. The certificate of eligibility for exemption shall be presented by the business*

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

- tt) *of jet fuel and petroleum products sold to and used in the conduct of its business of sorting, handling and redistribution of mail, freight, cargo or other parcels in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act, provided that the business enterprise has waived its right to a tax exemption of the charges imposed under Section 9-222.1 of the Public Utilities Act [35 ILCS 120/1j.1]. High impact service facilities qualifying under the Act and seeking the exemption under Section 1j.1 shall be ineligible for the exemptions of taxes imposed under Section 9-222.1 of the Public Utilities Act. High impact service facilities qualifying under the Act and seeking the exemption under Section 9-222.1 of the Public Utilities Act shall be ineligible for the exemptions of taxes as described in Section 1j.1 of the Act. [35 ILCS 120/1j.2] The certification of eligibility for exemption shall be presented by the business enterprise to its supplier when making the purchase of jet fuel and petroleum products for which an exemption is granted by Section 1j.1 of the Act, together with a certification by the business enterprise that such jet fuel and petroleum product is exempt from taxation under Section 1j.1 of the Act, and by indicating the exempt status of each subsequent purchase on the face of the purchase order [35 ILCS 120/1i];*
- uu) *of a motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation. [35 ILCS 120/2-5(33)] Exemption certifications must*

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

- vv) *of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act [35 ILCS 120/2-5 (36)];*
- ww) *beginning January 1, 2000 through December 31, 2001, of new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, of machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts from the use of the commercial, coin-operated amusement and vending machines. [35 ILCS 120/2-5(35)] (See Section 130.332 of this Part.)*

(Source: Amended at 29 Ill. Reg. 7004, effective April 26, 2005)

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.320 Gasohol, Majority Blended Ethanol, Biodiesel Blends, and 100% Biodiesel

- a) Effective January 1, 1990 and prior to July 1, 2003, sales of "gasohol, as defined in Section 3-40 of the Use Tax Act," ~~(a motor fuel that is no more than 90%~~

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~~gasoline and at least 10% denatured ethanol that contains no more than 1.25% water by weight [35 ILCS 105/3-40]~~ are subject to tax, based upon 70% of the proceeds of sales. On and after July 1, 2003 and on or before December 31, 2013, tax shall be based upon 80% of the proceeds from sales of gasohol. On and after January 1, 2014, tax shall be based upon 100% of the proceeds of sales of gasohol. However, from July 1, 1997 to June 30, 1998, the rate was 85% for gasohol sold in this State during the 12 months beginning July 1 following any calendar year for which the Department determined that the percentages in Section 10 of the Gasohol Fuels Tax Abatement Act were not met. The Gasohol Fuels Tax Abatement Act was repealed effective July 1, 1998. *Effective July 1, 2003, if at any time the tax under the Act on sales of gasohol is imposed at the rate of 1.25%, then the tax imposed by the Act applies to 100% of the proceeds of sales of gasohol made during that time.* (Section 2-10 of the Retailers' Occupation Tax Act (ROTA))

- b) *With respect to majority blended ethanol fuel, as defined in Section 3-44 of the Use Tax Act, the tax imposed by ROTA does not apply to the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2013, but applies to 100% of the proceeds of sales made thereafter.* (Section 2-10 of ROTA)
- c) *With respect to biodiesel blends, as defined in Section 3-42 of the Use Tax Act, with no less than 1% and no more than 10% biodiesel, the tax imposed by ROTA applies to 80% of the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2013 and 100% of the proceeds of sales made thereafter. If at any time, however, the tax under ROTA on sales of biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel is imposed at the rate of 1.25%, then the tax imposed by ROTA applies to 100% of the proceeds of sales of biodiesel blends with no less than 1% and no more than 10% biodiesel made during that time.* (Section 2-10 of ROTA)
- d) *With respect to 100% biodiesel, as defined in Section 3-41 of the Use Tax Act, and biodiesel blends, as defined in Section 3-42 of the Use Tax Act, with more than 10% but no more than 99% biodiesel, the tax imposed by ROTA does not apply to the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2013, but applies to 100% of the proceeds of sales made thereafter.* (Section 2-10 of ROTA)

(Source: Amended at 29 Ill. Reg. 7004, effective April 26, 2005)

Section 130.325 Graphic Arts Machinery and Equipment Exemption

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- a) General. Through June 30, 2003, and beginning again on September 1, 2004, notwithstanding the fact that sales may be at retail, the Retailers' Occupation Tax does not apply to the sale 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. The exemption extends to purchases by lessors who will lease the property for use primarily in graphic arts production. Taxpayers must certify the use of the equipment they are purchasing to their suppliers. (See subsection (i) of this Section.)
- b) Graphic Arts Production. *Provisions effective August 13, 1999 through June 30, 2003, and beginning again on September 1, 2004:*
- 1) Graphic arts production has the following meanings and applications:
 - A) *Graphic arts production means printing, including ink jet printing, by one or more of the processes described in Groups 323110 through 323122 of Subsector 323, Groups 511110 through 511199 of Subsector 511, and Group 512230 of Subsector 512 of the North American Industry Classification System ("NAICS") published by the U.S. Office of Management and Budget, 1997 edition (no subsequent amendments or editions are included). Graphic arts production does not include the transfer of images onto paper or other tangible personal property by means of photocopying or final printed products in electronic or audio form, including the production of software or audio-books.* (Section 2-30 of the Act) Groups 323110 through 323122 of Subsector 323, Groups 511110 through 511199 of Subsector 511, and Group 512230 of Subsector 512 include printing upon apparel and textile products, paper, metal, glass, plastics, and other materials except fabric (grey goods). Printing upon grey goods is part of the process of finishing fabric and is included in the NAICS Textile Mills subsector in Industry 31331, Textile and Fabric Finishing Mills.
 - B) The North American Industry Classification System referenced in subsection (b)(1) can be obtained from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161 (Phone: 1-800-553-6847). The Department also maintains a copy of this information, which may be obtained upon request and at cost, from the Legal

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Services Office, 5-500, 101 West Jefferson Street, Springfield, Illinois 62794.

- C) The exemption applies to machinery and equipment used in graphic arts production processes, as those processes are described in the NAICS. While the NAICS subsectors referenced in subsection (b)(1)(A) describe types of graphic arts establishments that typically engage in graphic arts production, the exemption is not limited to qualifying machinery and equipment used by the establishments described in the NAICS, but rather, to qualifying machinery and equipment used in the printing processes described in the NAICS (for example, lithography, gravure, flexography, screen printing, quick printing, digital printing and trade services such as prepress and binding and finishing services). The tangible personal property produced by graphic arts production need not be sold at retail in order for the exemption to apply. For instance, a company's purchase of qualifying graphic arts equipment used to produce its own printed materials qualifies for the exemption, even though the company is not in the business of selling printed materials at retail.
- D) The exemption includes printing by methods of engraving, letterpress, lithography, gravure, flexography, screen, quick, and digital printing. It also includes the printing of manifold business forms, blankbooks, looseleaf binders, books, periodicals and newspapers. Included in the exemption are prepress services described in Subsector 323122 of the NAICS (e.g., the creation and preparation of negative or positive film from which plates are produced, plate production, cylinder engraving, typesetting and imagesetting). The exemption also includes trade binding and related printing support activities set forth in Subsector 323121 of the NAICS (e.g., tradebinding, sample mounting and postpress services, such as book or paper bronzing, edging, embossing, folding, gilding, gluing, die cutting, finishing, tabbing and indexing).
- E) "Digital printing and quick printing" mean the printing of graphical text or images by a process utilizing digital technology, as provided in subsection (b)(4) of this Section. It also includes the printing of what is commonly known as "digital photography"

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(e.g., use of a qualifying integrated computer and printer system to print a digital image). The exemption extends only to machinery and equipment, including repair and replacement parts, used in the act of production. Accordingly, no other type or kind of tangible personal property will qualify for the exemption, even though it may be used primarily in the graphic arts business.

- 2) Machinery means major mechanical machines or major components of such machines contributing to graphic arts production. Equipment means any independent device or tool separate from any machinery but essential to the graphic arts production process; or any sub-unit or assembly comprising a component of any machinery or auxiliary, adjunct, or attachment parts of machinery. Beginning August 23, 2001, equipment 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 graphic arts product.
 - A) The exemption does not include hand tools, supplies such as rags, lubricants, adhesives, solvents, ink, dyes, chemicals except as described in this subsection (b)(2), negatives, acids or solutions, fuels, electricity and steam or water. The exemption also does not include items of personal apparel, such as gloves, shoes, glasses, goggles, coveralls, aprons, and masks.
 - B) This exemption does not include the sale of materials to a purchaser who manufactures those materials into an otherwise exempted type of graphic arts machinery or equipment.
 - C) Machinery and equipment does not include foundations or special purpose buildings to house or support graphic arts machinery and equipment.
 - D) Machinery and equipment does not include computer software unless purchased preinstalled in qualifying computer equipment. Computer software not purchased preinstalled in qualifying computer equipment, including upgrades or new software, is subject to tax.
- 3) Primary Use. The law requires that machinery and equipment be used primarily in graphic arts production.

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- A) Therefore, machinery that is used primarily in an exempt process and partially in a nonexempt manner would qualify for the exemption. However, the purchaser must be able to establish through adequate records that the machinery or equipment is used over 50% in an exempt manner in order to claim the exemption.
 - B) The fact that particular machinery or equipment may be considered essential to the conduct of the business of graphic arts production because its use is required by law or practical necessity does not, of itself, mean the machinery or equipment is used primarily in graphic arts production.
- 4) By way of illustration and not limitation, the following activities will generally be considered graphic arts production:
- A) Prepress or preliminary processes. Prepress or preliminary processes include the steps required to transform an original into a state that is ready for reproduction by printing. Prepress or preliminary processes include typesetting, film production, color separation, final photocomposition (e.g., image assembly and imposition (stripping)), and platemaking. Prepress or preliminary processes include the manipulation of images or text in preparation for printing for the purpose of conforming those images to the specific requirements of the printing process being utilized. For example, the images must be conformed for a specific signature layout and formatted to a specific paper size. In addition, colors must be calibrated to the specific type of paper or printing process utilized, so that they conform to customer specifications. Prepress or preliminary processes do not, however, include the creation or artistic enhancement of images that will later be reproduced in printed form by a graphic arts process. For example, the creation of an advertisement pursuant to customer direction, or enhancement of a photograph received from a customer by adding a border, text or rearranging the placement of images in the photograph, is not the performance of a qualifying prepress or preliminary process. Prepress or preliminary processes can be performed at the printing facility, a separate prepress or preliminary facility, the customer's location, or other location. The following are examples of equipment used in qualifying prepress

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or preliminary activities:

- i) Large scale, fixed-position cameras used to photograph two dimensional copy to produce negatives or positives used in the production of plates; film processors; scanners; impositers; RIP (raster image processor) equipment; proofing equipment; imagesetters, plate processors, helioklischographs and computer-to-plate and computer-to-press equipment.
 - ii) Computers that qualify include computers used primarily to receive, store and manipulate images to conform them to the requirements of a specific printing process that will later be performed. Computers used in connection with what is commonly referred to as "digital photography" will qualify if used primarily to format the graphic image that will be printed (e.g., used to format the size and layout of images to be printed). If such computers are primarily used, however, to apply background colors, borders or other artistic enhancements, or to view and select particular digital images to be printed, they will not qualify for the exemption.
 - iii) Digital cameras do not qualify if they are used primarily to create an original image that will later be reproduced by a graphic arts process.
 - iv) Servers used primarily to transfer images and text to qualifying equipment qualify, but do not qualify if used primarily in a non-exempt activity (for example, servers used to maintain an in-house email system).
 - v) Scanners used primarily to input previously created images or text that will be reproduced by a graphic arts process qualify for the exemption.
- B) The transfer of images or text from computers, plates, cylinders or blankets to paper or other stock to be printed. This process begins when paper is introduced on the press. Examples of qualifying equipment used in this activity include printing plates, printing

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presses, blankets and rollers, automatic blanket washers, scorers and dies, folders, punchers, stackers, strappers used in the pressroom for signatures, dryers, chillers and cooling towers. Laser or ink jet printers used to print on paper or other stock are also included in this exemption.

- i) Equipment used to handle or convey printed materials between production stations in an integrated on-line graphic arts process is included in the exemption (e.g., a forklift or bindery cart will qualify for the exemption if it is primarily used to convey book covers that have been printed and cut to binding and finishing equipment).
 - ii) Computer equipment used to operate exempt graphic arts equipment also qualifies for the exemption.
 - iii) Equipment, such as transformers, used primarily to provide power to qualifying printing presses or bindery lines, qualifies for the exemption. Similarly, heating and cooling machinery or equipment used to produce an environment necessary for the production of printed material qualifies for the exemption. For example, humidity-control equipment used to reduce static during the printing process qualifies for the exemption.
- C) Activities involving the binding, collating or finishing of the graphic arts product. Equipment used in these activities includes, for instance, binders, packers, gatherers, joggers, trimmers, selectronic equipment, blow-in card feeders, inserters, stitchers, gluers, spiral binders, addressing machines, labelers and ink-jet printers.
- i) Machinery or equipment used to convey materials to packaging areas after the graphic arts product has been printed, bound and finished qualifies for the exemption. Such equipment includes, for instance, conveyor systems, hoists or other conveyance mechanisms used to direct the final printed product into packaging areas.
 - ii) Machinery or equipment used to package materials after the

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graphic arts product has been printed, bound and finished qualifies for the exemption. Such packaging equipment includes, for instance, cartoning systems, palletizers, stretch wrappers, strappers, shrink tunnels and similar equipment.

- 5) By way of illustration and not limitation, the following activities will generally not be considered to be graphic arts production:
- A) The use of machinery and equipment in general maintenance or repair work on production machinery or equipment. This includes hand tools, welding tools, racks, and other machinery and equipment used in the maintenance area.
 - B) The use of machinery and equipment (e.g., fork lifts, roll clamps and roll grabbers) to convey raw materials to the press does not qualify for the exemption.
 - C) The use of machinery or equipment to convey materials to final storage or shipping areas. Such equipment includes, for instance, fork lifts used primarily to place the packaged printed product into final storage or shipping areas.
 - D) The use of machinery or equipment to gather information, track jobs or to perform data-related functions prior to a qualifying prepress activity (e.g., computers used primarily to edit or create text, data, or other copy). Such equipment includes items such as inventory tracking devices and bar-code readers.
 - E) The use of machinery or equipment to photocopy printed matter. A copier that is capable of printing images or text transmitted to it in digital form will qualify. However, a copier that produces photocopies by means of xerographic technology is subject to tax.
 - F) The use of machinery or equipment in managerial, sales or other non-production, non-operational activities including inventory control, production scheduling, purchasing, receiving, accounting, physical management, general communications, plant security, marketing, or personnel recruitment, selection or training. Waste disposal equipment (e.g., equipment used to contain and recapture paper dust) does not qualify for the exemption. However, for

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information regarding the pollution control exemption, see Section 130.335 of this Part. Similarly, baling equipment used to recycle paper waste does not qualify under this exemption. However, the manufacturing machinery and equipment exemption may be applicable. (See Section 130.330 of this Part.)

- G) The use of machinery and equipment to prevent or fight fires or to protect employees, such as protective masks, respirators, first-aid kits, gloves, coveralls and goggles, or for safety, accident protection or first-aid, even though that machinery or equipment may be required by federal, State or local law.
 - H) The use of machinery or equipment for general ventilation, heating, cooling, climate control or general illumination, except when the machinery or equipment is used to produce an environment necessary for the production of printed material.
- 6) An item of machinery or equipment that initially is used primarily in graphic arts production and having been so used for less than one-half of the useful life and is converted to primarily nonexempt uses will become subject to the tax at the time of the conversion. The tax will be collected on that portion of the price of the machinery or equipment as was excluded from tax at the time the sale or purchase was made.
- 7) Sales to Lessors of Graphic Arts Equipment. The statute provides for the purchase of graphic arts machinery and equipment by lessors who will lease that machinery and equipment for use in graphic arts production. Therefore, if the purchaser of the machinery or equipment leases the machinery and equipment to a lessee who uses it in an exempt manner, the sale to the purchaser-lessor will be exempt from tax. A supplier may exclude these sales from his taxable gross receipts provided that the purchaser-lessor provides to him a properly completed exemption certificate and the information contained in the certificate would support an exemption if the sale were made directly to the lessee. Should a purchaser-lessor subsequently lease the machinery or equipment to a lessee who does not use it in an exempt manner that would qualify directly for the exemption, the purchaser-lessor will become liable for the tax from which he was previously exempted.
- 8) Exemption Certification. Purchasers wishing to claim the exemption must

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certify to their suppliers that the machinery and equipment will be used primarily for graphic arts production. Retailers must maintain the certificates in their books and records. The use of blanket certificates of exemption will be permitted. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily in graphic arts production. So long as the retailer obtains a certificate of exemption that contains all the information required in this subsection (b)(8), the retailer need not verify that the equipment he sells is actually used as graphic arts production equipment. If a graphic arts producer or lessor purchases at retail from a vendor who is not registered to collect Illinois Use Tax, the purchaser must maintain a copy of the certification in his records to support the deduction taken on the return.

