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STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: The Campaign Financing Act
- 2) Code Citation: 26 Ill. Adm. Code 100
- 3)

<u>Sections Numbers:</u>	<u>Proposed Action:</u>
100.50	Amend
100.60	Amend
100.70	Amend
100.140	Repeal
100.170	Amend
- 4) Statutory Authority: Implements Sections 9-3, 9-10 and 9-15 of the Illinois Election Code [10 ILCS 5/9-3, 9-10 and 9-15] and authorized by Article 1A, Section 8(9) and Section 9-15 of the Illinois Election Code [10 ILCS 5/1A-8(9) and 9-15].
- 5) A Complete Description of the Subjects and Issues Involved:

Section 100.50 Multiple Filings by State and Local Committees

This Section exempts political committees that electronically file their campaign disclosure reports with the State Board of Elections from filing copies of the reports with the county clerk if the county clerk is participating in the electronic filing waiver program. County clerks are eligible to participate in this program if they have a system that can access and duplicate the reports that are on file with the State Board of Elections. Committees are still required to file a copy of their D-1 Statement of Organization with the county clerk.

Section 100.60 Filing Option for a Federal Political Committee

This Section exempts federal political committees that also qualify as State and/or local political committees under the Illinois Campaign Finance Act and that file their campaign disclosure reports with the Federal Election Commission (FEC) from having to file copies of their FEC reports with the State Board of Elections. Committees must indicate on their Statement of Organization that they will file campaign disclosure reports pursuant to Section 100.60 of the campaign finance regulations promulgated in this Part 100 by the State Board of Elections. A federal political committee that also qualifies as a local political committee must continue to file its campaign disclosure reports with the county clerk.

Section 100.70 Reports of Contributions and Expenditures

Subsection (a) raises the minimum contribution amount required to be reported on a Schedule A-1 form from \$500 or more to more than \$500, reflecting the amendment of

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

Section 9-10(b-5) of the Illinois Election Code. Subsection (d) clarifies when a political committee may file a Statement of Non-Participation in an election in lieu of a Pre-Election Report. Specifically, a committee that is not organized to support a candidate or question of public policy appearing on the ballot at that election and that is not making expenditures or contributions to a candidate or question of public policy appearing on the ballot may file the Statement of Non-Participation. All other committees must file a Pre-Election Report in connection with the election. Subsection (e) requires political committees that initially file a Statement of Non-Participation, but subsequently make an expenditure or a contribution to a candidate or question of public policy appearing on the ballot at that election, to file a Pre-Election Report and any necessary Schedule A-1 reports within 5 days after the expenditure or contribution.

Section 100.140 Prohibited Contributions

This Section is being deleted since the prohibition against contributions on State property is now subject to the State Officials and Employees Ethics Act. The State Board of Elections does not administer that Act.

Section 100.170 Sponsoring Entity

Subsection (d) defines total funding for the purposes of determining whether a contributor to a political committee is also a sponsoring entity. Total funding means the balance of funds available to the committee at the beginning of the semi-annual reporting period and any contributions received by that committee during the semi-annual reporting period. A sponsoring entity is any person who contributes at least 33% of the political committee's total funding during any given semi-annual reporting period.

- 6) Will these proposed amendments replace any emergency amendments currently in effect?
No
- 7) Do these proposed amendments contain an automatic repeal date? No
- 8) Do these proposed amendments contain any incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: 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: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this notice to:

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

Steven S. Sandvoss, Deputy General Counsel
State Board of Elections
1020 S. Spring St.
Springfield IL 62708

217/557-9939

- 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:
Bookkeeping and financial reporting experience is needed for compliance with this rulemaking.
 - C) Types of professional skills necessary for compliance: Computer proficiency is helpful for compliance with this rulemaking.
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: At the time of the publication of the regulatory agendas, this amendment had not been anticipated.

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

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

TITLE 26: ELECTIONS

CHAPTER I: STATE BOARD OF ELECTIONS

PART 100

THE CAMPAIGN FINANCING ACT

Section	
100.10	Definitions
100.20	Official Forms
100.30	Forwarding of Documents (Repealed)
100.40	Vacancies in Office – Custody of Records
100.50	Multiple Filings by State and Local Committees
100.60	Filing Option for a Federal Political Committee
100.70	Reports of Contributions and Expenditures
100.80	Report Forms
100.90	Provision Circumvention
100.100	Proof of Identification; Application for Inspection and Copying
100.110	Loans by One Political Committee to Another
100.120	Receipt of Campaign Contributions
100.130	Reporting by Certain Not-for-Profit Organizations
100.140	Prohibited Contributions (<u>Repealed</u>)
100.150	Electronic Filing of Reports
100.160	Good Faith
100.170	Sponsoring Entity

AUTHORITY: Implementing Article 9 of the Election Code [10 ILCS 5/Art. 9] and authorized by Section 9-15(3) of the Election Code [10 ILCS 5/9-15(3)].

SOURCE: Amended at 5 Ill. Reg. 1337, effective January 30, 1981; amended at 5 Ill. Reg. 12115, effective October 26, 1981; codified at 6 Ill. Reg. 7211; amended at 7 Ill. Reg. 225, effective December 16, 1982; amended at 14 Ill. Reg. 10824, effective June 22, 1990; amended at 16 Ill. Reg. 6982, effective April 21, 1992; amended at 18 Ill. Reg. 14707, effective September 9, 1994; amended at 21 Ill. Reg. 10044, effective July 21, 1997; emergency amendment at 23 Ill. Reg. 719, effective January 4, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 6796, effective May 24, 1999; emergency amendment at 24 Ill. Reg. 13039, effective August 9, 2000, for a maximum of 150 days; emergency expired January 5, 2001; amended at 24 Ill. Reg. 14214, effective September 11, 2000; amended at 29 Ill. Reg. _____, effective _____.

Section 100.50 Multiple Filings by State and Local Committees

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

- a) Reference: This Section interprets or applies Sections 9-3 and 9-10 of the Election Code.
- b) A political committee that acts as both a State political committee and local political committee shall file each original Statement of Organization, Form D-1, and any other appropriate reports with the State Board of Elections, and shall file a copy of each and any other appropriate reports with the county clerk, except that political committees that file their reports electronically need not file copies of their D-2 reports with the county clerk if the county clerk is participating in the electronic filing waiver program. A county clerk is eligible to participate in this program if he or she has a system that can access electronically and duplicate the reports that are on file with the State Board of Elections. Political committees, however, must continue to file copies of their D-1 Statement of Organization forms and any written correspondence with the county clerk.
- c) When determining their filing obligations, it is the responsibility of political committees to verify whether the county clerk is participating in the electronic filing waiver program.
- d) Any State committee that elects to support or oppose any local candidate or a question of public policy and exceeds an aggregate amount of \$3000 for local candidates or a question of public policy shall file an amended Statement of Organization, Form D-1, indicating that ~~it is~~~~they are~~ now a State and local committee and shall comply with all local filing requirements. In the event the State and local committee ceases to support local candidates, ~~it~~~~they~~ shall file an amended D-1 indicating that ~~it is~~~~they are~~ now a ~~State~~~~state~~ political committee and shall submit a letter ~~informing to~~ the county clerk ~~informing him~~ that ~~it~~~~they~~ will no longer be active in that county.
- e) Any local committee that elects to support or oppose any State candidate or a question of public policy and exceeds an aggregate amount of \$3000 for State candidates or \$3000 for a question of public policy shall file an amended Statement of Organization, Form D-1, indicating that ~~it is~~~~they are~~ now a State and local committee and shall comply with all State filing requirements. In the event the State and local committee ceases to support State candidates, ~~it~~~~they~~ shall file an amended D-1 indicating that ~~it is~~~~they are~~ now a local political committee and shall submit a letter to the State Board of Elections informing ~~the Board~~~~them~~ that ~~it~~~~they~~ will no longer be active statewide.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

Section 100.60 Filing Option for a Federal Political Committee

- a) Reference: This Section interprets or applies Section 9-15 of the Election Code.
- b) Any "person" or "whoever" as defined by Section 9-1.6 of the Election Code~~the Illinois Campaign Financing Act~~, qualifying as a political committee under Article 9 of the Election Code~~such Act~~, and filing Federal Election Commission reports may choose to comply with the provisions of Article 9~~the Illinois Campaign Financing Act~~ by so indicating on a Statement of Organization (Form D-1)~~simultaneously filing all Federal Election Commission reports filed~~ with either the State Board of Elections, county clerk~~County Clerk~~, or both, as the case may be.
- c) A political committee may choose to file reports pursuant to this Section~~regulation~~, either by amendment or for the first time, by stating on Part 5 of the Statement of Organization (Form D-1) the following: "Campaign financing reports will be filed pursuant to Section 100.60, Campaign Financing Regulations, State Board of Elections:".
- ~~d) A political committee filing reports pursuant to this regulation for the first time shall additionally file a copy of its last regular report on file with the Federal Election Commission.~~
- ~~de) Pursuant to the state filing waiver program (Public Law 104-79), a~~ federal political committee; also qualifying as a State~~state~~ political committee under Article 9 of the Election Code~~the Illinois Campaign Financing Act~~, shall not~~simultaneously~~ file a copy of all Federal Election Commission reports with the State Board of Elections.
- ~~ef) A federal political committee; also qualifying as a local political committee under Article 9~~the Illinois Campaign Financing Act, shall simultaneously file a copy of all Federal Election Commission reports with the local county clerk ~~and the State Board of Elections.~~
- ~~fg) This~~ Section~~regulation~~ shall not authorize any person to receive or expend in Illinois an anonymous contribution on behalf of or in opposition to a candidate covered by Article 9~~the Illinois Campaign Financing Act~~, or in support of or in opposition to a question of public policy.

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

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

Section 100.70 Reports of Contributions and Expenditures

- a) Reference: This Section interprets or applies Sections 9-10, 9-13, and 9-14 of the Election Code.
- b) For purposes of determining the amount of contributions in excess of \$500 ~~or more~~ under Section 9-10(b-5) of the Election Code Act, all contributions received between the last date of the period covered by the last report filed prior to the election and the election from a single person, as defined in Section 9-1.6, shall be aggregated and treated as one.
- c) An expenditure to a payee who is in whole or in part only a conduit for payment to another, such as a political consultant or a credit card issuer, must include by way of detail or separate entry the amount of funds passing to each vendor, business entity or person to receive funds from the payment, together with the reason for each ~~such~~ disbursement and the beneficiary of the disbursement. Nothing in this Section shall be construed to impose a reporting obligation on any person not otherwise required to report under Article 9 of the Election Code, or to require the itemization of expenditures not otherwise required to be itemized under Article 9 of the Election Code.
- d) Every active political committee must file a pre-election report and A-1 reports in conjunction with every next election unless:
- 1) the political committee is not, by the terms of its D-1 Statement of Organization, organized to support or oppose a candidate or public question on the ballot at the next election; and
 - 2) the political committee makes no expenditures, including in-kind contributions, on behalf of or in opposition to any candidate or public question on the ballot at an election.
- An active political committee that meets both requirements of subsections (d)(1) and (2) shall be deemed a nonparticipating political committee and shall file, in lieu of a pre-election report, a Statement of Non-Participation for the next election.

STATE BOARD OF ELECTIONS

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- e) A committee ~~that~~which, having filed a Statement of Non-Participation, makes a subsequent contribution to a candidate or on behalf of a question of public policy ~~that~~who will appear on the ballot at the next election shall file a pre-election report~~Pre-Election Report~~ within five days after making the contribution, or if the contribution is made during the five days immediately prior to the election, within 24 hours after making the contribution. In addition to filing a pre-election report, the committee shall timely file a Schedule A-1 for each contribution exceeding \$500, beginning with the date the contribution that triggered the obligation to file a pre-election report was made.

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

Section 100.140 Prohibited Contributions (Repealed)

- a) ~~For purposes of Article 9 of the Election Code, "State property" of which the State of Illinois is the lessee, or shall include all real property in which the State of Illinois owns the fee, exclusive of highways and roads and other property, to the extent consistent with subsection (b) of this Section. State property includes, but is not limited to, the buildings, facilities and grounds of the Illinois State Capitol Building; the Old State Capitol Complex; the Michael J. Howlett Building; the Attorney General's Office; the William G. Stratton Office Building; the Supreme Court Building; the State Library; the Department of Transportation Administration Building; all in Springfield; the James R. Thompson Center and the State of Illinois Building, both in Chicago; and all State universities.~~
- b) ~~Any portion of real property that would otherwise be included in the definition of State property but for the fact of its being leased or rented for the purpose of conducting a fundraising event shall not be considered State property during the time such fundraising event takes place.~~
- e) ~~For purposes of Article 9 of the Election Code, "in or within 50 miles of Springfield" shall include the territory in a circle whose radius is 50 miles measured from directly beneath the center of the dome of the Illinois State Capitol Building.~~

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

Section 100.170 Sponsoring Entity

- a) A sponsoring entity is a person that contributes not less than 33% of the total

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

funding of any political committee.