- c) Graphic Arts Production. Provisions in effect until August 13, 1999:
- 1) *Graphic arts production means printing by one or more of the common processes or graphic arts production services as those processes and services are defined in Major Group 27 of the U.S. Standard Industrial Classification Manual. (Section 2-30 of the Act)* The exemption includes printing by letterpress, lithography, gravure, screen, engraving and flexography and includes such printing trade services as typesetting, negative production, plate production, bookbinding, finishing, looseleaf binder production and other services set forth in Major Group 27. The exemption extends only to machinery and equipment used in the act of production. Accordingly, no other type or kind of tangible personal property will qualify for the exemption, even though it may be used primarily in the graphic arts business.
 - 2) Machinery means major mechanical machines or major components of such machines contributing to graphic arts production. Equipment means any independent device or tool separate from any machinery but essential to the graphic arts production process; or any sub-unit or assembly comprising a component of any machinery or auxiliary, adjunct or attachment or parts of machinery. The exemption does not include hand tools, supplies, lubricants, adhesives or solvents, ink, chemicals, dyes, acids or solutions, fuels, electricity, steam or water, items of personal apparel such as gloves, shoes, glasses, goggles, coveralls, aprons, and masks, or such items as negatives, one-time use printing plates as opposed to multiple use cylinders or lithographic plates, dies, etc. which are

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expendable supplies. This exemption does not include the sale of materials to a purchaser who manufactures such materials into an otherwise exempted type of graphic arts machinery or equipment.

- 3) Machinery and equipment does not include foundations for or special purpose buildings to house or support graphic arts machinery and equipment.
- 4) Primary Use.
 - A) The law requires that machinery and equipment be used primarily in graphic arts production. Therefore, machinery which is used primarily in an exempt process and partially in a nonexempt manner, would qualify for the exemption. However, the purchaser must be able to establish adequate records that the machinery or equipment is used over 50% in an exempt manner in order to claim the deduction.
 - B) The fact that particular machinery or equipment may be considered essential to the conduct of the business of graphic arts production because its use is required by law or practical necessity does not, of itself, mean the machinery or equipment is used primarily in graphic arts production.
 - C) By way of illustration and not limitation, the following activities will generally be considered to constitute an exempt use:
 - i) Machinery and equipment to directly produce typesetting, negatives and plates including final photo-composition and color separation processes.
 - ii) The use of machinery and equipment to transfer images or text from type or plates or image carriers to paper or other stock to be printed.
 - iii) Equipment to collate, bind or finish the graphic arts product covered in subsection (c)(2), above.
 - iv) Large scale, fixed-position cameras used to photograph two dimensional copy to produce negatives or positives used in

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the production of plates.

- D) By way of illustration and not limitation, the following activities will generally not be considered to be graphic arts production:
- i) The use of machinery and equipment in general maintenance or repair work on production machinery or equipment.
 - ii) The use of machinery or equipment to store, convey, handle or transport materials.
 - iii) The use of machinery or equipment to place the printed product in the container package or wrapping in which such property is normally sold to the ultimate consumer thereof.
 - iv) The use of machinery or equipment to gather information, photograph, transmit data, edit text, prepare drafts or copy or perform other date-related functions prior to final composition, typesetting, engraving or other preparation of the image carrier.
 - v) Xerographic or photocopying machines do not qualify for the exemption.
 - vi) Word processing, text editing machinery or computerized equipment unless it is an integral part of a final graphic arts operation such as a computer-controlled typesetting machine or equivalent that is used primarily in graphic arts production.
 - vii) Computers used to store data and generate text, maps, graphs or other print-out formats unless the product is an image carrier to be used to repetitively transfer images by printing. For example, a computer which generates an image which may later be reproduced by a graphic arts process would not qualify while a computer-controlled engraving system which produces printing cylinders and computer-controlled digital typesetting equipment would qualify.

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- viii) The use of machinery or equipment in managerial, sales or other non-production, non-operational activities including disposal of waste, inventory control, production scheduling, purchasing, receiving, accounting, physical management, general communications, plant security, sales, marketing, product exhibition and promotion, or personnel recruitment, selection or training.
 - ix) The use of machinery and equipment to prevent or fight fires or to protect employees, such as protective masks, gloves, coveralls and goggles or for safety, accident protection or first-aid even though such machinery or equipment may be required by law.
 - x) The use of machinery or equipment for general ventilation, heating, cooling, climate control or general illumination.
- E) An item of machinery or equipment which initially is used primarily in graphic arts production and having been so used for less than one-half of the useful life is converted to primarily nonexempt uses, will become subject to the tax at the time of the conversion. Such tax will be collected on such portion of the purchase price of the machinery or equipment as was excluded from tax at the time the sale or purchase was made.
- 5) Sales to Lessors of Graphic Arts Equipment.
The statute provides for the purchase of graphic arts machinery and equipment by lessors who will lease such machinery and equipment for use in graphic arts production. Therefore, if the purchaser of the machinery or equipment leases the machinery and equipment to a lessee who uses it in an exempt manner, the sale to the purchaser-lessor will be exempt from tax. A supplier may exclude such sales from his taxable gross receipts provided that the purchaser-lessor provides to him a properly completed exemption certificate and the information contained therein would support an exemption if the sale were made directly to the lessee. Should a purchaser-lessor subsequently lease the machinery or equipment to a lessee who does not use it in an exempt manner that would qualify directly for the exemption, the purchaser-lessor will become liable for the tax from which he was previously exempted.

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- 6) Exemption Certification.
Purchasers wishing to claim the exemption must certify to their suppliers that the machinery and equipment will be used primarily for graphic arts production. Retailers must maintain such certificates in their books and records. The use of blanket certificates of exemption will be permitted. If a graphic arts producer or lessor purchases at retail from a vendor who is not registered to collect Illinois Use Tax, the purchaser must maintain a copy of the certification in his records to support the deduction taken on the return. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily in graphic arts production.
- 7) For the purpose of determining the portion of the proceeds or cost which may be excluded from tax, a sale of property will be deemed to be made as of the date of delivery of such property. If a single sale of property is made which calls for multiple deliveries unrelated to payments and a portion of the sold property is delivered when one fraction of the proceeds or cost is excludable and the remainder of the property is delivered when a different fraction of the proceeds or cost is excludable, the earliest date of delivery of any of the property will determine the portion of the proceeds or cost of the entire sale which may be excluded in computing the tax which is due on that entire sale. However, even when a contract provides for multiple deliveries, if a payment is closely related in time and quantity to the property delivered, the date of each delivery will determine the portion of the proceeds or cost which may be excluded in computing the tax that is due on that payment.

(Source: Amended at 29 Ill. Reg. 7004, effective April 26, 2005)

Section 130.331 Manufacturer's Purchase Credit

- a) Earning Manufacturer's Purchase Credit
 - 1) Effective January 1, 1995 through June 30, 2003, and beginning again September 1, 2004, a manufacturer may earn a credit when purchasing exempt manufacturing machinery and equipment. Effective July 1, 1996 through June 30, 2003, and beginning again September 1, 2004, a graphic arts producer may earn a credit when purchasing exempt graphic arts machinery and equipment. The credit is known as the Manufacturer's

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Purchase Credit or MPC. The amount of credit is limited to a percentage of the 6.25% State rate of tax that would have been incurred on the purchase of exempt manufacturing machinery and equipment. (See Section 130.325 and Section 130.330 of this Part.)

- 2) The percentage of credit earned based upon exempt purchases increases over time as follows:
 - A) *15% for purchases made on or before June 30, 1995.*
 - B) *25% for purchases made after June 30, 1995, and on or before June 30, 1996.*
 - C) *40% for purchases made after June 30, 1996, and on or before June 30, 1997.*
 - D) *50% for purchases made on or after July 1, 1997.* (Section 3-85 of the Use Tax Act)
- 3) The credit is earned at the time qualifying manufacturing machinery and equipment or qualifying graphic arts machinery and equipment is purchased. A qualifying purchase is considered to take place as of the date of invoice of that qualifying manufacturing machinery and equipment. The credit is considered to be earned on qualifying manufacturing machinery and equipment or qualifying graphic arts machinery and equipment that is purchased under an installment contract or progress payment contract at the time that each installment or progress payment is invoiced. The amount of credit that is earned is based on the amount of tax that would have been due on that portion of the purchase price that is invoiced.
- 4) No credit is earned for exempt purchases under the expanded Enterprise Zone exemption, as described in Section 130.1951 (b) of this Part, unless that purchase would also qualify as exempt under the Manufacturing Machinery and Equipment Exemption described in Section 130.330 of this Part or under the Graphic Arts Machinery and Equipment Exemption described in Section 130.325 of this Part.
- 5) No credit is earned for a purchase of tangible personal property that qualifies as an occasional sale, as described in Section 130.110 (a) of this

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Part.

- 6) No credit is earned for a purchase of tangible personal property that is purchased for resale. (See Section 130.210 (a) of this Part.)
- b) Using Manufacturer's Purchase Credit
- 1) The credit may be used to satisfy Use Tax or Service Use Tax liability incurred on the purchase of qualifying production related tangible personal property. (See Section 3-85 of the Use Tax Act [35 ILCS 105/3-85] and Section 3-70 of the Service Use Tax Act [35 ILCS 110/3-70].) Credit earned prior to July 1, 2003~~The credit cannot be used after September 30, 2003. Credit earned on and after September 1, 2004 may only be used to satisfy tax liabilities for purchases of production related tangible personal property made on and after September 1, 2004.~~ (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act) The credit may be applied only to the 6.25% State rate of tax incurred. Prior to the credit being earned, credit may not be used on a qualifying purchase, except as provided in subsection (e)(7)(B)~~below~~. However, the credit may be used the same day that it is earned, but must be followed by proper reporting of the credit as set out in subsections (c), (d), and (e). For purposes of when to use accumulated Manufacturer's Purchase Credit, a manufacturer or graphic arts producer is always safe to use the credit in a month after the month in which the credit was earned.
 - 2) The credit is non-transferable and may not be used to satisfy the tax liability of any taxpayer other than the manufacturer or graphic arts producer that earned the credit. *Notwithstanding any other provision of this Section, the credit earned prior to July 1, 2003 cannot be used after September 30, 2003.* (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act)
 - A) A manufacturer or graphic arts producer may enter into a written contract with a construction contractor to authorize that construction contractor to utilize Manufacturer's Purchase Credit accumulated by the manufacturer or graphic arts producer for the purchase of tangible personal property to be installed into real estate within a manufacturing or graphic arts production facility for use in a production related process. The written contract must specify the specific dollar amount of Manufacturer's Purchase

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Credit that the construction contractor is authorized to utilize on behalf of the manufacturer or graphic arts producer.

- B) To properly utilize the Manufacturer's Purchase Credit on behalf of the manufacturer or graphic arts producer when purchasing tangible personal property for installation into real estate within a manufacturing or graphic arts production facility for use in a production related process, the contractor must furnish the supplier with information stating:
- i) The manufacturer's or graphic arts producer's name and address;
 - ii) The manufacturer's or graphic arts producer's registration or resale number; and
 - iii) A statement that a specific amount of Use Tax or Service Use Tax liability, not to exceed 6.25% of the selling price, is being satisfied with the Manufacturer's Purchase Credit.
- C) To properly utilize the Manufacturer's Purchase Credit on behalf of the manufacturer or graphic arts producer when purchasing tangible personal property for installation into real estate within a manufacturing facility, the contractor must furnish the manufacturer or graphic arts producer with information stating:
- i) Each vendor's or supplier's name and address (including, if applicable, either the vendor's or supplier's registration number or Federal Employer Identification Number);
 - ii) The date of purchase, purchase price, and description of the tangible personal property purchased; and
 - iii) The amount of the Use Tax or Service Use Tax liability, not to exceed 6.25% of the selling price, that was satisfied by the Manufacturer's Purchase Credit utilized for each purchase.
- D) A credit reported under a particular Illinois Business Tax number may not be transferred to a related but separately registered

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division or company.

- 3) Production related tangible personal property means:
 - A) All tangible personal property used or consumed in a production related process by a manufacturer in a manufacturing facility in which a manufacturing process described in Section 2-45 of the Retailers' Occupation Tax Act takes place.
 - B) All tangible personal property used or consumed in a production related process by a graphic arts producer in a graphic arts production facility in which a graphic arts production process described in Section 2-30 of the Retailers' Occupation Tax Act takes place.
 - C) All tangible personal property used or consumed by a manufacturer or graphic arts producer in research and development regardless of use within or without a manufacturing or graphic arts production facility. (See Section 3-85 of the Use Tax Act.)
- 4) By way of illustration and not limitation, the following uses of tangible personal property will be considered production related:
 - A) Tangible personal property purchased by a manufacturer for incorporation into real estate within a manufacturing facility for use in a production related process; or tangible personal property purchased by a construction contractor for incorporation into real estate within a manufacturing facility for use in a production related process pursuant to a written contract described in subsection (b)(2)(A) of this Section.
 - B) Supplies and consumables used in a manufacturing facility, including fuels, coolants, solvents, oils, lubricants, cleaners and adhesives.
 - C) Hand tools, protective apparel, and fire and safety equipment used or consumed in a manufacturing facility.
 - D) Tangible personal property used or consumed in a manufacturing facility for purposes of pre-production and post-production

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material handling, receiving, quality control, inventory control, storage, staging and packing for shipping or transportation.

- E) Fuel used in a ready-mix cement truck to rotate the mixing drum in order to manufacture concrete or cement. However, only the amount of fuel used to rotate the drum will qualify. 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.
 - F) Tangible personal property purchased by a graphic arts producer for incorporation into real estate within a graphic arts production facility for use in a production related process; or tangible personal property purchased by a construction contractor for incorporation into real estate within a graphic arts production facility for use in a production related process pursuant to a written contract described in subsection (b)(2)(A) of this Section.
 - G) Supplies and consumables used in a graphic arts production facility, including solvents, oils, lubricants, cleaners and adhesives. Paper and ink that is transferred to a customer does not qualify as production related tangible personal property.
 - H) Hand tools, protective apparel, and fire and safety equipment used or consumed in a graphic arts production facility.
 - I) Tangible personal property used or consumed inside a graphic arts facility for purposes of preliminary or pre-press production, pre-production material handling, receiving, quality control, inventory control, storage, staging, sorting, labeling, mailing, tying, wrapping, and packaging.
- 5) By way of illustration and not limitation, the following uses of property will not be considered production related:
- A) The use of trucks, trailers, and motor vehicles which are required to be titled or registered pursuant to the Illinois Motor Vehicle Code [625 ILCS 5], and aircraft or watercraft required to be

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registered with an agency of State or federal government.

- B) Office supplies, computers, desks, copiers and equipment which are used for sales, purchasing, accounting, fiscal management, marketing and personnel recruitment or selection activities, even if such use takes place within a manufacturing or graphic arts production facility.
 - C) Tangible personal property used or consumed for aesthetic or decorative purposes, including landscaping and artwork.
 - D) Tangible personal property used or consumed outside the manufacturing or graphic arts production facility, including tangible personal property listed in subsections (b)(4)(D) and (b)(4)(I) above with the exception of tangible personal property used or consumed for research and development purposes.
 - E) Tangible personal property purchased by a construction contractor for incorporation into a manufacturing or graphic arts production facility, unless such purchase by the construction contractor was made on behalf of a manufacturer or graphic arts producer pursuant to a written contract described in subsection (b)(2)(A) of this Section.
 - F) Except as otherwise provided in subsection (b)(2) of this Section, tangible personal property transferred to a manufacturer's customer or the customer of a person that is engaged in graphic arts production. For example, paper and ink transferred to a customer by a de minimis serviceman as described in 86 Ill. Adm. Code 140.108 that is engaged in graphic arts production is not considered production related.
- 6) The credit may be used to satisfy the State portion (6.25%) of a Use Tax or Service Use Tax liability arising under audit where the liability established is the result of:
- A) an erroneous claim of the Manufacturing Machinery and Equipment Exemption provided in Section 2-45 of the Retailers' Occupation Tax Act,

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- B) an erroneous claim of the Graphic Arts Machinery and Equipment Exemption provided in Section 2-5(4) of the Retailers' Occupation Tax Act, or
- C) the manufacturer or graphic arts producer failing to self-assess and remit Use Tax or Service Use Tax on the purchase of production related tangible personal property.

(See Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act.) The credit may only be used to satisfy the State portion (6.25%) of a Use Tax or Service Use Tax liability incurred on the purchase of qualifying production related tangible personal property. Under no circumstances may the credit be used to satisfy penalty and interest or other tax liability incurred by the manufacturer or graphic arts producer.

- 7) Credit may be used to satisfy the State portion (6.25%) of a qualifying Use Tax or Service Use Tax liability incurred by a manufacturer or graphic arts producer on a purchase of production related tangible personal property when payment of tax must be made directly to the Department.
- 8) The credit expires December 31st of the second calendar year following the calendar year in which the credit was earned. (See Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act.) However, for credit earned on or after June 30, 1995, the life of unreported credit may be extended during the period of an agreed extension of the statute of limitations as provided in subsection (e)(7).
- 9) A manufacturer or graphic arts producer may use credit to satisfy Service Use Tax liability only when purchasing production related tangible personal property transferred incident to a sale of service.
- 10) *Notwithstanding any other provision of this Section, the credit earned prior to July 1, 2003 cannot be used after September 30, 2003, including to satisfy an audit liability.* (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act)

- c) Reporting Manufacturer's Purchase Credit Earned or Used for Periods from January 1, 1995 through June 29, 1995

- 1) In order to validate credit earned as the result of a qualifying purchase of

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exempt manufacturing machinery and equipment or credit used on a qualifying purchase, the manufacturer must report credit earned to the Department in a timely manner. Failure to report credit earned will result in expiration of the credit as of the date earned.

- 2) On forms prescribed or approved by the Department, a manufacturer must report credit earned or used by the last day of the second month following the month of creation or use of the credit. No credit report is required for any month in which a manufacturer neither earned nor used credit. Original invoices or copies of original invoices are not to be filed with the Department.
- 3) Credit Use or Misuse Causing Expiration of Credit. Credit used, whether properly or improperly, expires upon use and cannot be recreated once used. The manufacturer may be liable for tax, penalty and interest on the purchase of production related tangible personal property where expired credit was used, in accordance with provisions of the Uniform Penalty and Interest Act [35 ILCS 735]. The following represent examples of uses of credit that will result in expiration of the credit:
 - A) Failure to report credit or use of credit.
 - B) Failure to timely report credit or use of credit.
 - C) Use of credit prior to actually earning credit as described in subsection (a)(3).
 - D) Return of goods to supplier for full refund including tax where credit was tendered in payment of tax. Credit expires once used and cannot be recreated once used regardless of reason for return.
- 4) A purchaser earning Manufacturer's Purchase Credit must maintain records, as to each purchase of manufacturing machinery and equipment on which the purchaser earned Manufacturer's Purchase Credit, that identify the following:
 - A) The vendor or supplier (including, if applicable, either the vendor's or supplier's Illinois registration number or Federal Employer Identification Number);

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- B) The date of purchase, purchase price, and description of the exempt manufacturing machinery and equipment; and
 - C) The amount of Manufacturer's Purchase Credit earned on that purchase.
- 5) A purchaser using Manufacturer's Purchase Credit must maintain records, as to each purchase of production related tangible personal property on which the purchaser used Manufacturer's Purchase Credit to satisfy the purchaser's Use Tax or Service Use Tax liability, that identify the following:
- A) The vendor or supplier (including, if applicable, either the vendor's or supplier's Illinois registration number or Federal Employer Identification Number);
 - B) The date of purchase, purchase price, and description of the production related tangible personal property; and
 - C) The amount of Manufacturer's Purchase Credit used to satisfy the purchaser's Use Tax or Service Use Tax liability on that purchase.
- 6) As determined pursuant to audit by the Department, credit earned by purchase of exempt machinery and equipment that has not been timely and properly reported will result in expiration of the credit. Use of expired credit in this situation may result in an assessment for tax, penalty and interest on the subsequent purchase of production related tangible personal property. Credit that was properly reported when earned but was not timely and properly reported to the Department when used will likewise expire resulting in an assessment for tax, penalty and interest on the purchase of production related tangible personal property for which it was offered in payment of Use Tax or Service Use Tax liability.
- d) Reporting Manufacturer's Purchase Credit Earned or Used on June 30, 1995
- 1) The reporting requirements for Manufacturer's Purchase Credit were changed by Public Act 89-89, effective June 30, 1995. In order to provide consistent and easier reporting requirements for manufacturers utilizing Manufacturer's Purchase Credit and the Department's Administration of the Manufacturer's Purchase Credit program, manufacturers are required

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to report Manufacturer's Purchase Credit earned or used on June 30, 1995, under the methods described in subsection (c) of this Section. However, the Manufacturer's Purchase Credit earned or used on that date will be subject to the provisions described in subsection (e) of this Section without the necessity of including those Manufacturer's Purchase Credits in an Annual Report of Manufacturer's Purchase Credit Earned or an Annual Report of Manufacturer's Purchase Credit Used.

- 2) A manufacturer filing an amended Annual Manufacturer's Purchase Credit Report under subsection (e)(7) of this Section that includes Manufacturer's Purchase Credit earned or used on June 30, 1995 must disclose that such report includes Manufacturer's Purchase Credit earned or used on June 30, 1995.
- e) Reporting Manufacturer's Purchase Credit Earned or Used for Periods on or after July 1, 1995
- 1) In order to validate credit earned as the result of a qualifying purchase of exempt manufacturing machinery and equipment or exempt graphic arts machinery and equipment, the manufacturer or graphic arts producer must report credit earned to the Department by signing and filing an Annual Report of Manufacturer's Purchase Credit Earned for each calendar year no later than the last day of the sixth month following the calendar year in which the Manufacturer's Purchase Credit is earned. The Annual Report of Manufacturer's Purchase Credit Earned shall be filed on forms prescribed or approved by the Department and shall state, for each month of the calendar year:
 - A) The total purchase price of all purchases of exempt manufacturing machinery and equipment or graphic arts machinery and equipment on which the credit was earned;
 - B) The total State Use Tax or Service Use Tax which would have been due on those items;
 - C) The percentage used to calculate the amount of credit earned;
 - D) The amount of credit earned; and
 - E) Such other information as the Department may reasonably require.

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(See Section 3-85 of the Use Tax Act.)

- 2) A purchaser earning Manufacturer's Purchase Credit must maintain records, as to each purchase of manufacturing machinery and equipment and graphic arts machinery and equipment on which the purchaser earned Manufacturer's Purchase Credit, that identify the following:
 - A) The vendor or supplier (including, if applicable, either the vendor's or supplier's Illinois registration number or Federal Employer Identification Number);
 - B) The date of purchase, purchase price, and description of the exempt manufacturing machinery and equipment and graphic arts machinery and equipment; and
 - C) The amount of Manufacturer's Purchase Credit earned on that purchase.

- 3) In order to validate credit used to satisfy the tax liability on purchases of production related tangible personal property, the manufacturer or graphic arts producer must report credit used to the Department by signing and filing an Annual Report of Manufacturer's Purchase Credit Used for each calendar year no later than the last day of the sixth month following the calendar year in which the Manufacturer's Purchase Credit is used. The Annual Report of Manufacturer's Purchase Credit Used shall be filed on forms prescribed or approved by the Department and shall state, for each month of the calendar year:
 - A) The total purchase price of all production related tangible personal property purchased from Illinois vendors or suppliers;
 - B) The total purchase price of all production related tangible personal property purchased from out-of-State vendors or suppliers;
 - C) The total amount of Manufacturer's Purchase Credit used during each month; and
 - D) Such other information as the Department may reasonably require. (See Section 3-85 of the Use Tax Act.)

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- 4) A purchaser using Manufacturer's Purchase Credit must maintain records, as to each purchase of production related tangible personal property on which the purchaser used Manufacturer's Purchase Credit to satisfy the purchaser's Use Tax or Service Use Tax liability, that identify the following:
 - A) The vendor or supplier (including, if applicable, either the vendor's or supplier's Illinois registration number or Federal Employer Identification Number);
 - B) The date of purchase, purchase price, and description of the production related tangible personal property; and
 - C) The amount of Manufacturer's Purchase Credit used to satisfy the purchaser's Use Tax or Service Use Tax liability on that purchase.
- 5) *No Annual Report of Manufacturer's Purchase Credit Earned or Annual Report of Manufacturer's Purchase Credit Used may be filed with the Department before May 1, 1996 ~~or after June 30, 2004.~~* (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act)
- 6) A purchaser that fails to properly file an Annual Report of Manufacturer's Purchase Credit Earned or an Annual Report of Manufacturer's Purchase Credit Used with the Department by the last day of the sixth month following the end of the calendar year forfeits all Manufacturer's Purchase Credit earned or used for that calendar year, unless the purchaser establishes that the purchaser's failure to file was due to reasonable cause. The reasonable cause provisions of this subsection (e)(6) do not apply after June 30, 2004 for any annual report that is required to be filed on or before June 30, 2004.
- 7) Annual Manufacturer's Purchase Credit reports may be amended to report and claim credit on qualifying purchases of manufacturing machinery and equipment and graphic arts machinery and equipment not previously reported at any time before the credit would have expired, unless both the Department and the purchaser have agreed to an extension of the statute of limitations for the issuance of a Notice of Tax Liability as provided in Section 4 of the Retailers' Occupation Tax Act. However, such an agreed extension will not restore a credit that has previously been reported and has expired prior to the agreed extension. Manufacturer's Purchase Credit

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that had not been previously reported and is included in an amended Annual Report submitted as a result of such an agreed extension will expire as provided in subsection (b)(8) of this Section or at the end of the agreed extension period, whichever is longer. If the time for assessment or refund has been extended by agreement, amended reports for a calendar year may be filed at any time prior to the date to which the statute of limitations for the calendar year or portion thereof has been extended. *Notwithstanding any other provision of this Section, the credit earned prior to July 1, 2003 cannot be used after September 30, 2003, and no Annual Report of Manufacturer's Purchase Credit Earned or Annual Report of Manufacturer's Purchase Credit Used that is required to be filed on or before June 30, 2004 may be filed with the Department after June 30, 2004 even if the time for assessment or refund has been extended by agreement.* (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act) Manufacturer's Purchase Credit claimed on an amended report may be used to satisfy tax liability under the Use Tax Act or the Service Use Tax Act on:

- A) Qualifying purchases of production related tangible personal property made after the date the amended report is filed;
 - B) Amounts assessed by the Department on purchases made on or after January 1, 1995 of machinery and equipment that did not qualify for the exemption described in Section 130.330 of this Part, but would have qualified as production related tangible personal property. The credit will be applied to the tax portion of the assessment liability as of the date that the Department receives a written request by the purchaser directing the Department to apply the credit to the assessment liability; or
 - C) Amounts assessed by the Department on purchases made on or after July 1, 1996 of machinery and equipment that did not qualify for the exemption described in Section 130.325 of this Part, but would have qualified as production related tangible personal property. The credit will be applied to the tax portion of the assessment liability as of the date that the Department receives a written request by the purchaser directing the Department to apply the credit to the assessment liability.
- 8) A purchaser who used Manufacturer's Purchase Credit to satisfy the

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purchaser's Use Tax or Service Use Tax liability incurred on the purchase of property that is later determined not to qualify as production related tangible personal property may be liable for tax, penalty, and interest on the purchase of that property as of the date of the purchase. However, the purchaser is entitled to use such disallowed Manufacturer's Purchase Credit, so long as it has not expired, on qualifying purchases of production related tangible personal property not previously subject to credit usage.

- 9) *Notwithstanding any other provision of this Section, the credit earned prior to July 1, 2003 cannot be used after September 30, 2003, including to satisfy an audit liability.* (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act)

f) Retailers or Servicemen Accepting Manufacturer's Purchase Credit

- 1) In order to accept Manufacturer's Purchase Credit from a manufacturer or graphic arts producer, the supplier or serviceman must obtain a Manufacturer's Purchase Credit certificate from the manufacturer or graphic arts producer unless the manufacturer or graphic arts producer has incorporated its certification into the manufacturer's or graphic arts producer's purchase order as described below. The manufacturer or graphic arts producer may provide the certification on a form provided by the Department or on the manufacturer's or graphic arts producer's own form containing the appropriate information. The certificate must be kept in the supplier's or serviceman's books and records, but need not be submitted to the Department with the supplier's or serviceman's return. A Manufacturer's Purchase Credit certificate must contain the following information:
- A) A signed statement that the manufacturer or graphic arts producer is using available accumulated Manufacturer's Purchase Credit to satisfy all or part of the 6.25% portion of Use Tax or Service Use Tax liability incurred on a qualifying purchase of production related tangible personal property;
 - B) The manufacturer's or graphic arts producer's name and address;
 - C) The manufacturer's or graphic arts producer's registration number, if registered;

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- D) The date of purchase of the production related tangible personal property; and
 - E) The credit being used. (See Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act.)
- 2) A manufacturer or graphic arts producer may incorporate the Manufacturer's Purchase Credit certification into the manufacturer's or graphic arts producer's purchase order if all of the required information is contained within that purchase order.
- 3) Manufacturer's Purchase Credit accepted by the supplier or serviceman may be used by the supplier or serviceman to pay its liability incurred under the Retailers' Occupation Tax Act or Service Occupation Tax Act, so long as the supplier or serviceman complies with the following:
- A) The supplier or serviceman may not accept credit in excess of 6.25% of the purchase price of qualifying production related tangible personal property. (See Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act.)
 - B) The supplier or serviceman must properly report the credit to the Department in order to use the credit to pay Retailers' Occupation Tax or Service Occupation Tax liability. The Manufacturer's Purchase Credit (MPC) does not create an exemption or an authorized deduction. The MPC is a means for the supplier or serviceman to pay Retailers' Occupation Tax or Service Occupation Tax, as the case may be. Therefore, the receipts from transactions in which customers have provided MPC cannot be deducted from the gross receipts reported on the Sales and Use Tax Return (Form ST-1). Receipts from transactions in which customers have provided MPC must be included in gross receipts subject to tax reported on line 1 and line 3 of the return. The resulting tax on those gross receipts can then be paid by using the credit on line 16a of the return.
- 4) *Notwithstanding any other provision of this Section, the credit earned prior to July 1, 2003 cannot be used after September 30, 2003. Manufacturer's Purchase Credit reported on any original or amended return filed after October 20, 2003 and before October 1, 2004 will be*

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disallowed. Beginning on September 1, 2004, retailers and servicemen may accept MPC certifications for qualifying purchases made on and after September 1, 2004. (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act)

- g) Lessors Earning and Using Manufacturer's Purchase Credit
- 1) A lessor leasing exempt manufacturing machinery and equipment to a manufacturer or graphic arts machinery and equipment to a graphic arts producer may earn Manufacturer's Purchase Credit when purchasing such machinery and equipment, in the same manner as a manufacturer or graphic arts producer.
 - 2) A lessor leasing qualifying production related tangible personal property to a manufacturer or graphic arts producer may use Manufacturer's Purchase Credit when purchasing such qualifying property in the same manner as a manufacturer or graphic arts producer. (See Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act.)
 - 3) A lessor of exempt machinery and equipment and qualifying production related tangible personal property must report the accumulation and use of credit in the same manner as required for manufacturers or graphic arts producers.
 - 4) Since the Manufacturer's Purchase Credit is a non-transferable credit, a lessor may not use credit earned by a lessee, nor may a lessor transfer credit it has earned to a lessee.
 - 5) *Notwithstanding any other provision of this Section, the credit ~~cannot be earned prior to July 1, 2003~~after June 30, 2003 and cannot be used after September 30, 2003.* (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act)
- h) Retailers or Servicemen Accepting Manufacturer's Purchase Credit After Qualifying Purchases
- 1) A manufacturer or graphic arts producer that does not provide the certification or purchase order as provided in subsection (f) of this Section to a retailer or serviceman at the time of purchase of production related tangible personal property must pay the appropriate amount of Use Tax or

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Service Use Tax at that time to the retailer or serviceman. However, retailers and servicemen are not prohibited from accepting Manufacturer's Purchase Credit (MPC) certifications after qualifying sales of production related tangible personal property have taken place. Retailers and servicemen are not required to accept the certifications and are not required to refund the amount of Use Tax or Service Use Tax that was properly paid by the manufacturers or graphic arts producers in exchange for the certificates after the sales have taken place. *Notwithstanding any other provision of this Section, the credit earned prior to July 1, 2003 cannot be used after September 30, 2003. Retailers and servicemen cannot accept MPC certifications for any purchase, including certifications for prior qualifying sales, after September 30, 2003 through August 31, 2004. Beginning on September 1, 2004, retailers and servicemen may accept MPC certifications for qualifying purchases made on and after September 1, 2004.* (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act)

- 2) Retailers and servicemen that choose to accept MPC certifications from manufacturers and graphic arts producers after qualifying sales of production related tangible personal property have taken place and refund the amount of Use Tax or Service Use Tax that was properly paid by those manufacturers or graphic arts producers must file amended returns or claims for credit or refund as provided in Section 130.1501 of this Part. However, to avoid the potential of retailers and servicemen filing multiple amended returns and claims for credit or refund, retailers and servicemen may elect to report the acceptance of that MPC on line 16a of the retailers' and servicemen's sales and use tax returns for the period in which those refunds occurred. The retailer's or serviceman's election to report the acceptance of the credit on their current return, in lieu of filing an amended return and claim for credit or refund, does not supersede the applicability of the statute of limitations described in Section 130.1501(a)(4) of this Part to the claiming of that credit by the retailer or serviceman. Retailers and servicemen may only refund the 6.25% of State Use Tax or Service Use Tax paid by the manufacturers and graphic arts producers. (See subsection (b) of this Section.) *Manufacturer's Purchase Credit reported on any original or amended return filed after October 20, 2003 through August 31, 2004 will be disallowed. Beginning on September 1, 2004, retailers and servicemen may accept MPC certifications for qualifying purchases made on and after September 1, 2004.* (Section 3-85 of the Use Tax Act and Section 3-70 of the Service

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Use Tax Act)

- 3) Manufacturers and graphic arts producers who provide MPC certifications to retailers or servicemen after qualifying sales of production related tangible personal property have taken place as provided in this subsection (h) must report the use of the credit on an Annual Report of Manufacturer's Purchase Credit Used for the calendar year in which the certification was provided listing the use of the credit in the month in which the certification is provided. *No Annual Report of Manufacturer's Purchase Credit Used may be filed with the Department after June 30, 2004 through December 31, 2004.* (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act)
 - 4) Example: A manufacturer purchased production related tangible personal property from a retailer in June 1999. The manufacturer paid Use Tax to the retailer at the time of purchase. In January 2001, the manufacturer asks the retailer to accept an MPC certification for the June 1999 purchase and refund the Use Tax (6.25%) paid previously by the manufacturer. The retailer chooses to accept the certification and refunds the amount of the Use Tax (6.25%) to the manufacturer. The retailer makes the election to report the acceptance of the credit on line 16a of the retailer's January 2001 sales and use tax return (rather than filing an amended return or claim for credit or refund). The manufacturer must report the use of the credit in the month of January on an Annual Report of Manufacturer's Purchase Credit Used for the year 2001.
- i) Manufacturers or Graphic Arts Producers Reporting Use of Manufacturer's Purchase Credit After Qualifying Purchases When Use Tax or Service Use Tax Was Already Paid Directly to the Department
- 1) Manufacturers and graphic arts producers who self-assess Use Tax or Service Use Tax directly to the Department are not prohibited from reporting the use of Manufacturer's Purchase Credit (MPC) after the qualifying purchase of production related tangible personal property when those manufacturers or graphic arts producers have already paid the appropriate amount of Use Tax or Service Use Tax directly to the Department. *Notwithstanding any other provision of this Section, the credit earned prior to July 1, 2003 cannot be used after September 30, 2003.* (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act)

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- 2) Manufacturers and graphic arts producers who choose to use MPC as provided in this subsection (i) must file an amended return or claim for credit or refund with the Department as provided in Section 130.1501 of this Part. However, to avoid the potential of manufacturers and graphic arts producers filing multiple amended returns and claims for credit or refund, manufacturers and graphic arts producers may elect to report the use of that credit on line 16a of their current sales and use tax returns. The manufacturer's or graphic arts producer's election to report the acceptance of the credit on the current return, in lieu of filing an amended return and claim for credit or refund, does not supersede the applicability of the statute of limitations described in Section 130.1501(a)(4) of this Part to the claiming of that credit by the manufacturer or graphic arts producer. *Manufacturer's Purchase Credit reported on any original or amended return filed after October 20, 2003 through August 31, 2004 will be disallowed.* (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act)
- 3) Manufacturers and graphic arts producers who report the use of MPC on their current sales and use tax return as provided in this subsection (i) must also report the use of the credit on an Annual Report of Manufacturer's Purchase Credit Used for the calendar year in which the manufacturer's or graphic arts producer's current sales and use tax return falls. *No Annual Report of Manufacturer's Purchase Credit Used may be filed with the Department after June 30, 2004 through December 31, 2004.* (Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act)
- 4) Example: A manufacturer, that self assesses Use Tax and Service Use Tax directly to the Department, made a qualifying purchase of production related tangible personal property in August 1999 and paid the Use Tax on that purchase to the Department with the manufacturer's August 1999 return. In January 2001, the manufacturer chose to use currently available MPC to satisfy the Use Tax liability that was incurred on that qualifying purchase back in August 1999. The manufacturer elected to report the use of the MPC on line 16a of the manufacturer's sales and use tax return for the month of January 2001 (rather than filing an amended return or claim for credit or refund). The manufacturer must also report the use of that credit in the month of January on an Annual Report of Manufacturer's Purchase Credit Used for the year 2001.