- b) A person contributes not less than 33% of the total funding of a committee if, at any time during a semi-annual reporting period following the 30th day after the committee has filed its statement of organization, 33% of the committee's gross receipts, including in-kind contributions, come from the person.
- c) Person includes natural persons, corporations, partnerships, political committees and unincorporated associations.
- d) Total funding means the sum of the funds available at the beginning of the reporting period and the total receipts for the semi-annual reporting period.
- e) Each political committee shall include in its name the name of its sponsoring entity.
- f) If, at any time during a semi-annual reporting period, a committee that has not previously identified a sponsoring entity receives 33% ~~of~~ its total funding gross receipts during that semi-annual reporting period from a single person, the committee must amend its Statement of Organization to identify the sponsoring entity.
- g) A political committee~~Political committees~~, the names~~names~~ of which include~~include~~ the name of the candidate supported by the committee, the name of an established political party as that term is used in 10 ILCS 5/Art. 7, or the name of a new political party as that term is used in 10 ILCS 5/Art. 10 satisfies the requirements of this Section without the need for further statement of sponsoring entity in the name of the committee.
- h) The name of the sponsoring entity shall be the full name of the person, and not an acronym.
- i) A committee is required to identify its sponsoring entity so long as it receives not less than 33% of its total funding gross receipts from a single person. A committee may amend its Statement of Organization to delete the name of its sponsoring entity from its name if, for two consecutive semi-annual reporting periods, it fails to receive not less than 33% of its total funding gross receipts from a single person.
- j) If, at any time during a semi-annual reporting period, a committee that has

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

identified a sponsoring entity receives not less than 33% of its ~~total funding gross receipts~~ from a different single person than the person identified as its sponsoring entity, it shall amend its Statement of Organization to include in its name the name of the new sponsoring entity.

- kj) If a committee receives support from two or more persons, each one of which would independently of the other meet the definition of a sponsoring entity, the name of the committee shall include all such persons.

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

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Practice and Procedure
- 2) Code Citation: 26 Ill. Adm. Code 125
- 3)

<u>Sections Numbers:</u>	<u>Proposed Action:</u>
125.240	Amend
125.425	Amend
- 4) Statutory Authority: Implements Articles 9-3 and 9-10 of the Illinois Election Code [10 ILCS 5/9-3 and 9-10] and authorized by Article 1A, Section 8(9) and Article 9-15 of the Illinois Election Code [10 ILCS 5/1A-8(9) and 9-15].
- 5) A Complete Description of the Subjects and Issues Involved:

Section 125.240 Service of Compliant

An obsolete statutory citation is updated.

Section 125.425 Civil Penalty Assessments

Subsection (e) stops the per-business-day penalty accumulation for delinquently filed Pre-Election Reports on the day of the election. This subsection also changes the way civil penalties are assessed for delinquently filed Schedule A-1 Reports. (Political Committees must file A-1 Reports within 2 business days of receipt of a contribution of more than \$500.) The State Board of Elections was given discretion as to whether a civil penalty should be assessed for delinquently filed A-1 Reports and, if a penalty is assessed, the amount the penalty should be. If a penalty is assessed, the amount cannot be less than 10% nor more than 100% of the delinquently reported contribution. The State Board of Elections must take into account all relevant factors when deciding the appropriate penalty, including, but not limited to, the following: (1) whether the delinquency was intentional, knowing, negligent or inadvertent; (2) the number of days between the due date and either the date the A-1 Report was filed or the date of the election (at which point the calculation of the penalty ceases); and (3) the number of times the committee has previously filed delinquent campaign disclosure reports. The State Board of Elections must now assess civil penalties for delinquently filed D-1 Statement of Organization Reports. (These reports are the initial documents filed by nascent political committees giving essential information such as the name of the committee, the committee address, the principal officers, the purpose of the committee, etc.) The Board will assess a \$25 penalty (or \$50 if the committee is formed to support a candidate or question of public policy appearing on the ballot statewide) for each business day past the due date that the Report remains unfiled. The penalty cannot exceed \$5,000 (or \$10,000 for a statewide committee). Subsection (f) adds clean-up

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

language to the provision authorizing the Board to assess penalties for violations of the Campaign Finance Act other than delinquently filed Reports. This subsection is further amended to allow 30 days for a committee to appeal a civil penalty. Previously it was given 10 days to appeal. Subsection (j) was added to allow political committees, both active and those that filed a final report, who only had one violation on their record to be treated as if they had no violations if, within a two year period following the first violation, they had no further violations. Subsection (k) was added to provide for a pre-hearing conference between the Board-appointed hearing examiner and a committee that was assessed a civil penalty. The purpose of this pre-hearing would be to simplify the issues, enter into stipulations, and discuss settlements, etc.

- 6) Will these proposed amendments replace any emergency amendments currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain any incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: 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: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this notice to:

Steven S. Sandvoss, Deputy General Counsel
State Board of Elections
1020 S. Spring St.
Springfield IL 62708

217/557-9939
- 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

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

- 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 2 most recent regulatory agendas because: Due to a turnover in the Board's legal staff, these amendments were inadvertently omitted from the Board's last 2 regulatory agendas.

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

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

TITLE 26: ELECTIONS

CHAPTER I: STATE BOARD OF ELECTIONS

PART 125

PRACTICE AND PROCEDURE

SUBPART A: DEFINITION AND GENERAL PROVISIONS

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125.10	Definitions
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125.250 Time of Preliminary Hearing (Repealed)
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- Section
- 125.510 Applicability (Repealed)
- 125.520 Staff Review and Enforcement of Reporting Requirements
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- 125.540 Staff Initiated Complaint (Repealed)
- 125.550 Investigations, Inquiries or Hearings

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- Section
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- 125.620 Adoption of Rules
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SUBPART G: ADVISORY OPINIONS

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- 125.720 Reconsideration of Advisory Opinions
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- Section
- 125.810 Ex Parte Communications
- 125.820 Effective Date

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

125.830 Interpretation
125.840 Severability

AUTHORITY: Implementing and authorized by Sections 1A-8(9), 9-15(3), 9-21 and 9-23 of the Election Code [10 ILCS 5/1A-8(9), 9-15(3), 9-21 and 9-23].

SOURCE: Adopted at 5 Ill. Reg. 12115, effective October 26, 1981; amended at 7 Ill. Reg. 230, effective December 16, 1982; amended at 7 Ill. Reg. 239, effective December 16, 1982; amended at 7 Ill. Reg. 15803 and 15810, effective November 9, 1983; codified at 8 Ill. Reg. 3278; amended at 9 Ill. Reg. 4050, effective March 14, 1985; amended at 14 Ill. Reg. 10832, effective June 22, 1990; amended at 16 Ill. Reg. 6986, effective April 21, 1992; amended at 19 Ill. Reg. 6546, effective May 1, 1995; emergency amendment at 23 Ill. Reg. 1122, effective January 7, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 6807, effective May 24, 1999; amended at 24 Ill. Reg. 14203, effective September 11, 2000; emergency amendment at 28 Ill. Reg. 1408, effective January 5, 2004, for a maximum of 150 days; emergency expired June 2, 2004; amended at 29 Ill. Reg. _____, effective _____.

SUBPART B: CLOSED PRELIMINARY HEARINGS

Section 125.240 Service of Complaint

- a) If a complaint is filed within 60 days prior to the date of an election in reference to which the complaint is filed, the complainant shall serve a copy of the complaint upon all respondents prior to the time of filing, and the complaint filed with the office of the General Counsel shall have attached ~~to it~~ thereto proof of service, consisting of any one of the following:
 - 1) a written acknowledgment signed by the person served;
 - 2) in case of service by personal delivery, an affidavit of the person who made delivery; or
 - 3) abode service in accordance with the Civil Practice Law- [\[735 ILCS 5/Art. II\]](#), ~~(Ill. Rev. Stat. 1981, ch. 110, par. 2-101 et seq.)~~
- b) In all other cases, service shall conform to Section 125.40.
- c) When a complainant has attempted to serve a respondent who is no longer residing at his ~~or her~~ last known address, proof of service shall be complete when the complainant has filed an affidavit indicating that a diligent effort has been

STATE BOARD OF ELECTIONS

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made to locate the respondent but ~~that~~~~sueh~~ effort has been unsuccessful and ~~the~~ respondent's whereabouts are unknown.

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

SUBPART D: FINAL ORDERS

Section 125.425 Civil Penalty Assessments

- a) As used in this Section, "authorizing candidate" means any candidate who has at any time during the reporting period for the report in question or prior ~~to that reporting period~~~~thereto~~ filed with the committee an authorization in accordance with Section 9-8 of the Election Code [10 ILCS 5/9-8].
- b) A report required to be filed within a specified time pursuant to Section 9-10 of the Election Code is delinquent if not received by the Board on or before the due date. ~~Documents~~~~Document(s)~~ are deemed received by the Board as of the date date-stamped by Board staff on the documents~~document(s)~~ submitted.
- c) If a report is or continues to be delinquent, it is subject to a an increasing civil penalty as set out in subsection (e) of this Section, ~~until received by the Board~~.
- d) When a report required by Section 9-10 of the Election Code is delinquent, the Board will send notice of delinquency to the chairman and the treasurer of each delinquent State, State and local, and local political committee, together with an Order assessing a civil penalty calculated in accord with subsection (e). The notice of delinquency and Order shall also be sent to any candidate listed by name on that committee's Statement of Organization. The notice of delinquency shall state that the Board has issued a civil penalty that will be final unless the committee shows cause in accord with subsection (f) why the penalty should not be assessed.
- e) The Board will calculate the civil penalty for each day of delinquency as follows:
 - 1) If ~~the committee's~~~~sits~~ total receipts, total expenditures, and the balance remaining at the end of the reporting period for which the delinquent report was due are each \$5000 or less, and if the delinquent report is a semi-annual report, the political committee shall be assessed a fine of \$25 per business day for the first violation, \$50 per business day for the second violation, and \$75 per business day for the third and each subsequent

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violation to a maximum of \$5000, except that, if the committee is formed for statewide office as that term is defined in Section 9-10(b) of the Election Code, the maximum shall be \$10,000, provided that the civil penalty for any committee shall not exceed \$500 for a first time offense involving a filing that is less than 10 days late.

- 2) If ~~the committee's its~~ total receipts, total expenditures, or balance remaining at the end of the reporting period for which the delinquent report was due exceeds \$5000, and if the delinquent report is a semi-annual report, the political committee shall be assessed a fine of \$50 per business day for the first violation, \$100 per business day for the second violation, and \$200 per business day for the third and each subsequent violation to a maximum of \$5000, except that, if the committee is one formed for statewide office as that term is defined in Section 9-10(b) of the Election Code, the maximum shall be \$10,000, provided that the civil penalty for any committee shall not exceed \$500 for a first time offense involving a filing that is less than 10 days late.
- 3) If ~~the committee's its~~ total receipts, total expenditures, and balance remaining at the end of the reporting period for which the delinquent report was due are each \$5000 or less and if the delinquent report is a pre-election report, the political committee shall be assessed a fine of \$100 per business day for the first violation, \$200 per business day for the second violation, and \$300 per business day for the third and each subsequent violation to a maximum of \$5000, except that, if the committee is one formed for statewide office as that term is defined in Section 9-10(b) of the Election Code, the maximum shall be \$10,000, provided that the civil penalty for any committee shall not exceed \$500 for a first time offense involving a filing that is less than 10 days late. The per business day penalty calculation will no longer accrue after the date of the election for which the report has been filed.
- 4) If ~~the committee's its~~ total receipts, total expenditures, or balance remaining at the end of the reporting period for which the delinquent report was due exceeds \$5000, and if the delinquent report is a pre-election report, the political committee shall be assessed a fine of \$200 per business day for the first violation, \$400 per business day for the second violation, and \$600 per business day for the third and each subsequent violation to a maximum of \$5000, except that, if the committee is one formed for statewide office as that term is defined in Section 9-10(b) of

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the Election Code, the maximum shall be \$10,000, provided that the civil penalty shall not exceed \$500 for a first time offense involving a filing that is less than 10 days late. The per business day penalty calculation will no longer accrue after the date of the election for which the report has been filed.;

- 5) If the delinquently filed report is a Schedule A-1 (report of contributions exceeding \$500 received during the 30-day period prior to an election), in the final disposition of any appeal of a penalty assessed by the Board for such delinquency on or after the effective date of Public Act 93-0615, the Board will consider assessing a civil penalty as follows:
- A) The Board may:
- i) grant the appeal (no civil penalty assessment);
 - ii) determine that a violation occurred and impose a penalty of no less than 10% nor more than 100% of the total amount of the contributions that were delinquently reported; or
 - iii) determine that a violation occurred, but decline to assess a penalty.
- B) When considering the amount of the civil penalty to be imposed, the Board shall consider all relevant factors, including, but not limited to, the following factors:
- i) whether in the Board's opinion the violation was committed inadvertently, negligently, knowingly, or intentionally;
 - ii) the number of days the contribution was reported late; and
 - iii) past violations of Sections 9-3 and 9-10 of the Election Code by the committee (filing requirement for the Statement of Organization, Pre-Election Reports, Schedule A-1s and Semi-Annual Reports).
- 6) If the delinquently filed report is a Statement of Organization (form D-1), the Board shall assess a civil penalty of \$25 for each business day that the report remains unfiled after its due date, except that, if the committee is

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supporting a candidate running for statewide office or supporting a statewide referendum or a State Constitutional Amendment, the civil penalty will be \$50 per business day. Such penalties shall not exceed \$5,000 (\$10,000 for statewide candidates, referenda or State Constitutional Amendment).