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(Source: Amended at 29 Ill. Reg. 7004, effective April 26, 2005)

Section 130.341 Commercial Distribution Fee Sales Tax Exemption

- a) Qualifications for exemption through June 30, 2004. Beginning on July 1, 2003 through June 30, 2004, sales of certain motor vehicles are not subject to the tax imposed under this Part if they meet all of the following tests:
- 1) The motor vehicle qualifies as a second division motor vehicle under Section 1-146 of the Illinois Vehicle Code. First division motor vehicles, such as those motor vehicles that are designed for the carrying of not more than 10 persons, do not qualify for the exemption (See 625 ILCS 5/1-146.);
 - 2) The motor vehicle has a gross vehicle weight in excess of 8,000 pounds; and
 - 3) The motor vehicle is subject to the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code. [35 ILCS 120/2-5] The motor vehicle must be registered and remain registered in such a manner whereby it is subject to payment of the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code [625 ILCS 5/3-815.1] and such fee is actually paid for any period in which the fee is in effect.
- b) Qualifications for exemption beginning July 1, 2004. Beginning on July 1, 2004 through June 30, 2005, sales of certain motor vehicles are not subject to the tax imposed under this Part if they meet all of the following tests:
- 1) The motor vehicle is a second division motor vehicle. First division motor vehicles, such as those motor vehicles that are designed for the carrying of not more than 10 persons, do not qualify for the exemption (See 625 ILCS 5/1-146.);
 - 2) The motor vehicle must have a gross vehicle weight rating in excess of 8,000 pounds. For purposes of this Section, Gross Vehicle Weight Rating means the value specified by the manufacturer or manufacturers as the maximum loaded weight of a single vehicle (See 625 ILCS 5/1-124.5.);

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- 3) *The motor vehicle is subject to the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code. The motor vehicle must be registered and remain registered in such a manner whereby it is subject to payment of the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code [625 ILCS 5/3-815.1] and such fee is actually paid for any period in which the fee is in effect; and*
- 4) *The motor vehicle is used primarily for commercial purposes. [35 ILCS 120/2-5] For purposes of this Section, a motor vehicle used for commercial purposes means any motor vehicle used to transport persons or property in the furtherance of any commercial or industrial enterprise, whether for-hire or not-for-hire.*

COMMERCIAL PURPOSE EXAMPLE: A motor vehicle that is used for transportation to work, school, or recreational activities would not be used for commercial purposes.

- c) Documentation of exemption. To properly document the exemption, the seller must obtain a written certificate from the purchaser stating the following:
 - 1) the name, address, and telephone number of purchaser;
 - 2) the description and Vehicle Identification Number of the motor vehicle or motor vehicles being purchased;
 - 3) the name and address of seller;
 - 4) the date of purchase;
 - 5) a statement that the motor vehicle will be used primarily for commercial purposes and will be registered under Section 3-815(a) or 3-818(a) of the Illinois Vehicle Code or in such other manner whereby the registration of that motor vehicle will require the payment of the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code and that such vehicle will remain validly registered in such a manner for subsequent registration years;
 - 6) the commercial purpose for which the vehicle will be used along with the purchaser's Illinois Business Tax (IBT) number or other business registration number; and

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- 7) the signature of purchaser.
- d) Liability for tax. If a purchaser claims the exemption provided in this Section and the vehicle is not considered subject to the Commercial Distribution Fee as described in subsection (a)(3) or (b)(3) of this Section or otherwise does not qualify for this exemption, the purchaser will be liable for the tax based upon the purchase price of that vehicle and any applicable penalties and interest from the date of purchase.
- e) Repair and replacement parts. The exemption provided in this Section may not be claimed for any repair part, replacement part, or other item attached or incorporated into the motor vehicle after the purchase of the motor vehicle. Such items may qualify for exemption from sales tax if the motor vehicle or trailer is used in a manner that qualifies for the rolling stock exemption. See Section 130.340 of this Part.
- f) Trailers. For purposes of this Section, a trailer that is subject to the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code will qualify as a second division motor vehicle under subsection (a)(1) or (b)(1) of this Section. The term "trailer" includes a trailer as defined in Section 1-209 of the Illinois Vehicle Code, a semitrailer as defined in Section 1-187 of the Illinois Vehicle Code, and a pole trailer as defined in Section 1-161 of the Illinois Vehicle Code.

(Source: Added at 29 Ill. Reg. 7004, effective April 26, 2005)

SUBPART E: RETURNS

Section 130.552 Alcoholic Liquor Reporting

- a) *Retailer Liquor Report. Beginning on October 1, 2003, any person that is engaged in the business of selling alcoholic liquor at retail through a liquor store, tavern, or restaurant shall file a monthly statement with the Department listing the total amount paid for alcoholic liquor purchased during the preceding calendar month. The statement shall be filed on such person's Form ST-1, Sales and Use Tax Return, by including the total amount shown on invoices for alcoholic liquor delivered during the preceding calendar month. Such Form ST-1 Return shall be filed using the Department's TeleFile program (86 Ill. Adm. Code 770). The requirements of this subsection (a) shall not apply to any person who is a licensed*

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distributor, importing distributor, or manufacturer as those persons are described in Sections 1-3.08, 1-3.15, and 1-3.16 of the Liquor Control Act of 1934. The requirements of this subsection (a) shall not apply to any person who is required to make quarter monthly payments on the 7th, 15th, 22nd, and last day of each month under Section 3 of the Retailers' Occupation Tax Act. [35 ILCS 120/3] For purposes of this subsection (a):

- 1) "Liquor store" means any legal entity that is operated primarily to sell alcoholic liquor at retail to the public. To meet the primary test, the selling price of all the alcoholic liquor sold during a calendar year must exceed 50% of the selling price of all retail sales for that calendar year.
- 2) "Tavern" means any legal entity that is operated to sell alcoholic liquor at retail to the public for on-premises consumption.
- 3) "Restaurant" means any legal entity that is operated to sell food and alcoholic liquor at retail to the public for on-premises consumption.

b) Distributor Liquor ~~Reports~~Report. *Beginning on October 1, 2003, every distributor, importing distributor, and manufacturer of alcoholic liquor, as those persons are described in Sections 1-3.08, 1-3.15, and 1-3.16 of the Liquor Control Act of 1934, shall file, in an electronic format prescribed by the Department, a statement with the Department of Revenue, no later than the 10th day of the month for the preceding month during which transactions occurred showing the total amount of gross receipts from the sale of alcoholic liquor sold or distributed during the preceding calendar month to purchasers; identifying the purchaser to whom it was sold or distributed; the purchaser's tax registration number; and such other information reasonably required by the Department. ~~A copy of the monthly statement shall be provided to the retailer no later than the 10th day of the month for the preceding calendar month during which such transactions occurred. In lieu of such a statement, a distributor, importing distributor, or manufacturer of alcoholic liquor may:~~*

- 1) ~~List a cumulative total of that distributor's, importing distributor's, or manufacturer of alcoholic liquor's total sales of alcoholic liquor to a retailer within that current calendar month on all invoices provided to that retailer; or~~
- 2) ~~No later than the 10th day of the month, provide by electronic means a cumulative total of that distributor's, importing distributor's, or~~

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~~manufacturer of alcoholic liquor's total sales of alcoholic liquor to that retailer for the prior calendar month, if the retailer agrees prior to the distributor, importing distributor, or manufacturer using such a method. For purposes of this paragraph, the term "electronic means" includes, but is not limited to, the use of a secure Internet website, e-mail, or facsimile.~~

The statement required to be filed with the Department under this subsection (b) shall be filed no later than the 10th day of the month for the preceding calendar month in an electronic format prescribed by the Department. If the distributor, importing distributor, or manufacturer files its Form RL-26, Liquor Revenue Return, electronically, the statement required to be filed under this subsection (b) may be filed in conjunction with the electronic filing of the Liquor Revenue Return no later than the 15th day of the month for the preceding calendar month. [35 ILCS 120/3]

Every distributor, importing distributor, or manufacturer of alcoholic liquor must personally deliver, mail, or provide by electronic means to each retailer listed on the monthly statement described in this subsection (b) a retailer's purchase statement containing a cumulative total of that distributor's, importing distributor's, or manufacturer's total sales of alcoholic liquor to that retailer no later than the 10th day of the month for the preceding month during which those transactions occurred. For purposes of this subsection (b), the term "electronic means" includes, but is not limited to, the use of a secure Internet website, e-mail, or facsimile. [35 ILCS 120/3] The distributor, importing distributor, or manufacturer shall notify each retailer as to the method by which the distributor, importing distributor, or manufacturer will provide the retailer's purchase statement by personally delivering a written notice or mailing a written notice to each retailer. The personal delivery or mailing of the notice may be made by including such information on an invoice provided by mail or in person to the retailer. The following methods may be used by the distributor, importing distributor, or manufacturer to provide retailer's purchase statements to retailers:

- 1) mailing a copy of the retailer's purchase statement to each retailer;*
- 2) delivering a copy of the retailer's purchase statement to each retailer, or in lieu of delivering a copy of the statement, by listing a cumulative total of the sales made to that retailer within that calendar month on all invoices delivered to the retailer; or*

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- 3) sending or allowing access to the retailer's purchase statement through electronic means, provided that, if a retailer is unable to receive the statement by electronic means, the retailer must provide a written notice, by mail or in person delivery, to the distributor, importing distributor, or manufacturer of alcoholic liquor, stating that the retailer is unable to receive the statement by electronic means. Beginning with the month following the receipt of such notification from the retailer, the distributor, importing distributor, or manufacturer shall furnish the retailer's purchase statement to that retailer by personal delivery or by mail as described in subsections (b)(1) and (2).

(Source: Amended at 29 Ill. Reg. 7004, effective April 26, 2005)

SUBPART G: CERTIFICATE OF REGISTRATION

Section 130.745 Revocation of Certificate

- a) The Department, after notice and hearing as provided under Section 2505-38039b47 of the Civil Administrative Code [20 ILCS 2505/2505-38039b47] and Section 2b of the Act, ~~shall~~may revoke the certificate of registration (including all sub-certificates of registration, if any, issued thereunder) of any person who violates any of the provisions of the Act. Before revocation of a certificate of registration the Department shall, within 90 days after non-compliance and at least 7 days prior to the date of the hearing, give the person so accused notice in writing of the charge against him or her, and on the date designated shall conduct a hearing upon this matter. The lapse of such 90 day period shall not preclude the Department from conducting revocation proceedings at a later date if necessary.
- b) Upon revocation of the certificate of registration (including all sub-certificates of registration, if any, issued under the certificate), the Department shall post notice at the place or places of business, at the front entrance and on the front windows, to which the revoked certificate applied, stating that the certificate of registration has been revoked and that it is unlawful for any person to engage in the business of selling tangible personal property at retail in this State without a certificate of registration issued by the Department (see Illustration B).

(Source: Amended at 29 Ill. Reg. 7004, effective April 26, 2005)

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Section 130.ILLUSTRATION B Example of a Notice of Revocation of Certificate of Registration

The notice to be posted pursuant to Section 130.745(b) will be supplied by the Department. The notice is 11x 8½ inch, is black print on a lime green background, and contains the following text:

<p style="text-align: center;"><u>WARNING</u></p> <p style="text-align: center;"><u>THIS BUSINESS' CERTIFICATE OF REGISTRATION IS HEREBY</u></p> <p style="text-align: center;"><u>REVOKED</u></p> <p style="text-align: center;"><u>PERSONS WHO ENGAGE IN THE BUSINESS OF SELLING TANGIBLE PERSONAL PROPERTY AT RETAIL AFTER THEIR CERTIFICATE OF REGISTRATION HAS BEEN REVOKED ARE GUILTY OF A CLASS A MISDEMEANOR AND WILL BE SUBJECT TO CRIMINAL PROSECUTION AND PENALTY.</u></p> <p style="text-align: center;"><u>TO REPORT ILLEGAL SALES, PLEASE CALL</u></p> <p style="text-align: center;"><u>1-800-CHEAT11</u> <u>(1-800-243-2811)</u></p> <p style="text-align: center;"><u>ISSUED BY THE STATE OF ILLINOIS</u> <u>DEPARTMENT OF REVENUE</u></p>	
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(Source: Added at 29 Ill. Reg. 7004, effective April 26, 2005)

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- 1) Heading of the Part: Service Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 140
- 3) Section Number: 140.124 Adopted Action:
New Section
- 4) Statutory Authority: P.A. 93-1033
- 5) Effective Date of Amendments: April 26, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted 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: 28 Ill. Reg. 15148; 11/19/04
- 10) Has JCAR issued a Statement of Objection to this amendment? 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 nonsubstantive technical changes
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency amendment currently in effect? No. The emergency amendment expired April 1, 2005.
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of amendment: This rulemaking sets out the new requirements applicable to persons claiming the Commercial Distribution Fee ("CDF") Sales Tax Exemption, as established in PA 93-1033. The rulemaking also sets out the requirements applicable prior to the new requirements.
- 16) Information and questions regarding this adopted amendment shall be directed to:

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Terry D. Charlton
Senior Counsel, Sales and Excise Taxes
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

217/782-2844

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

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 140
SERVICE OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section	
140.101	Basis and Rate of the Service Occupation Tax
140.105	Calculation of Tax Incurred by Servicemen – Threshold Determination of Cost Ratio
140.106	When Cost Ratio is 35% or Greater, Service Occupation Tax Liability Is Incurred by Servicemen on Their Selling Price
140.108	"De Minimis" Servicemen Who Incur Use Tax on Their Cost Price
140.109	"De Minimis" Servicemen Who Incur Service Occupation Tax on Their Cost Price
140.110	Example of Methods Used by Servicemen to Determine Liability
140.115	Occasional Sales to Servicemen by Suppliers (Repealed)
140.120	Meaning of Serviceman
140.124	Commercial Distribution Fee Sales Tax Exemption
140.125	Examples of Nontaxability
140.126	Taxation of Food, Drugs and Medical Appliances
140.127	Service Provided to Persons Who Lease Tangible Personal Property to Exempt Hospitals
140.128	Persons Who Lease Tangible Personal Property to Governmental Bodies
140.130	Suppliers of Printers (Repealed)
140.135	Sales of Drugs and Related Items, to or by Pharmacists (Repealed)
140.140	Other Examples of Taxable Transactions
140.141	Warranty Repairs
140.145	Multi-Service Situations

SUBPART B: DEFINITIONS

Section	
140.201	General Definitions

SUBPART C: BASE OF THE TAX

Section

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- 140.301 Cost Price
- 140.305 Refunds by Supplier or Serviceman

SUBPART D: TAX RETURNS

- Section
- 140.401 Monthly Returns When Due – Contents of Returns
- 140.405 Annual Tax Returns
- 140.410 Final Return
- 140.415 Taxpayer's Duty to Obtain Form
- 140.420 Annual Information Returns by Servicemen
- 140.425 Filing of Returns for Serviceman Suppliers by their Suppliers Under Certain Circumstances
- 140.430 Incorporation by Reference

SUBPART E: INTERSTATE COMMERCE

- Section
- 140.501 Sales of Service Involving Property Originating in Illinois
- 140.505 Sales of Service Involving Property Originating Outside of Illinois (Repealed)

SUBPART F: REGISTRATION UNDER THE SERVICE OCCUPATION TAX ACT

- Section
- 140.601 General Information

SUBPART G: BOOKS AND RECORDS

- Section
- 140.701 Requirements

SUBPART H: PENALTIES, INTEREST AND PROCEDURES

- Section
- 140.801 General Information

SUBPART I: WHEN OPINIONS FROM THE DEPARTMENT ARE BINDING

- Section
- 140.901 Written Opinions

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SUBPART J: COLLECTION OF THE TAX

Section

- 140.1001 Payment of Tax
- 140.1005 Receipt to be Obtained for Tax Payments
- 140.1010 Payment of Tax Directly to the Department (Repealed)
- 140.1015 Itemization of the Tax by Suppliers (Repealed)
- 140.1020 Use of Bracket Chart
- 140.1025 Advertising in Regard to the Tax

SUBPART K: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING –
MEANING OF DUE DATE WHICH FALLS ON SATURDAY, SUNDAY OR
A HOLIDAY

Section

- 140.1101 Filing of Documents with the Department

SUBPART L: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section

- 140.1201 When Lessee of Premises May File Return for Leased Department
- 140.1205 When Lessor of Premises Should File Return for Leased Department
- 140.1210 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART M: USE OF EXEMPTION CERTIFICATES

Section

- 140.1301 When Purpose of Serviceman's Purchase is Known (Repealed)
- 140.1305 When Purpose of Serviceman's Purchase is Unknown
- 140.1310 Blanket Percentage Exemption Certificates (Repealed)

SUBPART N: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section

- 140.1401 Claims for Credit – Limitations – Procedure
- 140.1405 Disposition of Credit Memoranda by Holders Thereof
- 140.1410 Refunds
- 140.1415 Interest

SUBPART O: DISCONTINUATION OF A BUSINESS

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Section
140.1501 Procedures

SUBPART P: NOTICE OF SALES OF GOODS IN BULK

Section
140.1601 Requirements and Procedures

SUBPART Q: POWER OF ATTORNEY

Section
140.1701 General Information

AUTHORITY: Implementing the Service Occupation Tax Act [35 ILCS 115] and authorized by Section 2505-100 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-100].

SOURCE: Adopted May 21, 1962; amended at 3 Ill. Reg. 23, p. 161, effective June 3, 1979; amended at 3 Ill. Reg. 44, p. 198, effective October 19, 1979; amended at 4 Ill. Reg. 24, pp. 526, 536 and 550, effective June 1, 1980; amended at 5 Ill. Reg. 822, effective January 2, 1981; amended at 6 Ill. Reg. 2879, 2883, 2886, 2892, 2895 and 2897, effective March 3, 1982; codified at 6 Ill. Reg. 9326; amended at 9 Ill. Reg. 7941, effective May 14, 1985; amended at 11 Ill. Reg. 14090, effective August 11, 1987; emergency amendment at 12 Ill. Reg. 14419, effective September 1, 1988, for a maximum of 150 days; emergency expired January 29, 1989; amended at 13 Ill. Reg. 9388, effective June 6, 1989; amended at 14 Ill. Reg. 262, effective January 1, 1990; amended at 14 Ill. Reg. 15480, effective September 10, 1990; amended at 15 Ill. Reg. 5834, effective April 5, 1991; amended at 18 Ill. Reg. 1550, effective January 13, 1994; amended at 20 Ill. Reg. 5379, effective March 26, 1996; amended at 20 Ill. Reg. 7008, effective May 7, 1996; amended at 20 Ill. Reg. 16211, effective December 16, 1996; amended at 24 Ill. Reg. 8125, effective May 26, 2000; emergency amendment at 25 Ill. Reg. 1811, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4971, effective March 23, 2001; amended at 25 Ill. Reg. 6531, effective May 3, 2001; amended at 26 Ill. Reg. 4905, effective March 15, 2002; amended at 27 Ill. Reg. 812, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11187, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; emergency amendment at 28 Ill. Reg. 15257, effective November 3, 2004 for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 1940, effective January 24, 2005; amended at 29 Ill. Reg. 7070, effective April 26, 2005.

SUBPART A: NATURE OF TAX

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Section 140.124 Commercial Distribution Fee Sales Tax Exemption

- a) Qualifications for exemption through June 30, 2004. Beginning on July 1, 2003 through June 30, 2004, sales of certain motor vehicles are not subject to the tax imposed under this Part if they meet all of the following tests:
- 1) The motor vehicle qualifies as a second division motor vehicle under Section 1-146 of the Illinois Vehicle Code. First division motor vehicles, such as those motor vehicles that are designed for the carrying of not more than 10 persons, do not qualify for the exemption (See 625 ILCS 5/1-146.);
 - 2) The motor vehicle has a gross vehicle weight in excess of 8,000 pounds; and
 - 3) The motor vehicle is subject to the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code. [35 ILCS 115/2] The motor vehicle must be registered and remain registered in such a manner whereby it is subject to payment of the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code [625 ILCS 5/3-815.1] and such fee is actually paid for any period in which the fee is in effect.
- b) Qualifications for exemption beginning July 1, 2004. Beginning on July 1, 2004 through June 30, 2005, sales of certain motor vehicles are not subject to the tax imposed under this Part if they meet all of the following tests:
- 1) The motor vehicle is a second division motor vehicle. First division motor vehicles, such as those motor vehicles that are designed for the carrying of not more than 10 persons, do not qualify for the exemption (See 625 ILCS 5/1-146.);
 - 2) The motor vehicle must have a gross vehicle weight rating in excess of 8,000 pounds. For purposes of this Section, Gross Vehicle Weight Rating means the value specified by the manufacturer or manufacturers as the maximum loaded weight of a single vehicle. (See 625 ILCS 5/1-124.5.);
 - 3) The motor vehicle is subject to the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code. The motor vehicle must be registered and remain registered in such a manner whereby it is

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subject to payment of the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code [625 ILCS 5/3-815.1] and such fee is actually paid for any period in which the fee is in effect; and

- 4) *The motor vehicle is used primarily for commercial purposes.* [35 ILCS 115/2] For purposes of this Section, a motor vehicle used for commercial purposes means any motor vehicle used to transport persons or property in the furtherance of any commercial or industrial enterprise, whether for-hire or not-for-hire.

COMMERCIAL PURPOSE EXAMPLE: A motor vehicle that is used for transportation to work, school, or recreational activities would not be used for commercial purposes.

- c) Documentation of exemption. To properly document the exemption, the seller must obtain a written certificate from the purchaser stating the following:
- 1) the name, address, and telephone number of purchaser;
 - 2) the description and Vehicle Identification Number of the motor vehicle or motor vehicles being purchased;
 - 3) the name and address of seller;
 - 4) the date of purchase;
 - 5) a statement that the motor vehicle will be used primarily for commercial purposes and will be registered under Section 3-815(a) or 3-818(a) of the Illinois Vehicle Code or in such other manner whereby the registration of that motor vehicle will require the payment of the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code and that such vehicle will remain validly registered in such a manner for subsequent registration years;
 - 6) the commercial purpose for which the vehicle will be used along with the purchaser's Illinois Business Tax (IBT) number or other business registration number; and
 - 7) the signature of purchaser.

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- d) Liability for tax. If a purchaser claims the exemption provided in this Section and the vehicle is not considered subject to the Commercial Distribution Fee as described in subsection (a)(3) or (b)(3) of this Section or otherwise does not qualify for this exemption, the purchaser will be liable for the tax based upon the purchase price of that vehicle and any applicable penalties and interest from the date of purchase.
- e) Repair and replacement parts. The exemption provided in this Section may not be claimed for any repair part, replacement part, or other item attached or incorporated into the motor vehicle after the purchase of the motor vehicle. Such items may qualify for exemption from sales tax if the motor vehicle or trailer is used in a manner that qualifies for the rolling stock exemption. See 86 Ill. Adm. Code 130.340.
- f) Trailers. For purposes of this Section, a trailer that is subject to the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code will qualify as a second division motor vehicle under subsection (a)(1) or (b)(1) of this Section. The term "trailer" includes a trailer as defined in Section 1-209 of the Illinois Vehicle Code, a semitrailer as defined in Section 1-187 of the Illinois Vehicle Code, and a pole trailer as defined in Section 1-161 of the Illinois Vehicle Code.

(Source: Added at 29 Ill. Reg. 7070, effective April 26, 2005)

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NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 150
- 3) Section Number: 150.311 Adopted Action:
New Section
- 4) Statutory Authority: P.A. 93-1033
- 5) Effective Date of Amendment: April 26, 2005
- 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: 28 Ill. Reg. 15150; 11/19/04
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: The changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or nonsubstantive technical changes.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace any emergency amendment currently in effect? No. The emergency amendment expired April 1, 2005.
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This rulemaking sets out the new requirements applicable to persons claiming the Commercial Distribution Fee Sales Tax Exemption, as established in PA 93-1033. The rulemaking also sets out the Commercial Distribution Fee Sales Tax Exemption requirements applicable prior to the new requirements.

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

Terry D. Charlton
Senior Counsel – Sales and Excise Taxes
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

(217) 782-2844

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

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

SUBPART A: NATURE OF THE TAX

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

SUBPART B: DEFINITIONS

Section	
150.201	General Definitions

SUBPART C: KINDS OF USES AND USERS NOT TAXED

Section	
150.301	Cross References
150.305	Effect of Limitation that Purchase Must be at Retail From a Retailer to be Taxable
150.306	Interim Use and Demonstration Exemptions
150.310	Exemptions to Avoid Multi-State Taxation
<u>150.311</u>	<u>Commercial Distribution Fee Sales Tax Exemption</u>
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

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- 150.336 Fuel Brought into Illinois in Locomotives
 150.337 Food, Drugs, Medicines and Medical Appliances When Purchased for Use by a Person Receiving Medical Assistance under the Illinois Public Aid Code

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

Section

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

SUBPART E: RECEIPT FOR THE TAX

Section

- 150.601 Requirements

SUBPART F: SPECIAL INFORMATION FOR TAXABLE USERS

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- 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

150.TABLE A Tax Collection Brackets

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

SOURCE: Adopted August 1, 1955; amended at 4 Ill. Reg. 24, p. 553, effective June 1, 1980; amended at 5 Ill. Reg. 5351, effective April 30, 1981; amended at 5 Ill. Reg. 11072, effective October 6, 1981; codified at 6 Ill. Reg. 9326; amended at 8 Ill. Reg. 3704, effective March 12, 1984; amended at 8 Ill. Reg. 7278, effective May 11, 1984; amended at 8 Ill. Reg. 8623, 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 27 Ill. Reg. 1607, effective January 15, 2003; emergency amendment at 27 Ill. Reg. 11209, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; emergency amendment at 28 Ill. Reg. 15266, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7079, effective April 26, 2005.

SUBPART C: KINDS OF USES AND USERS NOT TAXED

Section 150.311 Commercial Distribution Fee Sales Tax Exemption

- a) Qualifications for exemption through June 30, 2004.
Beginning on July 1, 2003 through June 30, 2004, sales of certain motor vehicles are not subject to the tax imposed under this Part if they meet all of the following tests:
- 1) The motor vehicle qualifies as a second division motor vehicle under Section 1-146 of the Illinois Vehicle Code. First division motor vehicles, such as those motor vehicles that are designed for the carrying of not more than 10 persons, do not qualify for the exemption. (See 625 ILCS 5/1-146.);
 - 2) The motor vehicle has a gross vehicle weight in excess of 8,000 pounds;
and
 - 3) The motor vehicle is subject to the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code. [35 ILCS 115/2] The motor vehicle must be registered and remain registered in such a manner whereby it is subject to payment of the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code [625 ILCS 5/3-815.1] and such fee is actually paid for any period in which the fee is in effect.
- b) Qualifications for exemption beginning July 1, 2004.

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Beginning on July 1, 2004 through June 30, 2005, sales of certain motor vehicles are not subject to the tax imposed under this Part if they meet all of the following tests:

- 1) The motor vehicle is a second division motor vehicle. First division motor vehicles, such as those motor vehicles that are designed for the carrying of not more than 10 persons, do not qualify for the exemption. (See 625 ILCS 5/1-146.);
- 2) The motor vehicle must have a gross vehicle weight rating in excess of 8,000 pounds. For purposes of this Section, Gross Vehicle Weight Rating means the value specified by the manufacturer or manufacturers as the maximum loaded weight of a single vehicle. (See 625 ILCS 5/1-124.5.);
- 3) The motor vehicle is subject to the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code. The motor vehicle must be registered and remain registered in such a manner whereby it is subject to payment of the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code [625 ILCS 5/3-815.1] and such fee is actually paid for any period in which the fee is in effect; and
- 4) The motor vehicle is used primarily for commercial purposes. [35 ILCS 115/2] For purposes of this Section, a motor vehicle used for commercial purposes means any motor vehicle used to transport persons or property in the furtherance of any commercial or industrial enterprise, whether for-hire or not-for-hire.

COMMERCIAL PURPOSE EXAMPLE: A motor vehicle that is used for transportation to work, school, or recreational activities would not be used for commercial purposes.

- b) Documentation of exemption. To properly document the exemption, the seller must obtain a written certificate from the purchaser stating the following:
 - 1) the name, address, and telephone number of purchaser;
 - 2) the description and Vehicle Identification Number of the motor vehicle or motor vehicles being purchased;
 - 3) the name and address of seller;

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- 4) the date of purchase;
 - 5) a statement that the motor vehicle will be used primarily for commercial purposes and will be registered under Section 3-815(a) or 3-818(a) of the Illinois Vehicle Code or in such other manner whereby the registration of that motor vehicle will require the payment of the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code and that such vehicle will remain validly registered in such a manner for subsequent registration years;
 - 6) the commercial purpose for which the vehicle will be used along with the purchaser's Illinois Business Tax (IBT) number or other business registration number; and
 - 7) the signature of purchaser.
- c) Liability for tax. If a purchaser claims the exemption provided in this Section and the vehicle is not considered subject to the Commercial Distribution Fee as described in subsection (a)(3) or (b)(3) of this Section or otherwise does not qualify for this exemption, the purchaser will be liable for the tax based upon the purchase price of that vehicle and any applicable penalties and interest from the date of purchase.
- d) Repair and replacement parts. The exemption provided in this Section may not be claimed for any repair part, replacement part, or other item attached or incorporated into the motor vehicle after the purchase of the motor vehicle. Such items may qualify for exemption from sales tax if the motor vehicle or trailer is used in a manner that qualifies for the rolling stock exemption. See 86 Ill. Adm. Code 130.340.
- e) Trailers. For purposes of this Section, a trailer that is subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code will qualify as a second division motor vehicle under subsection (a)(1) or (b)(1) of this Section. The term "trailer" includes a trailer as defined in Section 1-209 of the Illinois Vehicle Code, a semitrailer as defined in Section 1-187 of the Illinois Vehicle Code, and a pole trailer as defined in Section 1-161 of the Illinois Vehicle Code.

(Source: Added at 29 Ill. Reg. 7079, effective April 26, 2005)

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NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Service Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 160
- 3) Section Number: 160.111 Adopted Action: New Section
- 4) Statutory Authority: P.A. 93-1033
- 5) Effective Date of Amendment: April 26, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted 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: 28 Ill. Reg. 15152; 11/19/04
- 10) Has JCAR issued a Statement of Objection to this amendment? 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 nonsubstantive technical changes.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect? No. The emergency amendment expired April 1, 2005
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of amendment: This rulemaking sets out the new requirements applicable to persons claiming the Commercial Distribution Fee Sales Tax Exemption, as established in PA 93-1033. The rulemaking also sets out the requirements applicable prior to the new requirements.
- 16) Information and questions regarding this adopted amendment shall be directed to:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

Terry Charlton
Senior Counsel, Sales and Excise Taxes
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

217/782-2844

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 160
SERVICE USE TAX

Section	
160.101	Nature of the Tax
160.105	Definitions
160.110	Kinds of Uses And Users Not Taxed
<u>160.111</u>	<u>Commercial Distribution Fee Sales Tax Exemption</u>
160.115	Collection Of The Service Use Tax By Servicemen
160.116	Persons Who Lease Tangible Personal Property to Exempt Hospitals
160.117	Persons Who Lease Tangible Personal Property to Governmental Bodies
160.120	Receipt For The Tax (Repealed)
160.125	Special Information For Users
160.130	Registration Of Servicemen
160.135	Serviceman's Return
160.140	Penalties, Interest, Statute of Limitations and Administrative Procedures
160.145	Incorporation Of Illinois Service Occupation Tax Regulations By Reference
160.150	Claims To Recover Erroneously Paid Tax – Limitations – Procedures
160.155	Disposition Of Credit Memoranda By Holders Thereof
160.160	Refunds
160.165	Interest

AUTHORITY: Implementing the Service Use Tax Act [35 ILCS 110] and authorized by Section 2505-100 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-100].

SOURCE: Adopted May 21, 1962; codified at 6 Ill. Reg. 9326; amended at 8 Ill. Reg. 8619, effective June 5, 1984; amended at 11 Ill. Reg. 5322, effective March 17, 1987; amended at 11 Ill. Reg. 9963, effective May 8, 1987; amended at 13 Ill. Reg. 9399, effective June 6, 1989; amended at 15 Ill. Reg. 5845, effective April 5, 1991; amended at 18 Ill. Reg. 1557, effective January 13, 1994; amended at 20 Ill. Reg. 7015, effective May 7, 1996; amended at 20 Ill. Reg. 16219, effective December 16, 1996; amended at 24 Ill. Reg. 8135, effective May 26, 2000; amended at 25 Ill. Reg. 5015, effective March 23, 2001; amended at 26 Ill. Reg. 4929, effective March 15, 2002; amended at 27 Ill. Reg. 822, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11216, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; emergency amendment at 28 Ill. Reg. 15275, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7088, effective April 26, 2005.

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Section 160.111 Commercial Distribution Fee Sales Tax Exemption

- a) Qualifications for exemption through June 30, 2004. Beginning on July 1, 2003 through June 30, 2004, sales of certain motor vehicles are not subject to the tax imposed under this Part if they meet all of the following tests:
- 1) The motor vehicle qualifies as a second division motor vehicle under Section 1-146 of the Illinois Vehicle Code. First division motor vehicles, such as those motor vehicles that are designed for the carrying of not more than 10 persons, do not qualify for the exemption (See 625 ILCS 5/1-146.);
 - 2) The motor vehicle has a gross vehicle weight in excess of 8,000 pounds; and
 - 3) The motor vehicle is subject to the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code. [35 ILCS 110/2] The motor vehicle must be registered and remain registered in such a manner whereby it is subject to payment of the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code [625 ILCS 5/3-815.1] and such fee is actually paid for any period in which the fee is in effect.
- b) Qualifications for exemption beginning July 1, 2004. Beginning on July 1, 2004 through June 30, 2005, sales of certain motor vehicles are not subject to the tax imposed under this Part if they meet all of the following tests:
- 1) The motor vehicle is a second division motor vehicle. First division motor vehicles, such as those motor vehicles that are designed for the carrying of not more than 10 persons, do not qualify for the exemption (See 625 ILCS 5/1-146.);
 - 2) The motor vehicle must have a gross vehicle weight rating in excess of 8,000 pounds. For purposes of this Section, Gross Vehicle Weight Rating means the value specified by the manufacturer or manufacturers as the maximum loaded weight of a single vehicle (See 625 ILCS 5/1-124.5.);
 - 3) The motor vehicle is subject to the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code. [35 ILCS 110/2] The

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motor vehicle must be registered and remain registered in such a manner whereby it is subject to payment of the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code [625 ILCS 5/3-815.1] and such fee is actually paid for any period in which the fee is in effect; and

- 4) *The motor vehicle is used primarily for commercial purposes.* [35 ILCS 110/2]. For purposes of this Section, a motor vehicle used for commercial purposes means any motor vehicle used to transport persons or property in the furtherance of any commercial or industrial enterprise, whether for-hire or not-for-hire.