- ~~5) If its total receipts, total expenditures, and balance remaining at the end of the most recent semi-annual report are each \$5000 or less, and if the delinquent report is an A-1 report required by Section 9-10(b)(5) of the Election Code, the political committee shall be assessed a fine of \$100 per business day for the first violation, \$200 per business day for the second violation, and \$300 per business day for the third and each subsequent violation to a maximum of \$5000, except that if the committee is one formed for statewide office as that term is defined in Section 9-10(b) of the Election Code, the maximum shall be \$10,000;~~
- ~~6) If its total receipts, total expenditures, or balance remaining at the end of the most recent semi-annual report exceeds \$5000, and if the delinquent report is an A-1 report, the political committee shall be assessed a fine of \$200 per business day for the first violation, \$400 per business day for the second violation, and \$600 per business day for the third and each subsequent violation to a maximum of \$5000, except that if the committee is one formed for statewide office as that term is defined in Section 9-10(b) of the Election Code, the maximum shall be \$10,000.~~
- ~~7) If the political committee was created subsequent to the last semi-annual reporting period, and if the delinquent report is an A-1 report, the political committee shall be assessed a fine of \$100 per business day for the first violation, \$200 per business day for the second violation, and \$300 per business day for the third and subsequent violation to a maximum of \$5000, except that if the committee is one formed for statewide office as that term is defined in Section 9-10(b) of the Election Code, the maximum shall be \$10,000.~~
- f) In addition to the civil penalties provided for in Section 9-10(b) and (b-5) of the Election Code, a committee or organization required to report under the Election Code may, for violations of provisions of Article 9 of the Election Code other than delinquent filing, be assessed a civil penalty under the provisions of Section 9-23 of the Election Code and this subsection. The Board will calculate civil penalties in accord with subsection (e). A committee that violates both Section 9-

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10 of the Election Code and an Order of the Board may be liable for separate penalties for each violation. In cases of alleged violation of an Order of the Board brought under the provisions of Section 9-23 of the Election Code, the Board will mail to each committee or organization alleged to be in violation of a Board order notice of a proposed civil penalty calculated in accord with the terms of this Part, which proposed penalty shall become effective without further proceedings unless the committee or organization receiving the notice contests the proposed civil penalty. A political committee assessed a civil penalty under Section 9-10(b) [or \(b-5\)](#) for being delinquent in filing a required report or that has received notice of a proposed civil penalty for violation of a Board order under Section 9-23 may:

- 1) submit, within [30 calendar](#)~~10~~ days after the mailing of the assessment notice, a request for waiver of appearance and appeal affidavit in the form provided by the Board stating the reasons for requested waiver of appearance and the reasons for the late filing or violation of the Board order, as the case may be, to show why a civil penalty should not be assessed. This appeal affidavit shall either be in writing made under oath and upon penalty of perjury sworn to before a notary public or any person authorized to administer oaths or be made pursuant to Section 1-109 of the Code of Civil Procedure [735 ILCS 5/1-109]; or
 - 2) submit, within [30 calendar](#)~~10~~ days after the mailing of the assessment notice, a request for hearing and appeal affidavit in the form provided by the Board stating the reasons for the late filing or violation of the Board Order, as the case may be, to show why a civil penalty should not be assessed. This appeal affidavit shall either be in writing made under oath and upon penalty of perjury sworn to before a notary public or any person authorized to administer oaths or be made pursuant to Section 1-109 of the Illinois Code of Civil Procedure [735 ILCS 5/1-109]; or
 - 3) pay, within 30 days after the mailing of the assessment notice, the civil penalty assessed. If an appeal affidavit is filed, with or without waiver of appearance, the civil penalty shall not be due until the appeal is determined by the Board.
- g) If a political committee or organization required to report under the provisions of Article 9 of the Election Code subject to a civil penalty fails, within the time required, to make payment in full of the assessed civil penalty, then the Board shall proceed with efforts at collection pursuant to the Illinois State Collection Act of 1986 [30 ILCS 210]. The Board shall not hear an appeal of a civil penalty

STATE BOARD OF ELECTIONS

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imposed for delinquent filing or the violation of a Board ~~Order~~ if neither a request for waiver of appearance and appeal affidavit nor a request for hearing and appeal affidavit is filed within the time required.

- h) Notwithstanding any provision ~~of this Section herein~~ to the contrary, the Board shall stay the enforcement of any civil penalty in cases of first time violation of a filing deadline and shall stay the enforcement of a civil penalty for the violation of a Board ~~Order~~ where the committee organization has voluntarily entered into a stipulation admitting the violation and agreeing to the civil penalty. ~~The Such~~ stay shall continue only so long as no subsequent violations of Article 9 of the Election Code or of Board ~~Orders~~ occur. Violation of Article 9 of the Election Code or a Board ~~Order~~ will cause the civil penalty otherwise stayed to become immediately due and may expose the committee or organization to further liability in accord with this Section.
- i) For the purpose of this Section, second and subsequent violations are deemed to occur with reference to the time the first offense event occurs, not when a hearing, if any is required, concerning such first offense event is held. The Board may consider two or more allegations of violations at the same hearing, treating the first as an initial violation and the remaining as subsequent violations, imposing appropriate civil penalties for each.
- j) Notwithstanding any other provision of this Section:
- 1) if an active political committee is assessed no more than one civil penalty under Section 9-10 during a two year period, it shall, after two years have lapsed following the assessment, be considered as never having violated Section 9-10. For a single violation, the two year period begins to run with the mailing of the assessment letter. If an active political committee is assessed more than one civil penalty and has paid all assessed civil penalties, it shall be considered for assessment purposes as not having violated that Section if it is assessed no other civil penalty during a two year period following receipt of payment by the Board;
 - 2) if a committee is assessed a single penalty under Section 9-10 and subsequently files a final report or has filed a final report prior to the assessment, during the two year period beginning with the date of the assessment letter, or the final Board Order if the assessment is appealed and the appeal is denied, any successor committee shall be considered, for assessment purposes, as not having violated Section 9-10 if it is assessed

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no other penalty;

- 3) if a committee is assessed more than one penalty under Section 9-10 and subsequently files a final report or has filed a final report prior to the assessment, and the political committee has not paid the civil penalties, any successor committee that subsequently pays all civil penalties due shall be considered as never having violated Section 9-10 if, for two years from the date of receipt of payment by the Board, the successor committee is assessed no other civil penalty.

- k) Upon notice by the Hearing Examiner or upon request by any party, the Hearing Examiner may direct parties or their attorneys to appear at a specified time and place for a conference, either during or prior to any hearing, for purposes including, but not limited to:
 - 1) the formulation and simplification of issues;
 - 2) the necessity or desirability of amending the assessment notice for the purpose of clarification or correction;
 - 3) the possibility of stipulations concerning material facts;
 - 4) the limitations of the number of witnesses;
 - 5) such other matters as may aid in the simplification of evidence and the disposition of the proceeding.

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

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Raffles Conducted By Political Committees
- 2) Code Citation: 26 Ill. Adm. Code 210
- 3) Section Number: 210.10 Proposed Action: Amend
- 4) Statutory Authority: Implementing the Raffles Act [230 ILCS 15] and authorized by Article 1A, Section 8(9) of the Illinois Election Code [10 ILCS 5/1A-8(9)].
- 6) A Complete Description of the Subjects and Issues Involved:

Section 210.10 Licensing of Raffles Conducted by Political Committees
Subsection (f) is stricken to reflect a statutory amendment that removed the provision requiring political committees to be in existence for at least one year prior to applying for and receiving a raffle license from the State Board of Elections.
- 6) Will this amendment replace any emergency amendment currently in effect? No
- 7) Does this amendment contain an automatic repeal date? No
- 8) Does this amendment contain any incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The proposed amendment does not require expenditures by units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this notice to:

Steven S. Sandvoss, Deputy General Counsel
State Board of Elections
1020 S. Spring St.
Springfield IL 62708

217/557-9939
- 12) Initial Regulatory Flexibility Analysis:

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- A) Types of small businesses, small municipalities and not for profit corporations:
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 2 most recent regulatory agendas because: At the time of the publication of the regulatory agendas, this amendment had not been anticipated.

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

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENT

TITLE 26: ELECTIONS
CHAPTER I: STATE BOARD OF ELECTIONSPART 210
RAFFLES CONDUCTED BY POLITICAL COMMITTEES

Section

210.10

Licensing of Raffles Conducted by Political Committees

210.APPENDIX A

Application Form

AUTHORITY: Implementing and authorized by the Raffles Act [230 ILCS 15].

SOURCE: Emergency rules adopted at 14 Ill. Reg. 6907, effective May 1, 1990, for a maximum of 150 days; emergency expired September 28, 1990; adopted at 15 Ill. Reg. 4450, effective March 16, 1991; amended at 29 Ill. Reg. _____, effective _____.

Section 210.10 Licensing of Raffles Conducted by Political Committees

- a) No raffle or other game of chance defined in and authorized by Section 8.1 of the Raffles Act [230 ILCS 15/8.1] (the Act) ~~"AN ACT to provide for licensing and regulating certain games of chance and amending certain Acts herein named" as amended (hereafter "raffle")~~ shall be conducted unless a license has first been issued for such a purpose by the State Board of Elections (~~hereafter "the Board"~~).
- b) "Political ~~committee~~ Committee" as used in this Part shall mean a political committee as defined by Section 9-1.9 of the Election Code [10 ILCS 5/9-1.9](Ill. Rev. Stat. 1989, ch. 46, par. 9-1.9).
- c) No political committee, group, association, or other entity shall receive a license to conduct a raffle unless it is a political committee as defined by this Part and Section 9-1.9 of the Election Code, and unless it meets all requirements of Section 8.1 of the Act.
- d) Application for a license to conduct a raffle shall be made on forms provided by the Board and shall supply, over the oath of the applicant, all information requested by the application form. The form of the application is set out in Appendix A ~~hereto and is made a part hereof~~.
- e) Only the chairman or treasurer of a political committee whose name is ~~names are~~ listed on the committee's D-1 statement at the time the application is filed shall

STATE BOARD OF ELECTIONS

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sign the application for a license to conduct a raffle.

- f) ~~A political committee shall be deemed to have been in existence for one year and to have had a bonafide membership engaged in carrying out its objects if, on the day the application is received at the office of the Board in Springfield, Illinois, one year has elapsed between the date the committee was established, as shown on its current D-1 forms, and the date the application is received.~~
- f)g) An officer of a political committee or an employee or person not otherwise disqualified by the Act itself shall be deemed to be of good moral character if he or she has never been convicted of an offense identified in Article 29 of the Election Code, ~~except for Section 29-14, of the Election Code or Section 3 of the Election Interference Prohibition Act (Ill. Rev. Stat. 1989, ch. 46, par. 103);~~ provided that if an officer, employee or person has been convicted of such an offense he or she may nonetheless be deemed of good moral character if at least one ~~(1)~~-year has elapsed between the completion of any sentence, including a sentence of probation, imposed upon such conviction and the date the application is sent to the Board as noted upon the application itself.
- g)h) The information supplied by the applicant, over his or her oath, if it is complete as to each and every item of the application for which an answer is required, shall be deemed to be presumptively correct and sufficient for the Board to issue a license to the applicant to conduct a raffle.
- h)i) Any person who has grounds to believe a committee has violated the terms of the Act or of its license may file a complaint before the State Board of Elections to determine whether a license holder remains in compliance with the terms of its license. The Board shall hear such a complaint under the provisions of 26 Ill. Adm. Code 125.Subpart C. The complainant shall prove its case before the Board. Nothing in this Part prohibits the Board from filing a complaint, but unless it does so, the Board shall not act as an advocate for the ~~complainant~~Complainant. Failure of a committee to abide by the Act and its license voids the license whether or not a complaint is filed.
- i)j) All receipts and/or expenditures for raffles conducted under this Section and the Act shall be reported on the report next required to be submitted by the committee after each separate raffle under Article 9 of the ~~Illinois~~ Election Code ~~(Ill. Rev. Stat. 1989, ch. 46, Art. 9)~~ and on such other reports as may be required ~~thereafter~~ by that Articlesame article.

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENT

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Determination of Need (DON) and Resulting Service Cost Maximums (SCMs)
- 2) Code Citation: 89 Ill. Adm. Code 679
- 3) Section Number: 679.50 Proposed Action: Amendment
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].
- 5) A Complete Description of the Subjects and Issues involved: This rulemaking provides that customers who cannot be served under the waiver program's Service Cost Maximums and who meet the criteria established by DPA, may be eligible for an exceptional care rate. Companion amendments are also being proposed to 89 Ill. Adm. Code 682 and 684.
- 6) Will this rulemaking replace an emergency rule currently in effect? yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days of the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762
(217) 785-9772

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

- 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 anticipated at the time of the last regulatory agenda.

The full text of the Proposed Amendment is identical to that of the Emergency Amendment that begins on page 15178 of this issue of the *Illinois Register*.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Eligibility
- 2) Code Citation: 89 Ill. Adm. Code 682
- 3) Section Numbers: 682.100 Proposed Action:
Amendment
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3]
- 5) A Complete Description of the Subjects and Issues involved: This rulemaking provides that a physician's certification will be done every two years. Implementing this rule change with the exceptional care rulemaking will provide for greater continuity of services and more accurate case reviews, along with assisting HSP to better serve children transitioning out of the DSCC waiver. Companion amendments are also being proposed on 89 Ill. Adm. Code 679 and 684.
- 6) Will this proposed rulemaking replace an emergency rule currently in effect? Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed rulemaking contain incorporations by reference? No
- 9) Are there any other 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 present their comments concerning these rules within 45 days of the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762
217/785-9772

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

- 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: July 2004

The full text of the Proposed Amendment is identical to the text of the Emergency Amendment that appears on page 15183 of this *Illinois Register*.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Service Planning and Provisions
- 2) Code Citation: 89 Ill. Adm. Code 684
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
684.70	Amendment
684.75	Amendment
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].
- 5) A Complete Description of the Subjects and Issues involved: This rulemaking provides that customers who cannot be served under the waiver program's Service Cost Maximums and who meet the criteria established by DPA, may be eligible for an exceptional care rate. This rulemaking also provides that a physician's certification will be done every two years. Implementing this rulemaking will provide for greater continuity of services and more accurate case reviews, along with assisting HSP to better serve children transitioning out of the DSCC waiver. Companion amendments are also being proposed on 89 Ill. Adm. Code 679 and 682.
- 6) Will this proposed rulemaking replace any emergency rulemaking currently in effect?
Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed rulemaking contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days of the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762
(217) 785-9772

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: 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: July '04.

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments on page 15188 of this issue of the *Illinois Register*.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Nuisance Wildlife Control Permits
- 2) Code Citation: 17 Ill. Adm. Code 525
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
525.20	Amendment
525.30	Amendment
525.35	New Section
- 4) Statutory Authority: Implementing and authorized by Section 2.37 of the Wildlife Code [520 ILCS 5/2.37].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to incorporate language regarding nuisance migratory birds.
- 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 affected: Persons issued Nuisance Wildlife Control Permits: Class A Permits are

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

issued to persons charging a fee for their services; Class B Permits are issued to persons performing the service at no charge; Class C Permits are issued to governmental bodies.

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

Permits are issued on an annual basis, expiring on January 31 of each year.

Applicants must meet eligibility requirements, including filling out an application, passing a written examination and completing a Hunter Safety Course. Permittees shall maintain records and submit an annual report to the Department

C) Types of professional skills necessary for compliance: No professional skills are necessary for compliance.

13) Regulatory Agenda on which this rulemaking was summarized: July 2004

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 525
NUISANCE WILDLIFE CONTROL PERMITS

Section

525.10	Purpose
525.20	Requirements and Application
525.30	General Provisions
<u>525.35</u>	<u>Migratory Birds</u>
525.40	Revocation and Suspension of Permits – Hearings and Appeals
525.EXHIBIT A	Application for Nuisance Wildlife Control Permit

AUTHORITY: Implementing and authorized by Section 2.37 of the Wildlife Code [520 ILCS 5/2.37].

SOURCE: Adopted at 15 Ill. Reg. 4149, effective March 4, 1991; amended at 16 Ill. Reg. 1826, effective January 17, 1992; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 23 Ill. Reg. 3406, effective March 8, 1999; amended at 27 Ill. Reg. 735, effective January 6, 2003; amended at 29 Ill. Reg. _____, effective _____.

Section 525.20 Requirements and Application

- a) Any individual desiring to control Protected Species which are causing damage to property or a risk to human health or safety on the land of another, for a fee, must first obtain a valid Class A Nuisance Wildlife Control Permit from the Department. Taking any protected species in violation of this subsection is a Class B misdemeanor (see 520 ILCS 5/2.33, 2.33(a)). Control of white-tailed deer and ~~migratory~~-threatened, or endangered species is prohibited except as provided for in Section 525.30(h). Unlawful taking of white-tailed deer is a Class B misdemeanor (see 520 ILCS 5/2.24), as is unlawful taking of migratory birds (see 520 ILCS 5/2.18). Unlawful taking of an endangered species is a Class A misdemeanor (see 520 ILCS 10/9).
- b) Any person desiring to control Protected Species which are causing damage to property or a risk to human health or safety on the land of another, at no charge, must first obtain a valid Class B Nuisance Wildlife Control Permit from the

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Department. Not-for-profit (501(c)(3)) zoos and botanical gardens desiring to control protected species that are causing damage to property or are a risk to human health or safety on lands owned by that entity must first obtain a valid Class B Nuisance Wildlife Control Permit from the Department. Control of white-tailed deer and migratory, threatened, or endangered species is prohibited except as provided for in Section 525.30(h). Unlawful taking of white-tailed deer is a Class B misdemeanor (see 520 ILCS 5/2.24), as is unlawful taking of an endangered species (see 520 ILCS 5/2.18). Unlawful taking of migratory birds is a Class B misdemeanor (see 520 ILCS 10/9).

- c) Any governmental body desiring to control Protected Species which are causing damage to property or a risk to human health or safety on lands governed, owned or managed by that governmental body must first obtain a valid Class C Nuisance Wildlife Control Permit from the Department. Control of white-tailed deer and migratory, threatened, or endangered species is prohibited except as provided for in Section 525.30(h). Unlawful taking of white-tailed deer is a Class B misdemeanor (see 520 ILCS 5/2.24), as is unlawful taking of an endangered species (see 520 ILCS 5/2.18). Unlawful taking of migratory birds is a Class B misdemeanor (see 520 ILCS 10/9).
- d) Permit Procedures
 - 1) To be eligible for a Class A or Class B Nuisance Wildlife Control Permit the applicant must be at least 18 years of age.
 - 2) Application for a Nuisance Wildlife Control Permit shall be made on forms provided by the Department's Division of Wildlife Program Development and Coordination and shall be obtained by submitting a request to the Division.
 - 3) The Department shall issue a Class A Nuisance Wildlife Control Permit to an individual provided the applicant has:
 - A) met eligibility requirements as per this Section;
 - B) passed a written examination administered by the Department which tests the applicant's knowledge and understanding of:
 - i) this Part;

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- ii) the Wildlife Code [520 ILCS 5/2.37];
 - iii) Illinois List of Endangered and Threatened Fauna (17 Ill. Adm. Code 1010);
 - iv) the Illinois Dead Animal Disposal Act [225 ILCS 610];
 - v) "Specifications for the Humane Handling, Care, Treatment, and Transportation of Warmblooded Animals Other Than Dogs, Cats, Rabbits, Hamsters, Guinea Pigs, Nonhuman Primates, and Marine Mammals" (Subpart F, Subchapter A, ch. 1, Title 9 CFR, 1985) (no later editions or amendments are included);
 - vi) Disease Free Certification and Quarantine Provisions for Propagation, Release, Importation, Exportation, and Transportation of Game Mammals, Game Birds, Migratory Birds, or Exotic Wildlife (17 Ill. Adm. Code 630); and
 - vii) diseases, life cycles, habits, and habitats of common Illinois wildlife as well as methods of preventing or controlling damage and risks to human health or safety.
- C) completed a Hunter Safety Course administered by the Department or provided proof of equivalent training if guns are to be used to take or euthanize animals.
- 4) Each new applicant or person whose permit has been revoked or has expired shall be required to answer correctly at least 80% of the questions on the closed-book examination. Applicants failing the required examination may repeat the exam after 45 days. Should a second failure occur, a six-month waiting period from the date of the second exam is required. The examination sequence can be repeated no more than twice during any two-year period.
- 5) The Department shall issue a Class B Nuisance Wildlife Control Permit to an individual provided the applicant has:
- A) met eligibility requirements as per this Section;

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- B) successfully completed an interview during which a representative of the Division of Wildlife Resources has determined the applicant's knowledge of wildlife and wildlife capture techniques sufficient to render services as provided for in this Section; and
 - C) completed a Hunter Safety Course administered by the Department or provided proof of equivalent training if guns are to be used to take or euthanize animals.
- 6) The Department shall issue a Class B Nuisance Wildlife Control Permit to a not-for-profit (501(c)(3)) zoo provided that entity is accredited by the American Zoological Association and a staff member in charge of nuisance wildlife control activities complies with provisions set forth in Section 525.20(d)(5). The Department shall issue a Class B Nuisance Wildlife Control Permit to a not-for-profit (501(c)(3)) botanical garden provided that entity is a member of the American Arboreta and Botanic Garden Association and a staff member in charge of nuisance wildlife control activities complies with provisions set forth in Section 525.20(d)(5). Authorization granted to not-for-profit zoos and botanical gardens is limited to properties owned by those entities and subject to refusal, revocation and/or suspension pursuant to Sections 525.20(e), 525.30(q), and 525.40.
- 7) The Department shall issue a Class C Nuisance Wildlife Control Permit to a governmental body upon application.
- e) Violation of the Illinois Endangered Species [Protection](#) Act [520 ILCS 10], the Fish Code of 1971 [520 ILCS 5] or the Wildlife Code [520 ILCS 5] during the 3 years prior to application for a Class A or Class B Nuisance Wildlife Control Permit shall be grounds for refusal to issue said permit.
- f) Final judgment of applications shall be made by the Chief, Division of Wildlife Program Development and Coordination, or his designee, based on criteria contained in subsection (d).
- g) Providing deceptive or false information on an application is a Class A misdemeanor (see 520 ILCS 5/2.38).

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

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Section 525.30 General Provisions

- a) Nuisance Wildlife Control Permits shall be issued on an annual basis and expire January 31 of each year. Nuisance Wildlife Control Permits are not transferable. Permitted Nuisance Wildlife Control is governed solely by Sections 2.37 and 2.38 of the Wildlife Code [520 ILCS 5/2.37 and 2.38] and this Part. All other provisions of The Game Protective Regulations of the Wildlife Code [520 ILCS 5] do not apply.
- b) Under no circumstances shall a Nuisance Wildlife Control Permit be used in lieu of a scientific collector's permit or sport or commercial licenses.
- c) Permittee's method of taking fauna must be approved by the Department. Approved methods include, but are not limited to trapping and shooting. In addition,
 - 1) Only the following devices shall be used for land sets:
 - A) box traps, cage traps or traps of similar design;
 - B) EGG traps[®], D-P[®] (Dog-Proof) traps or traps of similar design with a single access opening no larger than three square inches;
 - C) cushion-hold traps with no modifications from the manufacturer's specifications other than the addition of auxiliary springs and/or swivels. "Cushion-hold trap" means an approved, commercially manufactured trap of the spring-loaded type with offset jaws designed to capture an animal by closing upon one of its limbs and that is so constructed that the edges designed to touch the animal are composed of a non-metallic substance that eliminates or mitigates injury to the trapped animal; and
 - D) body-gripping traps powered by two springs and having an inside jaw spread no larger than 25 square inches may be used if set inside a residence at least four inches from any outside surface of the structure or set outdoors at least eight feet from the ground and enclosed in a tube, cylinder or open-ended box constructed of solid wood, metal or plastic such that the trigger of the trap is located at least twelve inches from any entrance to the enclosure in which it is set.

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- E) Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(a)).
- 2) Body-gripping traps, cushion-hold traps, leghold traps, EGG[®] traps and D-P[®] (Dog-Proof) traps or traps of similar design, Bailey beaver traps or traps of similar design, Snead colony traps or traps of similar design, and cage traps, box traps or traps of similar design may be used for water sets. Snares that are not powered by springs or other mechanical devices shall be used for water sets only if at least one-half of the snare noose loop is located under water at all times; the noose loop diameter is not greater than 15 inches (38.1 CM); the snare is equipped with a mechanical lock, anchor swivel, and stop device to prevent the mechanical lock from closing the noose loop to a diameter of less than 2½ inches (6.4 CM); the cable diameter is not less than 5/64 inch (2.0 MM) but not greater than ¼ inch (3.2 MM); and the snare is not constructed of stainless steel metal cable or wire. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(a)).
 - 3) It is unlawful to fail to visit and remove all animals from traps staked out, set, used, tended, placed or maintained at least once each calendar day. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(a)).
 - 4) It is unlawful for any person to place, set, use, or maintain any trap or snare that is not tagged, inscribed, or otherwise identified with the permittee's name and address. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(a)).
 - 5) It is unlawful for any person to place, set, use, or maintain a cushion-hold trap or leghold trap, in water, that has an inside jaw spread larger than 7½ inches (19.1 CM), or a body-gripping trap having an inside jaw spread larger than 144 square inches. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(a)).
 - 6) It is unlawful for any person to place, set, use, or maintain a cushion-hold trap, on land, that has an inside jaw spread larger than 6½ inches (16.6 CM). Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(a)).
 - 7) It is unlawful to use any trap with saw-toothed, serrated, spiked, or toothed jaws. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(a)).