COMMERCIAL PURPOSE EXAMPLE: A motor vehicle that is used for transportation to work, school, or recreational activities would not be used for commercial purposes.

- c) Documentation of exemption. To properly document the exemption, the seller must obtain a written certificate from the purchaser stating the following:
- 1) the name, address, and telephone number of purchaser;
 - 2) the description and Vehicle Identification Number of the motor vehicle or motor vehicles being purchased;
 - 3) the name and address of seller;
 - 4) the date of purchase;
 - 5) a statement that the motor vehicle will be used primarily for commercial purposes and will be registered under Section 3-815(a) or 3-818(a) of the Illinois Vehicle Code or in such other manner whereby the registration of that motor vehicle will require the payment of the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code and that such vehicle will remain validly registered in such a manner for subsequent registration years;
 - 6) the commercial purpose for which the vehicle will be used along with the purchaser's Illinois Business Tax (IBT) number or other business registration number; and

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

- 7) the signature of purchaser.
- d)** Liability for tax. If a purchaser claims the exemption provided in this Section and the vehicle is not considered subject to the Commercial Distribution Fee as described in subsection (a)(3) or (b)(3) of this Section or otherwise does not qualify for this exemption, the purchaser will be liable for the tax based upon the purchase price of that vehicle and any applicable penalties and interest from the date of purchase.
- e)** Repair and replacement parts. The exemption provided in this Section may not be claimed for any repair part, replacement part, or other item attached or incorporated into the motor vehicle after the purchase of the motor vehicle. Such items may qualify for exemption from sales tax if the motor vehicle or trailer is used in a manner that qualifies for the rolling stock exemption. See [86 Ill. Adm. Code 130.340](#).
- f)** Trailers. For purposes of this Section, a trailer that is subject to the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code will qualify as a second division motor vehicle under subsection (a)(1) or (b)(1) of this Section. The term "trailer" includes a trailer as defined in Section 1-209 of the Illinois Vehicle Code, a semitrailer as defined in Section 1-187 of the Illinois Vehicle Code, and a pole trailer as defined in Section 1-161 of the Illinois Vehicle Code.

(Source: Added at 29 Ill. Reg. 7088, effective April 26, 2005)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MAY AGENDA

SCHEDULED MEETING:

STRATTON OFFICE BUILDING
ROOM C-1
SPRINGFIELD, ILLINOIS
8:00 A.M.
MAY 17, 2005

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
Phone: 217/785-2254*

RULEMAKINGS CURRENTLY BEFORE JCAR

PROPOSED RULEMAKINGS

Central Management Services

1. Pay Plan (80 Ill. Adm. Code 310)
 - First Notice Published: 29 Ill. Reg. 2105 – 2/14/05
 - Expiration of Second Notice: 5/18/05
2. Pay Plan (80 Ill. Adm. Code 310)
 - First Notice Published: 29 Ill. Reg. 2884 – 2/25/05
 - Expiration of Second Notice: 5/27/05
3. Senior Citizens and Disabled Persons Prescription Drug Discount Program (80 Ill. Adm. Code 2151)
 - First Notice Published: 29 Ill. Reg. 1689 – 2/4/05
 - Expiration of Second Notice: 5/21/05

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MAY AGENDA

Children and Family Services

4. Licensing Standards for Child Care Institutions and Maternity Centers (89 Ill. Adm. Code 404)
-First Notice Published: 28 Ill. Reg. 8947 – 7/2/04
-Expiration of Second Notice: 6/6/05

Commerce and Economic Opportunity

5. Industrial Training Program (56 Ill. Adm. Code 2650)
-First Notice Published: 29 Ill. Reg. 14309 – 11/5/04
-Expiration of Second Notice: 6/22/05

Human Services

6. Aid to the Aged, Blind or Disabled (89 Ill. Adm. Code 113)
-First Notice Published: 29 Ill. Reg. 1499 – 1/28/05
-Expiration of Second Notice: 5/29/05

Financial and Professional Regulation

7. Fees and Charges (50 Ill. Adm. Code 2505)
-First Notice Published: 28 Ill. Reg. 13687 – 10/15/04
-Expiration of Second Notice: 6/11/05

Natural Resources

8. Field Trails on Department-Owned or Managed Sites (17 Ill. Adm. Code 910)
-First Notice Published: 29 Ill. Reg. 2149 – 2/14/05
-Expiration of Second Notice: 5/27/05
9. Field Trials on Non-Department Owned or Managed Lands (17 Ill. Adm. Code 930)
-First Notice Published: 29 Ill. Reg. 2161 – 2/14/05
-Expiration of Second Notice: 5/27/05
10. Construction in Floodways of Rivers, Lakes and Streams (17 Ill. Adm. Code 3700)
-First Notice Published: 29 Ill. Reg. 2603 – 2/18/05
-Expiration of Second Notice: 5/27/05

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MAY AGENDA

11. Regulation of Public Waters (17 Ill. Adm. Code 3704)
 - First Notice Published: 29 Ill. Reg. 2607 – 2/18/05
 - Expiration of Second Notice: 5/27/05
12. General (62 Ill. Adm. Code 1700)
 - First Notice Published: 28 Ill. Reg. 16709 – 12/17/04
 - Expiration of Second Notice: 5/27/05
13. Areas Designated by Act of Congress (62 Ill. Adm. Code 1761)
 - First Notice Published: 28 Ill. Reg. 16085 – 12/17/04
 - Expiration of Second Notice: 5/27/05
14. Criteria for Designating Areas as Unsuited for Surface Coal Mining Operations (62 Ill. Adm. Code 1762)
 - First Notice Published: 28 Ill. Reg. 16100 – 12/17/04
 - Expiration of Second Notice: 5/27/05
15. Requirements for Coal Exploration (62 Ill. Adm. Code 1772)
 - First Notice Published: 28 Ill. Reg. 16103 – 12/17/04
 - Expiration of Second Notice: 5/27/05
16. Requirements for Permits and Permit Processing (62 Ill. Adm. Code 1773)
 - First Notice Published: 28 Ill. Reg. 16110 – 12/17/04
 - Expiration of Second Notice: 5/27/05

Pollution Control Board

17. Emissions Reduction Market System (35 Ill. Adm. Code 205)
 - First Notice Published: 28 Ill. Reg. 16137 – 12/17/04
 - Expiration of Second Notice: 6/11/05
18. Definitions and General Provisions (35 Ill. Adm. Code 211)
 - First Notice Published: 28 Ill. Reg. 16180 – 12/17/04
 - Expiration of Second Notice: 6/11/05

Public Aid

19. Hospital Services (89 Ill. Adm. Code 148)
 - First Notice Published: 29 Ill. Reg. 1782 – 2/4/05
 - Expiration of Second Notice: 5/22/05

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MAY AGENDA

Racing Board

20. Definitions (11 Ill. Adm. Code 210)
 - First Notice Published: 29 Ill. Reg. 1843 – 2/4/05
 - Expiration of Second Notice: 5/18/05
21. Prohibited Conduct (11 Ill. Adm. Code 423)
 - First Notice Published: 29 Ill. Reg. 1864 – 2/4/05
 - Expiration of Second Notice: 5/18/05
22. Licensing (11 Ill. Adm. Code 502)
 - First Notice Published: 29 Ill. Reg. 638 – 1/3/05
 - Expiration of Second Notice: 5/19/05
23. Race Track Operators and Their Duties (11 Ill. Adm. Code 1305)
 - First Notice Published: 29 Ill. Reg. 1867 – 2/4/05
 - Expiration of Second Notice: 5/18/05
24. Disclosure Rules (11 Ill. Adm. Code 1437)
 - First Notice Published: 29 Ill. Reg. 1871 – 2/4/05
 - Expiration of Second Notice: 5/18/05

Secretary of State

25. Statements of Economic Interests (2 Ill. Adm. Code 565)
 - First Notice Published: 29 Ill. Reg. 7894 – 6/11/04
 - Expiration of Second Notice: 5/22/05
26. Illinois State Library Talking Book and Braille Services (23 Ill. Adm. Code 3025)
 - First Notice Published: 28 Ill. Reg. 16451 – 12/27/04
 - Expiration of Second Notice: 6/14/05
27. Certificates of Title, Registration of Vehicles (92 Ill. Adm. Code 1010)
 - First Notice Published 29 Ill. Reg. 1534 – 1/28/05
 - Expiration of Second Notice: 6/9/06
28. Issuance of Licenses (92 Ill. Adm. Code 1030)
 - First Notice Published: 29 Ill. Reg. 9936 – 7/16/04
 - Expiration of Second Notice: 5/26/05

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MAY AGENDA

Student Assistance Commission

29. General Provisions (23 Ill. Adm. Code 2700)
 - First Notice Published: 29 Ill. Reg. 2171 – 2/14/05
 - Expiration of Second Notice: 6/2/05
30. Federal Family Education Loan Program (FFELP) (23 Ill. Adm. Code 2720)
 - First Notice Published: 29 Ill. Reg. 2184 – 2/14/05
 - Expiration of Second Notice: 6/2/05
31. Illinois National Guard (ING) Grant Program (23 Ill. Adm. Code 2730)
 - First Notice Published: 29 Ill. Reg. 2191 – 2/14/05
 - Expiration of Second Notice: 6/2/05
32. Illinois Veteran Grant (IVG) Program (23 Ill. Adm. Code 2733)
 - First Notice Published: 29 Ill. Reg. 2199 – 2/14/05
 - Expiration of Second Notice: 6/02/05
33. Monetary Award Program (MAP) (23 Ill. Adm. Code 2735)
 - First Notice Published: 29 Ill. Reg. 2207 – 2/14/05
 - Expiration of Second Notice: 6/2/05
34. State Scholar Program (23 Ill. Adm. Code 2760)
 - First Notice Published: 29 Ill. Reg. 2215 – 2/14/05
 - Expiration of Second Notice: 6/2/05
35. Minority Teachers of Illinois (MTI) Scholarship Program (23 Ill. Adm. Code 2763)
 - First Notice Published: 29 Ill. Reg. 2221 – 2/14/05
 - Expiration of Second Notice: 6/2/05
36. Illinois Special Education Teacher Tuition Waiver (SETTW) Program (23 Ill. Adm. Code 2765)
 - First Notice Published: 29 Ill. Reg. 2228 – 2/14/05
 - Expiration of Second Notice: 6/2/05
37. College Savings Bond Bonus Incentive Grant (BIG) Program (23 Ill. Adm. Code 2771)
 - First Notice Published: 29 Ill. Reg. 2235 – 2/14/05
 - Expiration of Second Notice: 6/2/05

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MAY AGENDA

38. Illinois Prepaid Tuition Program (23 Ill. Adm. Code 2775)
-First Notice Published: 29 Ill. Reg. 2241 – 2/14/05
-Expiration of Second Notice: 6/2/05

EMERGENCY RULEMAKINGS

Capital Development Board

39. Illinois Energy Conservation Code (71 Ill. Adm. Code 600)
-Notice Published: 29 Ill. Reg. 5736 – 4/22/05
40. Capital Development Board Energy Code (Repeal) (71 Ill. Adm. Code 600)
-Notice Published: 4/29/05

Central Management Services

41. Extensions of Jurisdiction (80 Ill. Adm. Code 305)
-Notice Published: 29 Ill. Reg. 5751 – 4/22/05

Elections

42. Personnel (26 Ill. Adm. Code 212)
-Notice Published: 29 Ill. Reg. 5534 – 4/15/05

Financial and Professional Regulation

43. Pharmacy Practice Act of 1987 (68 Ill. Adm. Code 1330)
-Notice Published: 29 Ill. Reg. 5586 – 4/15/05

Public Aid

44. Hospital Services (89 Ill. Adm. Code 148)
-Notice Published: 29 Ill. Reg. 5756 – 4/22/05

PEREMPTORY RULEMAKING

Central Management Services

45. Pay Plan (80 Ill. Adm. Code 310)
-Notice Published: 29 Ill. Reg. 6105 – 4/29/05

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MAY AGENDA

EXEMPT RULEMAKINGSPollution Control Board

46. Hazardous Waste Management System: General (35 Ill. Adm. Code 720)
 - Proposed Date: 1/3/05
 - Adopted Date: 5/6/05
47. Standards Applicable to Generators of Hazardous Waste (35 Ill. Adm. Code 722)
 - Proposed Date: 1/3/05
 - Adopted Date: 5/6/05
48. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 724)
 - Proposed Date: 1/3/05
 - Adopted Date: 5/6/05
49. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 725)
 - Proposed Date: 1/3/05
 - Adopted Date: 5/6/05
50. Solid Waste Disposal: General Provisions (35 Ill. Adm. Code 810)
 - Proposed Date: 1/21/05
 - Adopted Date: 4/8/05
51. Standards for New Solid Waste Landfills (35 Ill. Adm. Code 811)
 - Proposed Date: 1/21/05
 - Adopted Date: 4/8/05
52. Procedural Requirements for Permitted Landfills (35 Ill. Adm. Code 813)
 - Proposed Date: 1/21/05
 - Adopted Date: 4/8/05

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MAY AGENDA

AGENCY RESPONSES

Central Management Services

53. Acquisition, Management and Disposal of Real Property (44 Ill. Adm. Code 5000)
-First Notice Published: 28 Ill. Reg. 15686 – 12/3/04
-Recommendation Date: 1/11/05
-Agency Response:

Racing Board

54. Medication (11 Ill. Adm. Code 603) (Emergency)
-First Notice Published: 29 Ill. Reg. 2779 – 2/18/05
-Objection Date: 3/15/05
-Agency Response: Agreement

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICE RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of April 26, 2005 through May 2, 2005 and have been scheduled for review by the Committee at its May 17, 2005 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.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
6/9/05	<u>Secretary of State</u> , Certificates of Title, Registration of Vehicles (92 Ill. Adm. Code 1010)	1/28/05 29 Ill. Reg. 1534	5/17/05
6/11/05	<u>Department of Financial and Professional Regulation-Division of Insurance</u> , Fees and Charges (50 Ill. Adm. Code 2505)	10/15/04 28 Ill. Reg. 13687	5/17/05
6/11/05	<u>Pollution Control Board</u> , Emissions Reduction Market System (35 Ill. Adm. Code 205)	12/17/04 28 Ill. Reg. 16137	5/17/05
6/11/05	<u>Pollution Control Board</u> , Definitions and General Provisions (35 Ill. Adm. Code 211)	12/17/04 28 Ill. Reg. 16180	5/17/05
6/15/05	<u>Elevator Review Board</u> , Illinois Elevator Safety Rules (41 Ill. Adm. Code 220)	1/21/05 29 Ill. Reg. 1101	5/17/05

DEPARTMENT OF LABOR

NOTICE OF PUBLIC INFORMATION

CONTRACTOR PROHIBITED FROM AN AWARD
OF A CONTRACT OR SUBCONTRACT
FOR PUBLIC WORKS PROJECTS

Pursuant to the findings in Re: McAdam & Associates, Inc., IDOL File No. 2004-PW-EH05-1591, the Director of the Department of Labor gives notice that [McAdam & Associates, Inc.], its member(s), officer(s), manager(s), agent(s), and all persons acting in McAdam & Associates, Inc.'s interest and/or on McAdam & Associates, Inc.'s behalf, and any business entity, including, but not limited to, any firm, corporation, partnership or association in which McAdam & Associates, Inc., its member(s), officer(s), manager(s), agent(s), and all other persons acting in McAdam & Associates, Inc.'s interest and/or on McAdam & Associates, Inc.'s behalf have an interest, pecuniary or otherwise, is(are) prohibited from bidding, accepting or working on any contract or subcontract for a public works project covered by the Prevailing Wage Act, 820 ILCS 130/0.01-12 (2001), commencing April 29, 2005 and continuing through April 29, 2007.

Copies of the Prevailing Wage Act are available on the internet at <http://www.legis.state.il.us/ilcs/ch820/ch820act130.htm>, and at the:

Illinois Department of Labor
Conciliation and Mediation Division
One West Old State Capital Plaza, Room 300
Springfield, Illinois 62701-1217

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2005 FIRST QUARTER SUNSHINE INDEX

1. Statute requiring agency to publish information concerning Private Letter Rulings in the Illinois Register:

Name of Act: Illinois Department of Revenue Sunshine Act

Citation: 20 ILCS 2515/1 et seq.

2. Summary of information:

Index of Department of Revenue income tax Private Letter Rulings and General Information Letters issued for the First Quarter of 2005. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 2 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Alternative Apportionment
Base Income
Credits – Foreign Tax
Public Law 86-272/Nexus
Subtraction Modifications – Other Rulings
Withholding – Exemptions
Withholding – Other Rulings

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50 cents per page for each page over one.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2005 FIRST QUARTER SUNSHINE INDEX

Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.revenue.state.il.us.

The indexes of Income Tax letter rulings for 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003 and 2004 are available for \$3.00. A cumulative Income Tax Sunshine Index of 1981 through 1989 letter rulings may be purchased for \$4.00.

3. Name and address of person to contact concerning this information:

Linda Settle
Illinois Department of Revenue
Legal Services Office
101 West Jefferson Street
Springfield, Illinois 62794
Telephone: (217) 782-7055

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2005 FIRST QUARTER SUNSHINE INDEX

ALTERNATIVE APPORTIONMENT

IT 05-0001-PLR 01/26/2005 Petition to apply 86 Ill. Admin. Code Section 100.3380(d) to taxable years beginning prior to its effective date is granted.