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- 8) It is unlawful to place, set, or maintain any leghold trap or cushion-hold trap within 30 feet (9.14 m) of bait placed in such a manner or position that it is not completely covered and concealed from sight, except that this shall not apply to underwater sets. Bait shall mean and include any bait composed of mammal, bird, or fish flesh, fur, hide, entrails, or feathers. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(a)).
- 9) It is unlawful to use any deadfall, pit trap, spear, gig, hook, crossbow, poison, chemical, explosive or any like device to take any Protected Species, except that commercially available gas cartridges that emit carbon monoxide or carbon dioxide as primary lethal agents may be used according to the manufacturer's specifications. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(a)).
- 10) It is unlawful for any person, except persons permitted by law, to have or carry any gun in or on any vehicle, conveyance or aircraft, unless such gun is unloaded and enclosed in a case. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(n)).
- 11) It is unlawful to fire a rifle, pistol, revolver, or airgun on, over or into any waters of this State, including frozen waters. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(q)).
- 12) It is unlawful to discharge any gun along, upon, across, or from any public right-of-way or highway in this State. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(r)).
- 13) It is unlawful to use a silencer or other device to muffle or mute the sound of the explosion or report resulting from the firing of any gun. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(s)).
- 14) It is unlawful for any person to remove animals from or to move or disturb in any manner, the traps owned by another person without written authorization of the owner to do so. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(v)).
- 15) It is unlawful for any person to wantonly or carelessly injure or destroy, in any manner whatsoever, any real or personal property on the land of another while engaged in activities permitted by this Section. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(x)).

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- 16) It is unlawful for any person to take any Protected Species during the gun deer hunting season in those counties open to gun deer hunting, unless he wears, when in the field, a cap and outer garment of a solid blaze orange color, with such articles of clothing displaying a minimum of 400 square inches of blaze orange material. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(ff)).
- 17) The use of guns shall be subject to all State restrictions.
- 18) The use of guns shall be subject to municipal restrictions unless otherwise authorized in writing by an official of the municipality.
- d) Taking of fauna on private properties by Class A and Class B permittees requires the landowner's or tenant's written permission. Class B not-for-profit permittees are restricted to taking nuisance fauna only on the lands owned by the not-for-profit entity. Nothing in this Part allows the taking of wildlife on the property of another without permission from the landowner or tenant. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(t)).
- e) Taking of fauna on State-owned or -managed lands requires written authorization from the Site Superintendent or District Wildlife Habitat Biologist. Violation is a Class B misdemeanor (see 520 ILCS 835/6).
- f) Permittees shall describe to the persons seeking services the estimated cost and type of control methods to be used to relieve the nuisance problem and/or to alleviate damage to livestock, crops, or property.
- g) The Nuisance Wildlife Control Permit must be carried on the person at all times when taking or transporting fauna and be presented, upon request, to any authorized employee of the Department or any peace officer. Violation is a petty offense (see 520 ILCS 5/2.37).
- h) The taking of white-tailed deer, endangered species, threatened species, ~~migratory birds~~, or other species protected by Federal regulations is prohibited except for: ~~1) the salvage and disposal of dead white-tailed deer in accordance with subsection (k) of this Section;~~
- 2) ~~the control of blackbirds, cowbirds, grackles, crows and magpies in accordance with and under authority of a standing depredation order~~

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~~issued by the U.S. Fish and Wildlife Service (50 CFR 21.43);~~

- 3) ~~the destruction of nests and eggs of protected species of waterfowl including wild ducks, geese and swans in accordance with the following requirements:~~
 - A) ~~individuals desiring to destroy the nests and eggs of protected species of waterfowl, for a fee, must first answer correct at least 80% of questions on a written exam which tests their knowledge of methods of preventing, abating and controlling property damage and risks to human health or safety caused by protected species of waterfowl, topics specified by Section 525.20(d)(3)(B) and applicable federal regulations (50 CFR 21.41); individuals who pass the written exam and meet other requirements set forth in this Part shall be issued a certificate of authorization to destroy the nests and eggs of protected species of waterfowl;~~
 - B) ~~prior to destroying the nests and eggs of protected species of waterfowl, permittees must request and obtain appropriate authorization from the U.S. Fish and Wildlife Service and written approval from the Department for each site where control work will take place; and~~
 - C) ~~methods of destroying waterfowl eggs shall be limited to adding, oiling, puncturing and freezing.~~
 - 4) ~~the control of any other migratory birds or other species protected by federal regulations requires prior authorization from the U.S. Fish and Wildlife Service and written approval from the Department for each site where control work will take place.~~
- i) All fur-bearing mammals [520 ILCS 5/1.2g] and game mammals [520 ILCS 5/1.2h] that are not endangered or threatened (17 Ill. Adm. Code 1010) and are taken under authority of this Part must be released alive or euthanized except that:
 - 1) striped skunks must be euthanized; and
 - 2) raccoons must be euthanized or released on the same property and within 100 yards of where they were captured, or surrendered to a licensed veterinarian who is a licensed wildlife rehabilitator for euthanasia or

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treatment and release. Release may only be after an observation period of at least 45 days. During observation, raccoons may be housed at any properly licensed rehabilitator. Violation is a petty offense (see 520 ILCS 5/2.37).

All other Protected Species must be released alive or surrendered to a licensed rehabilitator. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33).

- j) Methods of euthanizing animals must be approved by the Department and include such methods as:
 - 1) captive bolt, gunshot, drowning, and stunning (mechanical only);
 - 2) inhalants, including halothane, isoflurane, carbon monoxide, and carbon dioxide; and
 - 3) non-inhalants including Secobarbital/dibucaine.
- k) All dead animals must be transferred to a licensed renderer or disposed of in accordance with the Illinois Dead Animal Disposal Act [225 ILCS 610]. Violation is a Class C misdemeanor (see 225 ILCS 610/19).
- l) Animals, animal parts and animal by-products taken under authority of this Part may not be sold, offered for sale, bartered or shipped for the purpose of sale or barter. Violation is a Class A misdemeanor (see 520 ILCS 5/2.36).
- m) All animals released alive must be re-located into suitable habitat in the State of Illinois within 24 hours after capture. Except as provided for in subsection (i) of this Section, the release site must be located at least 10 but not more than 40 miles from the capture site unless the Department grants specific authority to release animals greater than 40 miles from the capture site and the animals are certified disease-free as provided for in 17 Ill. Adm. Code 630. Animals captured by duly appointed representatives of municipalities shall be re-located into suitable habitat less than 10 miles from the capture site if this subsection would require the release of animals on lands outside their jurisdiction. Violation is a petty offense (see 520 ILCS 5/2.37).
- n) Temporary holding facilities must meet U.S. Department of Agriculture standards for animal welfare as specified in "Specifications for the Humane Handling, Care, Treatment, and Transportation of Warmblooded Animals Other Than Dogs, Cats,

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Rabbits, Hamsters, Guinea Pigs, Nonhuman Primates, and Marine Mammals" (~~subpart Subpart~~ F, ~~subchapter Subchapter~~ A, ch. 1, Title 9 CFR, 1985) (no later editions or amendments are included). Violation is a petty offense (see 520 ILCS 5/2.37).

- o) Release of fauna onto public or private land requires written authorization from the site superintendent, tenant, or landowner. In the event that threatened or endangered species are involved, the release shall be directed by the Endangered and Threatened Species Conservation Program Coordinator, Division of Resource Stewardship and Protection, Department of Natural Resources, One Natural Resources Way, Springfield, Illinois 62702-1271. Violation is a petty offense (see 520 ILCS 5/2.37).
- p) Permittees who rent, lend or otherwise transfer traps to clients, citizens, or other parties who are not under their direct supervision and have not obtained a Nuisance Wildlife Control Permit or a Nuisance Animal Removal Permit are responsible for any damages or violations of this Section that are perpetrated by the other party. Any animals taken by a second party must be reported by the permittee in accordance with subsection (q). Failure to comply with this Part shall result in permit suspension or revocation in accordance with Section 525.40.
- q) All permittees shall maintain records and submit an annual report to the Department showing the following information: total number of complaints received, number of complaints serviced, county of residence, name, address, and phone number of the permittee, number and kinds of animals relocated, name, address, and phone number of any site supervisor, tenant or landowner on whose property animals were released, locations where animals were released, and number and kinds of all animals euthanized. This report shall be made on or before January 20 and shall include all operations for the period from January 1 through December 31 of the previous year. All such reports and records required by this Section shall be available for inspection by any officer or authorized employee of the Department, any sheriff, deputy sheriff, or any other peace officer at any reasonable time when request is made for same. Failure to comply with the provisions of this Section shall bar the permittee from obtaining a Nuisance Wildlife Control Permit for the following year.
- r) It shall be unlawful for any person to represent himself or herself falsely to be an authorized employee of the Department, or to assume to act as such without having been duly appointed and employed as such. Violation is a petty offense (see 520 ILCS 5/1.23).

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- s) A Class A Nuisance Wildlife Control Permittee is an industrial user as listed in the Hypodermic Syringes and Needles Act [720 ILCS 635].

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

Section 525.35 Migratory Birds

- a) Any owner or tenant of lands, including operations, associations and governmental bodies, may, without a permit, scare away migratory birds, either game or non-game, as defined in Section 2.2 of the Wildlife Code [520 ILCS 5/2.2] when they are:
- 1) causing damage to property or wildlife;
 - 2) creating a risk to human health or safety;
 - 3) concentrated in such numbers and manner as to constitute a health hazard or other nuisance, provided that:
 - A) the damage, risk, hazard or other nuisance must be identifiable to an employee of the Department; and
 - B) scaring must be done in accordance with 50 CFR 21.41, except birds that have a nest with eggs and/or a nest with young may not be scared without proper authorization from the Department;
 - 4) Damage to property or wildlife or a risk to human health or safety or health hazard or other nuisance includes, but is not limited to:
 - A) excessive fecal matter accumulations on human property;
 - B) damage to turf, ornamental plantings, agricultural crops, structures, vehicles;
 - C) risks to human safety, such as human conflicts with aggressive birds and vehicle collisions with birds;

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- D) a risk to human health as identified or reasonably expected by a Department Wildlife Biologist or Conservation Police Officer in consultation with a public health official or medical doctor;
 - E) excessive bothersome noise in residential or commercial areas; and
 - F) excessive damage to other species of wildlife, such as competition for nesting sites or territory or damage to vegetation necessary for the well being of other wildlife species.
- b) Any person may remove or destroy, by use of a shotgun, air gun or traps and only on or over the threatened area, any red-winged blackbirds, rusty blackbirds, Brewer's blackbirds, cowbirds, grackles and crows when found committing or about to commit depredations upon ornamental or shade trees, agricultural crops, livestock or wildlife, or when concentrated in such number and manner as to constitute a health hazard or other nuisance, without a permit, so long as they have written permission from the landowner or tenant.
- c) Methods of scaring include, but are not limited to:
 - 1) noise-making devices such as propane cannons, airhorns, distress calls, whistles, blank shells, cracker shells, or pyrotechnic devices such as bangers and screamers;
 - 2) visual methods such as flash tape, balloons, flags, vehicles, fencing, radio-controlled vehicles, dogs or non-harmful light-emitting devices; and
 - 3) chemical repellants that are registered for the non-lethal control of birds by the USEPA.
- d) The destruction of nests and eggs of protected species of waterfowl, including wild ducks, geese and swans, shall be conducted only in accordance with the following requirements:
 - 1) Individuals desiring to destroy the nests and eggs of protected species of waterfowl, for a fee, must first answer correctly at least 80% of the questions on a written exam that tests their knowledge of methods of preventing, abating and controlling property damage and risks to human health or safety caused by protected species of waterfowl, topics specified by Section 525.20(d)(3)(B) and applicable federal regulations (50 CFR

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21.41). Individuals who pass the written exam and meet other requirements set forth in this Part shall be issued a certificate of authorization to destroy the nests and eggs of protected species of waterfowl.

- 2) Prior to destroying the nests and eggs of protected species of waterfowl, permittees must request and obtain appropriate authorization from the U.S. Fish and Wildlife Service and written approval from the Department for each site where control work will take place.
 - 3) Methods of destroying waterfowl eggs shall be limited to addling, oiling, puncturing and freezing.
- e) The taking of any migratory birds or other species protected by federal regulations requires prior authorization from the U.S. Fish and Wildlife Service and written approval from the Department for each site where control work will take place.
- f) This Section does not apply to eagles or endangered species. Unlawful scaring or harassing of eagles or endangered species is a Class A misdemeanor. Unlawful taking of eagles or endangered species can be up to a Class 3 felony.

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

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- 1) Heading of the Part: Sport Fishing Regulations for the Waters of Illinois
- 2) Code Citation: 17 Ill. Adm. Code 810
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
810.37	Amendment
810.45	Amendment
810.70	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1-120, 1-125, 1-150, 5-5, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-45, 10-50, 10-60, 10-75, 10-90, 10-95, 15-50, 20-5, 20-35 and 25-5 of the Fish and Aquatic Life Code [515 ILCS 5/1-120, 1-125, 1-150, 5-5, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-45, 10-50, 10-60, 10-75, 10-90, 10-95, 15-50, 20-5, 20-35 and 25-5].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to update site specific fishing regulations, update individual site specific fishing regulations by water area and update the Free Fishing Days for 2005
- 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

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- 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: July 2004

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

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TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFEPART 810
SPORT FISHING REGULATIONS FOR THE WATERS OF ILLINOIS

Section

810.10	Sale of Fish and Fishing Seasons
810.20	Snagging
810.30	Pole and Line Fishing Only (Repealed)
810.35	Statewide Sportfishing Regulations – Daily Catch and Size Limits
810.37	Definitions for Site Specific Sportfishing Regulations
810.40	Daily Catch and Size Limits (Repealed)
810.45	Site Specific Water Area Regulations
810.50	Bait Fishing
810.60	Bullfrogs (Repealed)
810.70	Free Fishing Days
810.80	Emergency Protective Regulations
810.90	Fishing Tournament Permit
810.100	Bed Protection

AUTHORITY: Implementing and authorized by Sections 1-120, 1-125, 1-150, 5-5, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-45, 10-50, 10-60, 10-75, 10-90, 10-95, 15-50, 20-5, 20-35 and 25-5 of the Fish and Aquatic Life Code [515 ILCS 5/1-120, 1-125, 1-150, 5-5, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-45, 10-50, 10-60, 10-75, 10-90, 10-95, 15-50, 20-5, 20-35 and 25-5].

SOURCE: Adopted at 5 Ill. Reg. 751, effective January 8, 1981; codified at 5 Ill. Reg. 10647; amended at 6 Ill. Reg. 342, effective December 23, 1981; amended at 6 Ill. Reg. 7411, effective June 11, 1982; amended at 7 Ill. Reg. 209, effective December 22, 1982; amended at 8 Ill. Reg. 1564, effective January 23, 1984; amended at 8 Ill. Reg. 16769, effective August 30, 1984; amended at 9 Ill. Reg. 2916, effective February 26, 1985; emergency amendment at 9 Ill. Reg. 3825, effective March 13, 1985, for a maximum of 150 days; emergency expired August 10, 1985; amended at 9 Ill. Reg. 6181, effective April 24, 1985; amended at 9 Ill. Reg. 14291, effective September 5, 1985; amended at 10 Ill. Reg. 4835, effective March 6, 1986; amended at 11 Ill. Reg. 4638, effective March 10, 1987; amended at 12 Ill. Reg. 5306, effective March 8, 1988; emergency amendment at 12 Ill. Reg. 6981, effective April 4, 1988, for a maximum of 150 days; emergency expired September 1, 1988; emergency amendment at 12 Ill. Reg. 10525, effective June 7, 1988, for a maximum of 150 days; emergency expired November 4, 1988;

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amended at 12 Ill. Reg. 15982, effective September 27, 1988; amended at 13 Ill. Reg. 8419, effective May 19, 1989; emergency amendment at 13 Ill. Reg. 12643, effective July 14, 1989, for a maximum of 150 days; emergency expired December 11, 1989; emergency amendment at 13 Ill. Reg. 14085, effective September 4, 1989, for a maximum of 150 days; emergency expired February 1, 1990; emergency amendment at 13 Ill. Reg. 15118, effective September 11, 1989, for a maximum of 150 days; emergency expired February 8, 1990; amended at 14 Ill. Reg. 6164, effective April 17, 1990; emergency amendment at 14 Ill. Reg. 6865, effective April 17, 1990, for a maximum of 150 days; emergency expired September 19, 1990; amended at 14 Ill. Reg. 8588, effective May 21, 1990; amended at 14 Ill. Reg. 16863, effective October 1, 1990; amended at 15 Ill. Reg. 4699, effective March 18, 1991; emergency amendment at 15 Ill. Reg. 5430, effective March 27, 1991, for a maximum of 150 days; emergency expired August 24, 1991; amended at 15 Ill. Reg. 9977, effective June 24, 1991; amended at 15 Ill. Reg. 13347, effective September 3, 1991; amended at 16 Ill. Reg. 5267, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 6016, effective March 25, 1992, for a maximum of 150 days; emergency expired August 22, 1992; amended at 16 Ill. Reg. 12526, effective July 28, 1992; amended at 17 Ill. Reg. 3853, effective March 15, 1993; emergency amendment at 17 Ill. Reg. 5915, effective March 25, 1993, for a maximum of 150 days; emergency expired August 22, 1993; amended at 17 Ill. Reg. 10806, effective July 1, 1993; amended at 18 Ill. Reg. 3277, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 5667, effective March 25, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 12652, effective August 9, 1994; amended at 19 Ill. Reg. 2396, effective February 17, 1995; emergency amendment at 19 Ill. Reg. 5262, effective April 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10614, effective July 1, 1995; amended at 20 Ill. Reg. 4640, effective March 6, 1996; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 21 Ill. Reg. 9389; amended at 21 Ill. Reg. 4709, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 5590, effective April 15, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 12140, effective August 26, 1997; amended at 22 Ill. Reg. 4930, effective March 2, 1998; amended at 23 Ill. Reg. 3434, effective March 8, 1999; emergency amendment at 23 Ill. Reg. 7317, effective June 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 8406, effective July 7, 1999; amended at 24 Ill. Reg. 3736, effective February 25, 2000; amended at 25 Ill. Reg. 6296, effective March 26, 2001; emergency amendment at 25 Ill. Reg. 7947, effective June 16, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 9912, effective August 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11386, effective August 14, 2001; emergency amendment at 25 Ill. Reg. 12122, effective September 15, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 1210, effective January 16, 2002; amended at 26 Ill. Reg. 4294, effective March 6, 2002; amended at 27 Ill. Reg. 3376, effective February 14, 2003; amended at 28 Ill. Reg. 4607, effective March 1, 2004; amended at 29 Ill. Reg. _____, effective _____.

Section 810.37 Definitions for Site Specific Sportfishing Regulations

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- a) Site Specific Regulations are listed by water area affected. The coverage of the regulation is dictated by the extent of the water area listed and not by the county. In some cases, regulations for a given water area or site may extend beyond the counties listed. The counties listed refer to the location of the dam or outfall for impoundments or mouths of small streams. Since large rivers or streams usually flow through many counties, the term "Multiple" is used rather than listing all counties where the large stream or river flows.
- b) The subsections listed below are referred to by number in Section 810.45. Each water area listed in Section 810.45 has numbers in parenthesis which explain all of the definitions in this Section which apply to that water area.
- 1) Anglers must not use more than 2 poles and each pole must not have more than 2 hooks or lures attached while fishing, except that legal size cast nets, (in accordance with subsection 810.50(a)(1)) shad scoops, and minnow seines may be used to obtain shad, minnows, and crayfish to use as bait, provided that they are not sold, and except that bullfrogs may be taken by hand, gig, pitchfork, spear, landing net, and hook and line during bullfrog season.
 - 2) All jugs set in a body of water shall be under the immediate supervision of the fisherman. Immediate supervision shall be defined as the fisherman being on the water where the jugs are set and readily available to identify jugs to law enforcement officers.
 - 3) All largemouth and smallmouth bass taken must be less than 12 inches in total length or greater than 15 inches in total length.
 - 4) Except that sport fishermen shall be allowed to use trotlines, jugs, and by hand, except that the use and aid of underwater breathing devices is prohibited. West of Wolf Creek Road, fishing from boats is permitted all year. Trotlines/jugs must be removed from sunrise until sunset from Memorial Day through Labor Day. East of Wolf Creek Road, fishing from boats is permitted from March 15 through September 30. Fishing from the bank is permitted all year only at the Wolf Creek and Route 148 causeways. On the entire lake, jugs and trotlines must be checked daily and must be removed on the last day they are used. It is illegal to use stakes to anchor any trotlines; they must be anchored only with portable weights and must be removed on the last day they are used. The taking of

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carp and buffalo with bow and arrow is permissible.

- 5) Except that sport fishermen may take carp, carpsuckers, buffalo, gar, bowfin and suckers by pitchfork, gigs, bow and arrow or bow and arrow devices.
- 6) Including the Fox River south of the Illinois-Wisconsin line to the Algonquin Dam and the Nippersink Creek upstream to the Wilmot Road Bridge.
- 7) Except that sport fishermen may take carp, buffalo, suckers and gar by bow and arrow or bow and arrow devices, gigs or spears during May and June.
- 8) Daily catch limit includes Striped Bass, White Bass, Yellow Bass and Hybrid Striped Bass either singly or in the aggregate.
- 9) Catch and Release Fishing Only means that fish (all or identified species) caught must be immediately released alive and in good condition back into the water from which it came.
- 10) It shall be illegal to possess trout during the period of October 1 to 5 a.m. on the third Saturday in October (both dates inclusive) which were taken during that period.
- 11) It shall be illegal to possess trout during the period of March 15 to 5 a.m. on the 1st Saturday in April (both dates inclusive) which were taken during that period.
- 12) Daily catch limit for largemouth or smallmouth bass, singly or in the aggregate, shall not exceed 6 fish per day, no more than one of which shall be greater than 15 inches in length and none of which shall be greater than 12 inches and less than or equal to 15 inches in length.
- 13) Except that jug fishing is permitted from the hours of sunset to sunrise, and except that carp and buffalo may be taken by bow and arrow devices from May 1 through September 30. All jugs must have owner's/user's name and complete address affixed.
- 14) Daily catch limit includes all fish species (either singly or in the

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aggregate) caught within each of the following fish groupings.

- A) Largemouth or Smallmouth Bass
 - B) Walleye, Sauger, or their hybrid
 - C) Bluegill, Redear Sunfish or Pumpkinseed
 - D) Channel or Blue Catfish
- 15) Daily catch limit includes white, black, or hybrid crappie either singly or in the aggregate.
 - 16) Daily catch limit includes Striped Bass, White Bass and Hybrid Striped Bass either singly or in the aggregate.
 - 17) Daily catch limit shall not exceed 10 fish daily, no more than 3 of which may be 17 inches or longer in length.
 - 18) Except that sport fishermen shall be allowed to use trotlines, jugs and bank poles; and carp, carsuckers and buffalo may be taken by bow and arrow, bow and arrow devices, gigs and spears in the portions of the lake that lie north of the Davenport Bridge and northeast of the Parnell Bridge.
 - 19) No fishing within 250 yards of an occupied waterfowl blind (within the hunting area) on all Department-owned or -managed sites.
 - 20) Carlyle Lake (including its tributary streams and those portions of the Kaskaskia River and Hurricane Creek up to the U.S. Army Corps of Engineers Carlyle Lake Project boundaries), U.S. Army Corps of Engineers, Bond, Clinton, and Fayette Counties.
 - 21) Lake Shelbyville (including its tributary streams and those portions of the West Okaw and Kaskaskia Rivers up to Lake Shelbyville Project boundaries – including parts of the Lake Shelbyville Fish and Wildlife Management Area), U.S. Army Corps of Engineers, Shelby and Moultrie Counties.
 - 22) Rend Lake (including its tributary streams and those portions of the Big Muddy and Casey Fork Rivers up to the Rend Lake Project boundaries),

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Rend Lake Project Ponds, U.S. Army Corps of Engineers, Franklin and Jefferson Counties.

- 23) Daily catch limit for black, white or hybrid crappies, singly or in the aggregate, shall not exceed 20 fish daily, no more than 10 of which can be below 10" in total length and no more than 10 of which can be 10" or longer in total length.
- 24) 15" minimum length limit for walleye with no possession of walleye greater than or equal to 20" and less than or equal to 27" in total length – protected slot limit.
- 25) Daily catch limit for largemouth or smallmouth bass, singly or in the aggregate, shall not exceed 3 fish per day, no more than one of which may be equal to or greater than 15 inches in total length and no more than 2 of which may be less than 15 inches in total length.
- 26) Lake Vermilion – Trotline and jug fishing allowed north of Boiling Springs Road.
- 27) Except that bank fishing is prohibited. Boat fishing is permitted May 1 through August 31 during the hours of 2:00 p.m. to 8:00 p.m. See site for additional regulations and exact opening and closing dates.
- 28) Except that trotlines may be set within 300 feet from shore.
- 29) Except that carp, buffalo, suckers and carpsuckers may be taken by means of pitchfork and gigs (no bow and arrow devices).
- 30) Fishing is permitted from March 15 through September 30, both dates inclusive, from sunrise to sunset. Fishing during all other times of the year is illegal and not permitted.
- 31) Daily catch limit for largemouth or smallmouth bass, singly or in the aggregate, shall not exceed 3 fish daily, no more than one of which may be equal to or greater than 15 inches in total length and no more than 2 of which may be less than 12 inches in total length.
- 32) Daily catch limit includes Striped Bass, White Bass, Yellow Bass and Hybrid Striped Bass, either singly or in the aggregate, no more than 4 of

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which may be 15 inches or longer in length.