IT 05-0002-PLR 03/29/2005 Petition for to use alternative apportionment formula granted to taxpayer whose business activity in Illinois would not be fairly reflected in the sales factor.

BASE INCOME

IT 05-0008-GIL 03/08/2005 Illinois income tax treatment of health savings accounts qualifying under IRC Section 223 follows the federal treatment.

IT 05-0010-GIL 03/14/2005 Foreign corporation whose income is exempt from federal taxation by treaty has no Illinois base income.

CREDITS – FOREIGN TAX

IT 05-0004-GIL 01/25/2005 Foreign tax credit is not allowed for taxes paid to another state on compensation "paid in this State" under IITA Section 304(a)(2)(B).

IT 05-0009-GIL 03/11/2005 Creditable taxes paid to another state include the amount paid for a transferable credit.

IT 05-0012-GIL 03/29/2005 No credit is allowed for taxes paid to another state on compensation "paid in this State" under IITA Section 304(a)(2)(B).

PUBLIC LAW 86-272/NEXUS

IT 05-0001-GIL 01/04/2005 Sales of service are not protected from state taxation by Public Law 86-272.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2005 FIRST QUARTER SUNSHINE INDEX

IT 05-0003-GIL 01/24/2005 Activities of independent contractors conducted in Illinois on behalf of the taxpayer may cause the loss of protection under Public Law 86-272.

IT 05-0006-GIL 02/10/2005 Nexus questions generally may not be resolved by letter ruling.

SUBTRACTION MODIFICATIONS – OTHER RULINGS

IT 05-0007-GIL 03/07/2005 Only the bonus depreciation subtractions allowed on the Form IL-4562 may be taken.

WITHHOLDING – EXEMPTIONS

IT 05-0005-GIL 02/02/2005 Illinois requires paper Forms W-4 signed by the employee.

WITHHOLDING – OTHER RULINGS

IT 05-0002-GIL 01/12/2005 Application of the "paid in this State" principles to several examples.

IT 05-0011-GIL 03/16/2005 Illinois law requires paper W-4s.

PROCLAMATIONS

**2005-133
CONSERVATION DAY**

WHEREAS, the Natural Resources Conservation Service strives to protect Illinois' soil resources, improve water quality, preserve wildlife habitat, and secure open space and prime farmland; and

WHEREAS, conservationists across our beautiful State work hand in hand with the citizens of Illinois to conserve natural resources in order to create a healthier land; and

WHEREAS, along with Illinois and federal conservation agencies and districts, leadership for the conservation of natural resources on private lands is provided by the Natural Resources Conservation Service of the U.S. Department of Agriculture; and

WHEREAS, the Natural Resources Conservation Service and its predecessor, the Soil Conservation Service, have been helping agricultural landowners in Illinois meet their conservation goals since 1935; and

WHEREAS, the Natural Resources Conservation Service has established an important conservation partnership with Illinois' private landowners and producers:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 27, 2005 as **CONSERVATION DAY** in Illinois, and encourage all citizens to recognize the 70th Anniversary of the Natural Resources Conservation Service, and their contributions to this State, so as to increase awareness among Illinois' citizens about the importance of preserving our natural resources.

Issued by the Governor April 22, 2005.

Filed by the Secretary of State April 26, 2005.

**2005-134
JACK LICATA DAY**

WHEREAS, Jack Licata faithfully served the people of Franklin County, Illinois for 32 years as the County Highway Superintendent, prior to his death on February 17, 2005; and

WHEREAS, before his appointment as Franklin Highway Superintendent, Jack Licata also served the people of Illinois as an engineer with the Illinois Department of Transportation; and

WHEREAS, during his tenure as County Highway Superintendent, Jack Licata supervised the repaving of over 130 miles and the reconstruction of 190 bridges on county and township roads in Franklin County. He also participated in the reconstruction of 12 railroad bridges; and

WHEREAS, in addition to his duties as County Highway Superintendent, Jack Licata also served for 21 years as a member of the Board of Education of DuQuoin Community Unit School District No. 300; and

WHEREAS, Jack Licata exhibited the highest standards of public service, professional competence and integrity throughout his entire career as a civil engineer; and

PROCLAMATIONS

WHEREAS, the Franklin County Board has voted to re-name the West Frankfort Lake Bridge, located on New Lake Road, in honor of Jack Licata at a dedication ceremony to be held on Friday, May 6, 2005:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim Friday, May 6, 2005 as **JACK LICATA DAY** in Illinois, and do further express to the family and friends of Mr. Licata the gratitude and good wishes of the people of this State as you gather to dedicate the "Jack Licata Bridge."

Issued by the Governor April 26, 2005.

Filed by the Secretary of State April 26, 2005.

2005-135**ILLINOIS PTA WEEK**

WHEREAS, on May 30, 1900, just three years after the inception of the National Congress, the Illinois Congress of Mothers, now called the Illinois PTA, was founded in Evanston, Illinois with the mission of addressing child-related crises; and

WHEREAS, since that time, the Illinois PTA has put forth tremendous efforts to, among other things, bridge the gap between parent and teacher, and represent the interests of students with the goal of positively impacting their educational development; and

WHEREAS, the eight primary objectives of the PTA are: (1) to support and speak on behalf of the children and youth in the schools, in the community and before governmental bodies and other organizations that make decisions affecting children; (2) to assist parents in developing the skills they need to raise and protect their children; (3) to encourage parent and public involvement in the public schools of this nation; (4) to promote the welfare of children and youth in home, school, community and place of worship; (5) to raise the standards of home life; (6) to secure adequate laws for the care and protection of children and youth; (7) to bring into closer relations the home and the school, so that parents and teachers may cooperate in the education of children and youth; and (8) to develop between educators and the general public such united efforts as will secure for all children and youth the highest advantages in physical, mental, social and spiritual education; and

WHEREAS, in their almost 105 years of existence, the Illinois PTA has accomplished a great deal. With a current membership of 200,000, they continue to be a strong voice for the advocacy of children and youth, working with the Illinois State Board of Education, along with cooperating agencies in the fields of health, safety, environmental concerns, juvenile protection, cultural arts, and community outreach, and other governmental bodies, in the continuing mission of ensuring a better future for our children; and

WHEREAS, my administration is proud to recognize the Illinois PTA for their wonderful presence in this State for over 100 years, and looks forward to their great work in the years to come:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 29-May 6, 2005 as **ILLINOIS PTA WEEK**, and encourage all citizens to

PROCLAMATIONS

recognize the great work of the PTA, and to join in their efforts to enhance the educational experience of every young person in Illinois.

Issued by the Governor April 26, 2005.

Filed by the Secretary of State April 26, 2005.

2005-136**HELPING CITIZENS WITH DEVELOPMENTAL DISABILITIES DAYS**

WHEREAS, a “developmental disability” is defined as a disorder caused by mental retardation, cerebral palsy, epilepsy, autism, or any other condition which results in impairment similar to that of mental retardation. A developmental disability originates before the age of 18 and is expected to continue indefinitely; and,

WHEREAS, approximately 1.5 percent of the U.S. population is afflicted with a developmental disability or mental retardation. Due to the early onset and debilitating nature of these disorders, many more children are affected than adults; and

WHEREAS, one of the main purposes of the Knights of Columbus, a fraternal order with 1.6 million members around the world, is to support various charitable causes that seek to make our families and communities stronger. It has donated \$1 billion and volunteered 400 million hours of service in the past decade; and

WHEREAS, the Illinois State Council of the Knights of Columbus will hold their 35th Annual Fund Drive for the Mental Retardation/Learning Disabilities Program from September 17-19, 2004, distributing the funds they raise to more than 300 organizations throughout Illinois:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim September 16-18, 2005 as **HELPING CITIZENS WITH DEVELOPMENTAL DISABILITIES DAYS** in Illinois, and encourage all citizens to contribute what they can to assist the people that are afflicted with these terrible disorders.

Issued by the Governor April 28, 2005.

Filed by the Secretary of State April 28, 2005.

2005-137**ILLINOIS STATE GEOLOGICAL SURVEY WEEK**

WHEREAS, on May 12, 1905, Governor Charles S. Deneen signed legislation authorizing the creation of the Illinois State Geological Survey to study, inventory, and report on the geology and mineral resources of this State; and

WHEREAS, during the past one hundred years, the Illinois State Geological Survey has published hundreds of maps, scientific articles, reports and educational materials that have established the agency’s reputation as one of the premier geological research and scientific service institutions in North America; and

WHEREAS, economic studies have demonstrated that each dollar invested in producing detailed geological maps by the Illinois State Geological Survey and making them available to the public has returned between twenty-five and thirty-nine dollars to the economy of the State

PROCLAMATIONS

through reduced costs for environmental cleanups, exploring for earth resources and safe siting of waste disposal facilities, industries and critical infrastructure; and

WHEREAS, the geologists at the Illinois State Geological Survey are continuing to serve the people of Illinois by creating detailed geological maps of the complexly layered glacial deposits in rapidly urbanizing areas of the state where the needs are greatest, and by creating interpretive maps and computerized, three-dimensional models of the geologic deposits to help local officials locate and protect groundwater aquifers, find the best sites for industrial development, properly plan necessary urban and suburban growth, route highways and other modes of transportation, and build other infrastructure; and

WHEREAS, the scientific experts at the Illinois State Geological Survey are developing new technologies and studying the State's geology in order to make the State of Illinois the recognized leader in "cradle-to-grave" management of fossil fuel resources so that our citizens, and the nation, may ultimately enjoy the possibility of using the State's abundant coal, oil and gas resources in a pollution-free manner; and

WHEREAS, on May 12, 2005, the Illinois State Geological Survey is beginning a year-long celebration of its one hundred years of service to the people of Illinois:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 12-18, 2005 as **ILLINOIS STATE GEOLOGICAL SURVEY WEEK** in Illinois in honor of the beginning of the year-long celebration, and encourage all citizens to support and participate in the many events arranged during the coming year to recognize the Centennial Celebration.

Issued by the Governor April 28, 2005.

Filed by the Secretary of State April 28, 2005.

2005-138**ELECTRICAL SAFETY MONTH**

WHEREAS, hundreds of people die, and thousands are injured each year in electrical accidents; and

WHEREAS, based on reports by the U. S. Consumer Product Safety Commission, an estimated 500 people are killed and more than 5,000 are injured annually due to residential electrical-related fires; and

WHEREAS, property damage, due to electrical-related fires amounts to nearly \$1.6 billion each year; and

WHEREAS, following basic electrical safety precautions can help prevent injury or death to thousands of people each year; and

WHEREAS, citizens are encouraged to check their homes and workplaces for possible electrical hazards to help protect their lives and their property; and

WHEREAS, Underwriters Laboratories Incorporated (UL) is an independent, not-for-profit product safety testing and certification organization, testing products for public safety for more than a century; and

PROCLAMATIONS

WHEREAS, the efforts of the Electrical Safety Foundation International and the UL serve to educate the public about the importance of respecting electricity, and practicing electrical safety in the home, school and workplace; and

WHEREAS, UL is actively helping to move this effort forward in order to reduce the number of electrical injuries and deaths from electrical hazards:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 2005 as **ELECTRICAL SAFETY MONTH** in Illinois, and encourage all citizens to recognize the importance of practicing electrical safety habits in the home, school and workplace to decrease electrical hazards.

Issued by the Governor April 28, 2005.

Filed by the Secretary of State April 28, 2005.

2005-139**MULTIPLE CHEMICAL SENSITIVITY/TOXIC INJURY AWARENESS AND EDUCATION MONTH**

WHEREAS, toxic injury, also known as multiple chemical sensitivity or MCS, is a chronic debilitating condition for which there is no known cure; and

WHEREAS, this condition is characterized by heightened sensitivity to very small amounts of air pollution, petrochemicals and other toxins found in the environments of our homes, schools, and work places; and

WHEREAS, symptoms of toxic injury vary, but may include: flu like symptoms, severe headaches, chronic fatigue, a metallic taste in the mouth, or difficulty breathing and concentrating. Once sensitized, our bodies react more easily to a greater number of substances; and

WHEREAS, getting rid of all aerosol products, disposing of all scented products, eliminating permanent press sheets and clothing, and drinking, eating and storing food items in glass, ceramic, or stainless steel, are steps that can be taken to better protect toxic injury sufferers; and

WHEREAS, the "MCS" Beacon of Hope Foundation was established in July 2000 to raise awareness and educate the public on this growing health issue:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim May 2004 as **MULTIPLE CHEMICAL SENSITIVITY/TOXIC INJURY AWARENESS AND EDUCATION MONTH** in Illinois, and encourage all citizens to become conscientious of the toxic hazards that plague our environment.

Issued by the Governor April 28, 2005.

Filed by the Secretary of State April 28, 2005.

2005-140**LANDSCAPE ARCHITECTURE MONTH**

PROCLAMATIONS

WHEREAS, landscape architecture is a diverse profession that blends elements from architecture, civil engineering and urban planning to form aesthetic relationships between people and the land; and

WHEREAS, landscape architects use design skills and aesthetic sense to enhance and add beauty to our surroundings; and

WHEREAS, the work of landscape architects increases the quality of life in our communities; and

WHEREAS, landscape architects plan the communities, public spaces and infrastructure that will support our housing, commercial and transportation needs; and

WHEREAS, the State of Illinois and the City of Chicago continue to benefit from the skills of landscape architects who create and preserve our parks, local schoolyards, and commercial streetscapes:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 2005 as **LANDSCAPE ARCHITECTURE MONTH** in Illinois, and encourage all citizens to recognize the legacy of landscape architects and their important contributions to the State of Illinois.

Issued by the Governor April 28, 2005.

Filed by the Secretary of State April 28, 2005.

2005-141**TOBACCO FREE WEEK**

WHEREAS, nearly 23 percent of Illinois adults smoke and are at risk of tobacco-related diseases including cancer, heart disease, stroke and other serious and costly health problems; and

WHEREAS, tobacco use is the leading cause of preventable deaths and, on average, men who smoke cut their lives short by 13.2 years and female smokers lose 14.5 years; and

WHEREAS, smoking causes more deaths than AIDS, alcohol, motor vehicle accidents, homicide, illicit drugs, and suicide combined; and

WHEREAS, more than 16,500 Illinoisans die due to tobacco-related illnesses annually and the state economic impact of smoking amounts to \$6.7 billion each year in direct medical costs and lost productivity; and

WHEREAS, more than 29 percent of high school students, more than 7 percent of middle school students and 12 percent of pregnant women are current smokers; and

WHEREAS, 71 percent of adults want smoking to be banned in all areas in the workplace and more than 53 percent of adults want smoking to be banned in all indoor dining areas of restaurants; and

WHEREAS, the Illinois Department of Public Health, Illinois Tobacco Free Communities and other health care professionals throughout Illinois are raising awareness about the dangers of tobacco use, encouraging people not to use tobacco, motivating users to quit and promoting tobacco free environments:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 2-6, 2005 as **TOBACCO FREE WEEK** in Illinois, and encourage all citizens to

PROCLAMATIONS

live healthy lifestyles by choosing not to use tobacco products in order to achieve optimum health.

Issued by the Governor April 29, 2005.

Filed by the Secretary of State April 29, 2005.

2005-142**HUMAN RESOURCES MANAGEMENT ASSOCIATION OF CHICAGO
PROFESSIONAL DAY**

WHEREAS, the management of human resources plays an integral role in the work of Illinois companies who are committed to excellence; and

WHEREAS, the management of human resources is a vitally important focus for companies in Illinois as they face greater demand for high-skilled workers, increasing cost pressures on employee and retiree benefits, and greater scrutiny from regulators, shareholders and investors; and

WHEREAS, the management of human resources is essential in today's marketplace as companies face competition and the impact of global expansion; and

WHEREAS, human resource practices have adapted to the changing needs of businesses and families in Chicago throughout the last century, from the days of the Chicago stockyards to the current era of an increasingly high-tech economy and diverse workforce; and

WHEREAS, human resource professionals partner with business leaders to design and deliver workforce strategies that drive superior business performance; and

WHEREAS, the Human Resources Management Association of Chicago has established a unique, regionally-based, independent and company-focused organization and has provided discussion and networking forums for ninety (90) years to strengthen the city and region's economic growth through the development of people:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim June 13, 2005 as **HUMAN RESOURCES MANAGEMENT ASSOCIATION OF CHICAGO PROFESSIONAL DAY** in Illinois, and encourage all citizens to join in recognizing the accomplishments of HRMAC on the occasion of their 90th anniversary.

Issued by the Governor April 29, 2005.

Filed by the Secretary of State April 29, 2005.

2005-143**ADLER PLANETARIUM & ASTRONOMY MUSEUM DAY**

WHEREAS, in 1930, the Adler Planetarium & Astronomy Museum was founded as the first planetarium in the Western Hemisphere, providing the opportunity for people all across the country to experience human space exploration and discovery; and

WHEREAS, the Adler Planetarium converted light from the star Arcturus into electrical signals that turned on the lights for the opening ceremonies of the 1933 Century of Progress Exposition (World's Fair); and

PROCLAMATIONS

WHEREAS, partnering with the National Science Foundation since 1964, the Adler Planetarium offers the Astro-Science Workshop, a challenging program for Chicago area high school students demonstrating exceptional aptitude for science; and

WHEREAS, the Adler Planetarium houses one of the world's finest collections of astronomical artifacts dating from the 12th century, including the world's oldest known window sundial from 1529, and a telescope made by William Herschel, the astronomer who discovered Uranus; and

WHEREAS, the Adler Planetarium is providing Chicago schools with greater access to its exhibits and astronomers through videoconferencing, a dedicated website for teachers and their students, and the piloting of new distance learning instruction techniques. This pilot will advance the national canon of knowledge concerning distance learning's impact and effectiveness; and

WHEREAS, NASA has selected the Adler Planetarium as its education partner for the Interstellar Boundary Explorer mission to be launched in 2008. This mission will examine the characteristics of the boundary between the solar system and deep space that protects Earth from cosmic radiation; and

WHEREAS, this State is proud of the Adler Planetarium's presence in Chicago and Illinois, as well as their accomplishments in the field of astronomy:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 12, 2005 as **ADLER PLANETARIUM & ASTRONOMY MUSEUM DAY** in Illinois, and encourage all citizens to join in celebrating the 75th anniversary of this Chicago institution.