- 33) It shall be unlawful to enter upon a designated waterfowl hunting area during the 7 days prior to the regular duck season, or to fish on such areas during the regular duck season except in areas posted as open to fishing. It shall be unlawful to enter upon areas designated as waterfowl rest areas or refuges from 2 weeks prior to the start of the regular duck season through the end of duck and Canada goose season.
- 34) Except that sport fishermen may take carp, buffalo, suckers and gar by bow and arrow or bow and arrow devices, gigs, or spears from May 1 through August 31.
- 35) Daily catch limit for Walleye, Sauger, or Hybrid Walleye, singly or in the aggregate, shall not exceed 3 fish daily, no more than one of which may be greater than 24 inches in total length and no more than 2 of which may be less than 18 inches in total length and greater than or equal to 14 inches in total length.
- 36) Except that sportfishermen may not use a minnow seine, cast net, or shad scoop for bait collecting in Cook County Forest Preserve District Waters (except in the Des Plaines River).
- 37) All smallmouth bass taken must be less than 12 inches in total length or greater than 18 inches in total length. Only 1 bass greater than 18 inches and 2 bass less than 12 inches may be taken in the creel daily.
- 38) All largemouth and smallmouth bass taken must be less than 14 inches in total length or greater than 18 inches in total length. Only 1 bass greater than 18 inches and 5 bass less than 14 inches may be taken in the creel daily.
- 39) Powerton Lake shall be closed to boat traffic, except for legal waterfowl hunters, from one week prior to regular waterfowl season to February 15, and closed to all unauthorized entry during the regular goose and duck season.
- 40) The 48 inch total length limit on pure muskellunge applies to that body of water listed as well as any tailwaters as defined below:

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Evergreen Lake (McLean County) – including the portion of Six Mile Creek below the Evergreen Lake Dam downstream to its confluence with the Mackinaw River.

Forbes State Lake (Marion County) – no tailwaters

Fox Chain O' Lakes (Lake/McHenry Counties) – including the Fox River south of the Wisconsin-Illinois boundary to the Algonquin Dam and the Nippersink Creek upstream to the Wilmot Road Bridge.

Kinkaid Lake (Jackson County) – including the portion of Kinkaid Creek below the Kinkaid Lake Dam downstream to the Route 149 Bridge.

Lake Mingo and Kennekuk Cove Park Ponds (Vermilion County) – no tailwaters.

Lake Shelbyville (Moultrie/Shelby Counties) – including the portion of the Kaskaskia River below the Lake Shelbyville Dam downstream to the State Route 128 Road Bridge near Cowden.

Otter Lake (Macoupin County) – including the portion of Otter Creek below Otter Lake Dam downstream to its confluence with East Otter Creek.

Pierce Lake (Winnebago County) – including the portion of Willow Creek below the Pierce Lake Dam downstream to Forest Hills Road.

Shabbona Lake (DeKalb County) – including that portion of Indian Creek below the Shabbona Lake Dam downstream to Shabbona Grove Road.

Spring Lakes (North and South) (Tazewell County) – no tailwaters.

- 41) It shall be unlawful to enter upon areas designated as waterfowl hunting areas during the 10 days prior to the start of the regular duck season, or to fish on such areas during the regular duck season except in areas posted as open to fishing. It shall be unlawful to enter upon areas designated as waterfowl rest areas or refuges from 10 days prior to the start of the regular duck season through the end of duck and Canada goose season.
- 42) During duck season, walk-in only access for fishing from the bank is

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permitted after 1:00 p.m.

- 43) When using live bait, all live bait in excess of 8" in total length shall be rigged with a quick set rig. The hook shall be immediately set upon the strike. A quick set rig is defined as follows: a live bait rig with up to 2 treble hooks attached anywhere on the live bait; single hooks are prohibited. This rule does not apply to trotlines, jug lines, etc., if allowed on the lake.

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

Section 810.45 Site Specific Water Area Regulations

Fishing regulations, including species of fish, fishing methods and daily catch limits are listed for each water area. The numbers in parenthesis refer to the corresponding numbered definitions in Section 810.37 of this Part. If a water area is not listed or if a specific species is not listed, then state-wide restrictions apply. Check the bulletin boards at the specific site for any emergency changes to regulations.

Anderson Lake Fish and Wildlife Area (33)
Fulton County

Andover Lake, City of Andover
Henry County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit

Anna City Lake, City of Anna
Union County

All fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish	- 8" Minimum Length Limit
Bluegill or Redear Sunfish (14)	- 10 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit

Apple River and tributaries, State of Illinois
Jo Daviess County

All Fish	- 2 Pole and Line Fishing Only (1)
Smallmouth Bass	- 14" Minimum Length Limit

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Trout	- Spring Closed Season (11)
Argyle Lake, Argyle Lake State Park McDonough County	
Recreational Use Restrictions	- All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14)	- 25 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Hybrid Walleye	- 3 Fish Daily Creel Limit
Large or Smallmouth Bass (14)	- 1 Fish > 15" and/or 5 < than 12" Daily (12)
Trout	- Fall Closed Season (10)
White, Black, or Hybrid Crappie (15)	- 10 Fish Daily Creel Limit
White, Black, or Hybrid Crappie	- 9" Minimum Length Limit
Arrowhead Heights Lake, Village of Camp Point Adams County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Arrowhead Lake, City of Johnston City Williamson County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
<u>White, Black, or Hybrid Crappie (15)</u>	<u>- 15 Fish Daily Creel Limit</u>
Ashland City Old Reservoir #4611, City of Ashland Morgan County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Ashland City Reservoir, City of Ashland Cass County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit

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Auburn Park Lagoon, Chicago Park District

Cook County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 4 Fish Daily Creel Limit

Axehead Lake, Cook County Forest Preserve

Cook County

- All Fish - 2 Pole and Line Fishing Only (1) (36)
- Large or Smallmouth Bass - 14" Minimum Length
- Trout - Fall Closed Season (10)
- Trout - Spring Closed Season (11)

Bakers Lake, City of Peru

LaSalle County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Baldwin Lake, Baldwin Lake Conservation Area

Randolph County

- All Fish - 2 Pole and Line Fishing Only (1) (5)
- Large or Smallmouth Bass - 18" Minimum Length Limit
- Striped, White, or Hybrid Striped Bass - 17" Minimum Length Limit
- Striped, White, or Hybrid Striped Bass (16) - 3 Fish Daily Creel Limit
- White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit
- White, Black, or Hybrid Crappie - 9" Minimum Length Limit

Banana Lake, Lake County Forest Preserve District

Lake County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Trout - Fall Closed Season (10)
- Trout - Spring Closed Season (11)

Banner Marsh Lake & Ponds, Banner Marsh State Fish and Wildlife Area (33)

Peoria/Fulton Counties

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Recreational Use Restrictions	- All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish	- 2 Pole and Line Fishing Only (1) (34)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
Large or Smallmouth Bass	- 12"-18" Protected Slot Length Limit (no possession)
Pure Muskellunge	- 42" Minimum Length Limit
White, Black, or Hybrid Crappie (15)	- 25 Fish Daily Creel Limit
White, Black, or Hybrid Crappie	- 9" Minimum Length Limit

Bass Lake, DuPage County Forest Preserve DistrictDuPage County

<u>All Fish</u>	<u>- 2 Pole and Line Fishing Only (1)</u>
<u>Channel Catfish</u>	<u>- 3 Fish Daily Creel Limit</u>
<u>Channel Catfish</u>	<u>- 12" Minimum Length Limit</u>
<u>Large or Smallmouth Bass</u>	<u>- 18" Minimum Length Limit</u>
<u>Large or Smallmouth Bass (14)</u>	<u>- 1 Fish Daily Creel Limit</u>
<u>White, Black, or Hybrid Crappie</u>	<u>- 9" Minimum Length Limit</u>
<u>White, Black, or Hybrid Crappie (15)</u>	<u>- 15 Fish Daily Creel Limit</u>

Batchtown Wildlife Management Area (33)
Calhoun CountyBaumann Park Lake, City of Cherry Valley
Winnebago County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Beall Woods Lake, Beall Woods Conservation Area
Wabash County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Trout	- Spring Closed Season (11)
Trout	- Fall Closed Season (10)

Beaver Dam Lake, Beaver Dam State Park

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Macoupin County

All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14)	- 25 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
Trout	- Fall Closed Season (10)
White, Black, or Hybrid Crappie (15)	- 10 Fish Daily Creel Limit
White, Black, or Hybrid Crappie	- 9" Minimum Length Limit

Beck Lake, Cook County Forest Preserve District

Cook County

All Fish	- 2 Pole and Line Fishing Only (1) (36)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye	- 18" Minimum Length Limit

Belk Park Pond, City of Wood River

Madison County

Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 18" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Belleau Lake, Cook County Forest Preserve District

Cook County

All Fish	- 2 Pole and Line Fishing Only (36)
Large or Smallmouth Bass	- 14" Minimum Length Limit
Trout	- Fall Closed Season (10)
Trout	- Spring Closed Season (11)

Belvidere Ponds, City of Belvidere

Boone County

Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit

Bevier Lagoon, Waukegan Park District

Lake County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit

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Bird Park Quarry, City of Kankakee
Kankakee County

- Trout - Fall Closed Season (10)
- Trout - Spring Closed Season (11)

Borah Lake, City of Olney
Richland County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit

Boston Pond, Stephen A. Forbes State Park
Marion County

- Trout - Fall Closed Season (10)
- Trout - Spring Closed Season (11)

Bowen Lake, City of Washington
Tazewell County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 12"-15" Protected Slot Length Limit (no possession)
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Braidwood Lake State Fish and Wildlife Area (41)
Will County

- Recreational Use Restrictions - Braidwood Lake is closed to all fishing and boat traffic, except for legal waterfowl hunters, from 10 days prior to duck season through the day before duck season and is closed to all fishing during waterfowl season commencing with regular duck season through the close of the Canada goose and regular duck season
- All Fish - 2 Pole and Line Fishing Only (1)
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- Striped, White, or Hybrid Striped Bass - 17" Minimum Length Limit
- Striped, White, or Hybrid Striped Bass - 3 Fish Daily Creel Limit

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- (16)
White, Black or Hybrid Crappie (15) - 10 Fish Daily Creel Limit
- Breeze JC's Park Pond, City of Breeze
Clinton County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- Buckner City Reservoir, City of Buckner
Franklin County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
- Bullfrog Lake, Cook County Forest Preserve District
Cook County
All Fish - 2 Pole and Line Fishing Only (1) (36)
Large or Smallmouth Bass - 14" Minimum Length Limit
Bluegill or Redear Sunfish - 8" Minimum Length Limit
Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
- Bunker Hill Lake, City of Bunker Hill
Macoupin County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
- Burrells Wood Park Pond
White County
Channel Catfish - 6 Fish Daily Creel Limit
- Busse Lake, Cook County Forest Preserve
Cook County
All Fish - 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish - 8" Minimum Length Limit
Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye - 18" Minimum Length Limit

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Cache River State Natural Area (19)

Pulaski/Johnson Counties

- All Fish - 2 Pole and Line Fishing Only (1)
- All Fish - No Seines

Calhoun Point Wildlife Management Area (33)

Calhoun County

Calumet River

Cook County

- Yellow Perch - 15 Fish Daily Creel Limit
- Yellow Perch - Closed During July

Campbell Pond Wildlife Management Area (19)

Jackson County

Campus Lake – Southern Illinois University, State of Illinois

Jackson County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit

Campus Pond – Eastern Illinois University, State of Illinois

Coles County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Trout - Fall Closed Season (10)
- Trout - Spring Closed Season (11)

Canton Lake, City of Canton

Fulton County

- Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel or Blue Catfish (14) - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Carbondale City Reservoir, City of Carbondale