Issued by the Governor April 29, 2005.

Filed by the Secretary of State April 29, 2005.

2005-144**BETTER SPEECH AND HEARING MONTH**

WHEREAS, the Illinois Speech-Language-Hearing Association (ISHA) is a non-profit organization representing licensed speech-language pathologists and audiologists; and

WHEREAS, speech-language pathologists identify communication or swallowing problems that pre-exist, and determine the best treatment solutions; and

WHEREAS, audiologists specialize in the prevention, identification, and evaluation of hearing disorders; and

WHEREAS, founded in 1960, ISHA has three goals: to make the public aware of services available to persons with speech, language and hearing disorders; to advocate for quality hearing services throughout the State; and to support the scientific study of human communication and its disorders; and

WHEREAS, forty-six million Americans are affected by communicative disorders, including 28 million individuals with hearing loss and 16 million individuals with speech, voice or language disorders; and

PROCLAMATIONS

WHEREAS, forty-five percent of individuals reported to have a chronic speech-language disorder are under the age of 18:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 2005 as **BETTER SPEECH AND HEARING MONTH** in Illinois and encourage all citizens to be aware of the help that is available to those individuals with a language or hearing problem.

Issued by the Governor April 29, 2005.

Filed by the Secretary of State April 29, 2005.

2005-145**DAYS OF REMEMBRANCE**

WHEREAS, the Holocaust was the state-sponsored, systematic persecution and annihilation of European Jewry by Nazi Germany and its collaborators between 1933 and 1945; and

WHEREAS, during this sad time in history, six million were murdered, while many others were forced into grievous oppression and death under Nazi tyranny for racial, ethnic or national reasons; and

WHEREAS, the history of the Holocaust offers an opportunity to reflect on the moral responsibilities of individuals, societies, and governments; and

WHEREAS, the people of the State of Illinois also should always remember the terrible events of the Holocaust and remain vigilant against hatred, persecution, and tyranny. In addition, we should actively rededicate ourselves to the principles of individual freedom in a just society; and

WHEREAS, the Days of Remembrance have been set aside for the people of the State of Illinois to remember the victims of the Holocaust as well as to reflect on the need for respect of all peoples; and

WHEREAS, pursuant to an Act of Congress (Public Law 96-388, October 7, 1980), the United States Holocaust Memorial Council designates the Days of Remembrance of victims of the Holocaust to be Sunday, May 1 through Sunday, May 8, 2005, including the International Day of Remembrance known as Yom Hashoah on May 6:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 1-May 8, 2005 as **DAYS OF REMEMBRANCE** in Illinois, in memory of the victims of the Holocaust, and in honor of the survivors, as well as the rescuers and liberators, and urge all citizens to collectively and individually strive to overcome bigotry, hatred and indifference through learning, tolerance and remembrance.

Issued by the Governor April 29, 2005.

Filed by the Secretary of State April 29, 2005.

2005-146**NORTH AMERICAN OCCUPATIONAL SAFETY AND HEALTH WEEK**

PROCLAMATIONS

WHEREAS, safety and health hazards in the workplace include: contact with harmful chemicals, unsafe electrical outlets, fires, bacteria-related diseases, cuts, prolonged exposure to excessive heat or cold, and many more. They are extremely dangerous and often result in serious injuries, and in some cases, death; and

WHEREAS, millions of people go to work and return home safely everyday, due in part to the efforts of occupational safety, health and environmental practitioners who work hard to identify hazards, implement safe practices, and prevent fatalities and illnesses in all industries and workplaces; and

WHEREAS, it is imperative that employers, employees, and the general public are aware of the importance of preventing illness and injury in the workplace, and understand the many procedures that make prevention possible; and

WHEREAS, strictly following safety guidelines, minimizing possible workplace risk factors, and providing accessible, and thorough first aid kits for employees are all ways citizens can cut down workplace injuries and hazards; and

WHEREAS, the more than 30,000 members of the non-profit organization, the American Society of Safety Engineers, work to protect people, property, and the environment each and everyday; and

WHEREAS, during the week of May 1 through May 7, 2005, members of the American Society of Safety Engineers will work to raise public awareness on prevention and safety measures, and hope that their involvement will save lives:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 1-7, 2005 as **NORTH AMERICAN OCCUPATIONAL SAFETY AND HEALTH WEEK** in Illinois, and encourage all citizens to become cognizant of safety procedures in the workplace.

Issued by the Governor April 29, 2005.

Filed by the Secretary of State April 29, 2005.

2005-147**COVER THE UNINSURED WEEK**

WHEREAS, rising health care costs in the United States continually make it difficult for individuals, businesses and state governments to purchase quality, affordable health care coverage; and

WHEREAS, uninsured children and adults usually experience poorer health and have shorter life-expectancies than insured individuals; and

WHEREAS, here in Illinois, we are making great progress in the mission of providing health insurance to those that are currently lacking coverage; and

WHEREAS, since the beginning of my administration in 2003, over 300,000 more children and working parents now have health coverage through the KidCare and FamilyCare programs. Because of this accomplishment, Illinois was recognized in 2004 by the Kaiser Foundation as the nation's leader in providing health care to low-income families; and

PROCLAMATIONS

WHEREAS, through an innovative new program called I-SAVE Rx, Illinoisans, along with citizens in Kansas, Missouri, Wisconsin and Vermont, can now save up to 50% on the cost of their prescription drugs by purchasing them from safe and credible pharmacies in Canada, the United Kingdom and Ireland. Additionally, Illinois senior citizens who may not qualify for I-SAVE Rx can join the Illinois Rx Buying Club, and save an average of 24% on all of their medications at over 2,000 pharmacies in this State; and

WHEREAS, Illinois' commitment to providing health coverage to the greatest number of people possible does not stop with KidCare, FamilyCare and prescription drugs. We have also launched plans to: offer low-income women who are leaving Medicaid the informational tools necessary to avoid unwanted pregnancies and have successful transitions from welfare to work; expand funding for breast and cervical cancer screenings and AIDS prevention; and various other programs and initiatives aimed at ensuring the health and well-being of all citizens; and

WHEREAS, this year, the week of May 1-8 has been nationally designated as Cover The Uninsured Week to bring attention to the many people throughout the United States who are currently living without health insurance, and the need to assist those people in obtaining coverage. Illinois is proud to join in this important observance:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 1-8, 2005 as **COVER THE UNINSURED WEEK** in Illinois, and encourage all citizens to support efforts, both statewide and nationally, that help individuals and families gain access to quality, affordable health care.

Issued by the Governor April 29, 2005.

Filed by the Secretary of State April 29, 2005.

2005-148**NATIONAL CHARTER SCHOOLS WEEK**

WHEREAS, in 1996, the Illinois Legislature enacted a statute that would "create new, innovative and more flexible ways of educating children within the public school system," allowing for the creation of charter schools; and

WHEREAS, these schools would allow students and their parents to choose a school based on the school's individual options; and

WHEREAS, during 2003-2004, there were 23 charter schools in operation in Illinois, serving approximately 13,000 students, 1,047 being students with disabilities; and

WHEREAS, the State of Illinois is committed to providing a solid education to all students. In 2004, my administration, with cooperation from the Illinois General Assembly, provided \$400 million in new funds for elementary and secondary education:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 2-6, 2005 as **NATIONAL CHARTER SCHOOLS WEEK** in Illinois and encourage all citizens to support the faculty, staff, and administrators of all schools across the State as they educate our future world leaders.

Issued by the Governor May 2, 2005.

Filed by the Secretary of State May 2, 2005.

PROCLAMATIONS

2005-149**ASTHMA AWARENESS DAY**

WHEREAS, asthma is a chronic disease in which the airways of the lungs constrict, causing wheezing, breathlessness, chest tightness, and coughing. Also, this disease is associated with significant morbidity and mortality; and

WHEREAS, asthma has reached epidemic proportions, affecting about 20 million people in the United States, 700,000 of which are in Illinois; and

WHEREAS, asthma is the leading cause of childhood hospitalizations, long-term illness, and school absenteeism, accounting for more than 14 million missed school days each year in the United States; and

WHEREAS, in 2002, the estimated cost of all asthma expenditures in Illinois was approximately \$1.4 billion, of which asthma inpatient charges accounted for more than \$187 million; and

WHEREAS, exposure to allergens and irritants such as dust mites, mold, cockroaches, pet dander, and secondhand smoke can bring on an asthma episode; and

WHEREAS, preventive health interventions and health education can effectively help control asthma and reduce its occurrence; and

WHEREAS, the Illinois Department of Public Health, the Illinois Asthma Partnership and Asthma Coalitions throughout the state are collaborating on World Asthma Day, May 3, 2005, and throughout the month of May to both raise awareness and reduce the negative health impacts of asthma; and

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 3, 2005 as **ASTHMA AWARENESS DAY** in Illinois, and encourage all citizens to educate themselves about the health risks of asthma.

Issued by the Governor May 2, 2005.

Filed by the Secretary of State May 2, 2005.

2005-150**STATE EMPLOYEE RECOGNITION DAY**

WHEREAS, throughout Illinois, State employees dedicate their careers to enhancing the lives of people in this State; and

WHEREAS, Illinois' State employees perform a variety of challenging and important tasks, including preserving public safety and protecting the health of our citizens, working to ensure clean air and water, caring for crime victims and the economically disadvantaged, rehabilitating and counseling people in need, attracting and supporting commerce, building and maintaining our highways, schools, and other infrastructure, administering justice, protecting citizens' rights, inspecting our food, licensing our cars, educating our children, and striving to advance medicine, science, and technology for the benefit of our residents; and

PROCLAMATIONS

WHEREAS, with the current budgetary struggles that Illinois is facing, these dedicated servant leaders have assumed additional responsibilities and extra duties with compassion, professionalism and a commitment to those they serve, while continually seeking ways to cut costs and use taxpayer resources wisely; and

WHEREAS, the 2005 observance of Illinois State Employee Recognition Day provides a special time to express our appreciation and gratitude to our State employees for their hard work and dedication to our continued well-being and quality of life:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 4, 2005 as **STATE EMPLOYEE RECOGNITION DAY** in Illinois, and encourage all citizens to recognize State employees for their hard work, sacrifices, and dedication to the people of Illinois.

Issued by the Governor May 2, 2005.

Filed by the Secretary of State May 2, 2005.

2005-151**LIONS AND LIONESS TOOTSIE POP DAY**

WHEREAS, the Lions and Lioness Clubs of Illinois tirelessly donate their time to ongoing efforts to help the blind, visually impaired, deaf, and hearing impaired; and

WHEREAS, the Lions and Lioness Clubs of Illinois are sponsoring Lions and Lioness Tootsie Pop Day for Sight and Sound throughout our State May 6, 2005; and

WHEREAS, Tootsie Pop Day is being held under the auspices of the Lions and Lioness of Illinois Foundation, a nonprofit organization that raises money for worthwhile projects through Tootsie Pop sales; and

WHEREAS, the proceeds from Tootsie Pop Day will help to provide detection treatment and rehabilitation programs for the blind, visually impaired, deaf, and hearing impaired residents of Illinois:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 6, 2005 as **LIONS AND LIONESS TOOTSIE POP DAY** in Illinois, and encourage all citizens to support this noble endeavor aimed at creating a better and more independent life for the blind, visually impaired, deaf, and hearing impaired of our communities.

Issued by the Governor May 2, 2005.

Filed by the Secretary of State May 2, 2005.

2005-152**LIONS CANDY DAY**

WHEREAS, the Lions Club was founded in 1917 by Melvin Jones. His goal was to create an organization of businesses who shared a common goal of bettering the community; and

WHEREAS, Lions Club International has grown to incorporate 1.4 million members who participate in 46,000 clubs in 193 countries across the globe; and

PROCLAMATIONS

WHEREAS, the Lions Club of Illinois has raised an unprecedented amount of money for those who are visually and hearing impaired over the years through events such as Candy Day; and

WHEREAS, Candy Day allows the Illinois citizens to contribute to an organization that will in turn, give back to the public. The candy they receive is a token of appreciation from the Lions Club for their donation; and

WHEREAS, all proceeds made from Candy Day will go to the programs the Lions Club of Illinois promotes to continue to help the visually and hearing impaired:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 8, 2005 as **LIONS CANDY DAY** in Illinois, and applaud the Lions Club for so nobly serving the public for close to 90 years.

Issued by the Governor May 2, 2005.

Filed by the Secretary of State May 2, 2005 .

2005-153**OLDER AMERICANS MONTH**

WHEREAS, the State of Illinois is home to more than 1,900,000 citizens aged 60 years or older; and

WHEREAS, the older Americans of the State of Illinois are a vital part of our nation's demographic makeup; and

WHEREAS, older citizens are members of our community entitled to dignified, independent lives free from fears, myths, and misconceptions about aging; and

WHEREAS, each community in the United States must strive to recognize the contributions of our older citizens, understand and address their evolving needs, and support their caregivers; and

WHEREAS, our society is dependent upon intergenerational cooperation and support, and benefits from our collective efforts to serve older Americans and the people who love and care for them; and

WHEREAS, this year marks the 40th anniversary of the passage of the Older Americans Act by the United States Congress:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 2005 as **OLDER AMERICANS MONTH** in Illinois, and encourage all citizens to recognize the significant impact older Americans have made on the State of Illinois.

Issued by the Governor May 2, 2005.

Filed by the Secretary of State May 2, 2005.

2005-154**ASSISTED LIVING AND SHARED HOUSING ESTABLISHMENT WEEK**

WHEREAS, Assisted Living and Shared Housing Establishment Week begins on Grandparents Day; and

PROCLAMATIONS

WHEREAS, Illinois recognizes the importance of assisted living and shared housing establishments in the continuum of long-term care services available to the citizens of Illinois; and

WHEREAS, assisted living and shared housing establishments are dedicated to providing care to many elderly citizens; and

WHEREAS, is dedication has been demonstrated by the commitment of assisted living and shared housing establishments to become upgrade standards of care and improve service in order to become licensed under State law; and

WHEREAS, the Illinois Center for Assisted Living is contributing to activities in observance of Assisted Living and Shared Housing Establishment Week.

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 11-17, 2005 as **ASSISTED LIVING AND SHARED HOUSING ESTABLISHMENT WEEK** in Illinois, and encourage all citizens to recognize the benefits provided by assisted living and shared housing establishments.

Issued by the Governor May 2, 2005.

Filed by the Secretary of State May 2, 2005.

2005-155**LONG-TERM CARE NURSES WEEK**

WHEREAS, Long-Term Care Nurses have committed themselves to providing the highest quality care to the young, old and disabled; and

WHEREAS, Long-Term Care Nurses are faced with ever increasing medical demands to rehabilitate and provide the best possible quality of life for their residents; and

WHEREAS, more than 1,000 licensed and extended care facilities look to Long-Term Care Nurses for support and leadership; and

WHEREAS, the Illinois Health Care Association, representing more than 420 Illinois long-term care providers, along with the Long Term Care Nurses Association, declares May 6-12, 2005, as Illinois' Long-Term Care Nurses Week, and the State of Illinois is proud to join in this observance:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 6-12, 2005 as **LONG-TERM CARE NURSES WEEK** in Illinois, and encourage all citizens to recognize Long-Term Care Nurses in their communities for their accomplishments, and dedication, to the health and well-being of all people.

Issued by the Governor May 2, 2005.

Filed by the Secretary of State May 2, 2005 .

2005-156**NATIONAL NURSING HOME WEEK**

WHEREAS, Taking Center Stage is this year's theme for National Nursing Home Week; and

PROCLAMATIONS

WHEREAS, during this week, we recognize all of the people that play unique parts leading to the success story for the quality care performed at nursing facilities; and

WHEREAS, the elderly and developmentally challenged residents of long-term care facilities have led exceptional and extraordinary lives which have helped enhance the quality of life in this great state; and

WHEREAS, the long-term care facilities in Illinois are dedicated to providing the finest in health care and rehabilitation for our convalescent, aged and developmentally challenged citizens; and

WHEREAS, this dedication has been forcefully demonstrated through continual striving to upgrade standards of care and improve service; and

WHEREAS, National Nursing Home Week is an opportunity to bring into the limelight the celebration of this focus on quality with residents, staff, families, volunteers and members of our communities, and

WHEREAS, the Illinois Health Care Association is contributing to activities in observance of National Nursing Home Week beginning May 8, 2005:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 8-14, 2005 as **NATIONAL NURSING HOME WEEK** in Illinois, and encourage all citizens to recognize all the individuals who have continually committed themselves to quality care and service in our State's long-term care facilities.

Issued by the Governor May 2, 2005.

Filed by the Secretary of State May 2, 2005.

2005-157**NURSING ASSISTANTS' WEEK**

WHEREAS, Illinois has more than 200,000 Nursing Assistants; and

WHEREAS, Nursing Assistants working in long-term care facilities provide compassionate care for residents and their families; and

WHEREAS, Nursing Assistants provide nearly 90 percent of the direct nursing care given to residents in long-term care facilities; and

WHEREAS, Nursing Assistants care for tens of thousands of frail and elderly citizens of Illinois; and

WHEREAS, Nursing Assistants help restore residents to their highest functioning level:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim June 9-16, 2005 as **NURSING ASSISTANTS' WEEK** in Illinois, and encourage all citizens to recognize the dedicated efforts put forth by nursing assistants in caring for our State's weak and elderly residents.

Issued by the Governor May 2, 2005.

Filed by the Secretary of State May 2, 2005.

ILLINOIS ADMINISTRATIVE CODE

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