Jackson County

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Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
Carlinville Lake #1, City of Carlinville Macoupin County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Carlinville Lake #2, City of Carlinville Macoupin County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Carlton Silt Basin, State of Illinois Whiteside County	
All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish	- 8" Minimum Length Limit
Bluegill or Redear Sunfish (14)	- 10 Fish Daily Creel Limit
Large or Smallmouth Bass	- Catch and Release Fishing Only (9)
Carlyle Lake, U.S. Army Corps of Engineers (20) (33) Clinton/Bond/Fayette Counties	
Large or Smallmouth Bass	- 14" Minimum Length Limit
White, Black, or Hybrid Crappie (15)	- 10 Fish Daily Creel Limit
White, Black, or Hybrid Crappie	- 10" Minimum Length Limit
Carthage Lake, City of Carthage Hancock County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Casey Park Pond, City of Casey Clark County	
All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14)	- 15 Fish Daily Creel Limit of which only 5 fish over 8" are allowed
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 18" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Cedar Lake, U.S. Forest Service and City of Carbondale

Jackson County (19)

- | | |
|---|---|
| All Fish | - 2 Pole and Line Fishing Only (1) (5) |
| Large or Smallmouth Bass | - 14"-18" Protected Slot Length Limit (no possession) |
| Large or Smallmouth Bass (14) | - 5 Fish Under 14" and 1 Fish over 18" Daily Creel Limit (38) |
| Striped, White, or Hybrid Striped Bass | - 17" Minimum Length Limit |
| Striped, White, or Hybrid Striped Bass (16) | - 3 Fish Daily Creel Limit |

Centralia Foundation Park Catfish Pond, Centralia Park Foundation

Marion County

- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |

Centralia Lake, City of Centralia

Marion County

- | | |
|--------------------------|----------------------------|
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
|--------------------------|----------------------------|

Cermack Quarry, Cook County Forest Preserve District

Cook County

- | | |
|--------------------------|---|
| All Fish | - 2 Pole and Line Fishing Only (1) (36) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |

Champaign Park District Lakes (Kaufman Lake, Heritage Lake, and Mattis Lake), Champaign Park District

Champaign County

- | | |
|-------------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 1 Fish Daily Creel Limit |

Charleston Lower Channel Lake, City of Charleston

Coles County

- | | |
|----------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
|----------|------------------------------------|

Charleston Side Channel Lake, City of Charleston

Coles County

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Striped, White, or Hybrid Striped Bass	- 17" Minimum Length Limit
Striped, White, or Hybrid Striped Bass(16)	- 3 Fish Daily Creel Limit
White, Black or Hybrid Crappie (15)	- 10 Fish Daily Creel Limit for Fish Under 10"; 10 Fish Daily Creel Limit for Fish 10" and Longer (23)

Charlie Brown Lake & Pond, City of Flora
Clay County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit

Charter Oak North – Peoria Park District Lake, Peoria Park District
Peoria County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Charter Oak South – Peoria Park District Pond, Peoria Park District
Peoria County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Chauncey Marsh (19)
Lawrence County

Chautauqua Lake North Pool, U.S. Fish and Wildlife Service
Mason County

Recreational Use Restrictions	- Lake Chautaugua North Pool will be closed to boat fishing from October 15 through January 14
	- Bank fishing will be allowed in selected areas only

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

	- Ice fishing will be allowed following the January 15 reopening
2 Pole and Line Fishing Only (1)	
All Fish	- 10"9" Minimum Length Limit (except, when the Illinois River overflows the levee system of the North Pool, there is no minimum length limit)
Black, White, or Hybrid Crappie	
Black, White, or Hybrid Crappie (15)	- 1525 Fish Daily Creel Limit (except, when the Illinois River overflows the levee system of the North Pool, there is no daily creel limit)
Largemouth Bass	- 15" Minimum Length Limit (12" minimum length limit when the Illinois River overflows the levee system of the North Pool)
Chenoa City Lake, City of Chenoa	
McLean County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Chicago River (including its North Branch, South Branch, and the North Shore Channel)	
Cook County	
Yellow Perch	- 15 Fish Daily Creel Limit
Yellow Perch	- Closed During July
Citizen's Lake, City of Monmouth	
Warren County	
All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14)	- 10 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass (14)	- 6 Fish Daily Creel Limit 1 Fish Over 15" and 5 Fish under 12" Daily Creel Limit (12)
Trout	- Fall Closed Season (10)
Clear Lake, Kickapoo State Park	
Vermillion County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- | | |
|-------|-----------------------------|
| Trout | - Fall Closed Season (10) |
| Trout | - Spring Closed Season (11) |
- Clinton Lake, Clinton Lake State Recreation Area (19)
DeWitt County
- | | |
|---|--|
| All Fish | - 2 Pole and Line Fishing Only (1) (18) |
| Large or Smallmouth Bass | - 16" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |
| Striped, White, or Hybrid Striped Bass (16) | - 10 Creel/3 Fish 17" or Longer Daily (17) |
| White, Black, or Hybrid Crappie (15) | - 15 Fish Daily Creel Limit |
| White, Black, or Hybrid Crappie | - 9" Minimum Length Limit |
- Coffeen Lake, Coffeen Lake State Fish and Wildlife Area
Montgomery County
- | | |
|---|--|
| Channel Catfish | - All jugs must be attended at all times while fishing (2) |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |
| White, Black, or Hybrid Crappie (15) | - 10 Fish Daily Creel Limit |
| White, Black, or Hybrid Crappie | - 10" Minimum Length Limit |
| Striped, White, or Hybrid Striped Bass | - 17" Minimum Length Limit |
| Striped, White, or Hybrid Striped Bass (16) | - 3 Fish Daily Creel Limit |
- Coles County Airport Lake, Coles County Airport
Coles County
- | | |
|--------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
- Coleta Trout Pond, State of Illinois
Whiteside County
- | | |
|-------|-----------------------------|
| Trout | - Fall Closed Season (10) |
| Trout | - Spring Closed Season (11) |
- Columbus Park Lagoon, Chicago Park District
Cook County
- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 4 Fish Daily Creel Limit |

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Commissioners Park Pond, Alsip Park District

Cook County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit

Cook Co. F.P.D. Lakes, Cook County Forest Preserve District

Cook County

- All Fish - 2 Pole and Line Fishing Only (1)
- Large or Smallmouth Bass - 14" Minimum Length Limit
- Walleye, Sauger, or Hybrid Walleye - 18" Minimum Length Limit

Coulterville City Lake, City of Coulterville

Randolph County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit

Crab Orchard National Wildlife Refuge – Ann Manns Lake, U.S. Fish and Wildlife Service
(19)

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit

Crab Orchard National Wildlife Refuge – Crab Orchard Lake, U.S. Fish and Wildlife Service
(19)

Williamson County

- All Fish - 2 Pole and Line Fishing Only (1) (4)
- Striped, White, or Hybrid Striped Bass - 10 Creel/3 Fish 17" or Longer Daily (17)
(16)
- Large or Smallmouth Bass - 16" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Crab Orchard National Wildlife Refuge – Devil's Kitchen Lake, U.S. Fish and Wildlife Service
(19)

Williamson County

- All Fish - 2 Pole and Line Fishing Only (1)

Crab Orchard National Wildlife Refuge – Little Grassy Lake, U.S. Fish and Wildlife Service
(19)

Williamson County

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- | | |
|--------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 12-15" Slot Length Limit (3) |

Crab Orchard National Wildlife Refuge. Refuge Ponds (except Visitor Pond), U.S. Fish and Wildlife Service

Williamson County

- | | |
|--------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |

Crab Orchard National Wildlife Refuge. Visitor Pond, U.S. Fish and Wildlife Service

Williamson County

- | | |
|--------------------------|--|
| All Fish (30) | - 2 Pole and Line Fishing Only (1) (5) |
| Large or Smallmouth Bass | - 21" Minimum Length Limit |

Crawford Co. Cons. Area – Picnic Pond, Crawford County Conservation Area

Crawford County

- | | |
|--------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Trout | - Fall Closed Season (10) |

Crawford Co. Cons. Area Ponds, Crawford County Conservation Area

Crawford County

- | | |
|--------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |

Crull Impoundment Wildlife Management Area (33)

Jersey County

Crystal Lake, Urbana Park District

Champaign County

- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 3 Fish Daily Creel Limit |

Cypress Creek National Wildlife Refuge – All Ponds, U.S. Fish and Wildlife Service

Johnson/Pulaski/Union Counties

- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Large or Smallmouth Bass - 15" Minimum Length Limit

Cypress Creek National Wildlife Refuge – Cache River from Rt. 37 to Rt. 51 in Ullin, U.S.
Fish and Wildlife Service
Johnson/Pulaski Counties

All Fish - 2 Pole and Line Fishing Only (1)
All Fish - No Seines

Dawson Lake & Park Ponds, Moraine View State Park

McLean County

All Fish - 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14) - 15 Fish Daily Creel Limit
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye (14) - 3 Fish Daily Creel Limit
White, Black or Hybrid Crappie (15) - 10 Fish Daily Creel Limit

Decatur Park Dist. Ponds, City of Decatur

Macon County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit (except for
Fairview Park – Dreamland Pond, which
has a 3 Fish Daily Creel Limit)

Deep Pit Lake, Boone County Conservation District

Boone County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Deep Quarry Lake, DuPage County Forest Preserve District

DuPage County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 3 Fish Daily Creel Limit
Channel Catfish - 12" Minimum Length Limit
Large or Smallmouth Bass - 18" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
Walleye, Sauger, or Hybrid Walleye - 16" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye - 3 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

(14)White, Black, or Hybrid Crappie- 9" Minimum Length LimitWhite, Black, or Hybrid Crappie (15)- 15 Fish Daily Creel Limit

Defiance Lake, Moraine Hills State Park

McHenry County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Des Plaines River Basin (Hoffman Dam to 47th Street Bridge, including tributaries)

Cook County

- Channel Catfish - 15" Minimum Length Limit
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - Catch and Release Only – No Harvest Permitted (9)
- Northern Pike - 30" Minimum Length Limit
- Northern Pike - 1 Fish Daily Creel Limit
- White, Black or Hybrid Crappie (15) - 10 Fish Daily Creel Limit
- Walleye, Sauger, or Hybrid Walleye - 18" Minimum Length Limit
- Walleye, Sauger, or Hybrid Walleye (14) - 1 Fish Daily Creel Limit

Des Plaines River Conservation Area (19)

Will County

Diamond Lake, City of Mundelein

Lake County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Dog Island Wildlife Management Area (19)

Pope County

Dolan Lake, Hamilton County Conservation Area

Hamilton County

- All Fish - 2 Pole and Line Fishing Only (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Bluegill or Redear Sunfish	- 8" Minimum Length Limit
Bluegill or Redear Sunfish (14)	- 10 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit

Donnelley State Wildlife Area (33)
Bureau County

Double "T" State Fish and Wildlife Area, State of Illinois
Fulton County

Recreational Use Restrictions	- Waterfowl Refuge or Hunting Area (all use other than waterfowl hunting is prohibited from October 1 through the end of the central zone Canada goose season)
	- All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish	- 2 Pole and Line Fishing Only (1)
Channel or Blue Catfish	- 6 Fish Daily Creel Limit
White, Black, or Hybrid Crappie	- 10" Minimum Length Limit
White, Black, or Hybrid Crappie (15)	- 25 Fish Daily Creel Limit
Bluegill or Redear Sunfish (14)	- 25 Fish Daily Creel Limit
Large or Smallmouth Bass	- 21" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit
Pure Muskellunge	- 42" Minimum Length Limit

Douglas Park Lagoon, Chicago Park District
Cook County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 4 Fish Daily Creel Limit

DuPage County Forest Preserve District Lakes and Ponds (excluding Bass Lake, Deep Quarry Lake, and Grove Lake), DuPage County Forest Preserve District

DuPage County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
<u>Channel Catfish</u>	- <u>12" Minimum Length Limit</u>
Large or Smallmouth Bass	- <u>15"14"</u> Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
<u>Walleye, Sauger, or Hybrid Walleye</u>	- <u>16" Minimum Length Limit</u>

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

<u>Walleye, Sauger, or Hybrid Walleye (14)</u>	- 3 Fish Daily Creel Limit
White, Black or Hybrid Crappie	- 9" Minimum Length Limit
White, Black or Hybrid Crappie (15)	- 15 Fish Daily Creel Limit

DuPage River – West Branch (between the dams located in the McDowell Grove Forest Preserve and the Warrenville Grove Forest Preserve)

DuPage County

Large or Smallmouth Bass - Catch and Release Fishing Only (9)

East Fork Lake, City of Olney

Richland County

All Fish - 2 Pole and Line Fishing Only (1)

Channel Catfish - 6 Fish Daily Creel Limit

Large or Smallmouth Bass - 15" Minimum Length Limit

White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Eldon Hazlet State Park (19) (See Also Carlyle Lake)

Clinton County

Elkville City Reservoir, City of Elkville

Jackson County

Large or Smallmouth Bass - 15" Minimum Length Limit

Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Elliott Lake, Wheaton Park District

DuPage County

All Fish - 2 Pole and Line Fishing Only (1)

Channel Catfish - 6 Fish Daily Creel Limit

Evergreen Lake, City of Bloomington

McLean County

Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)

All Fish - 2 Pole and Line Fishing Only (1) (5)

Large or Smallmouth Bass - 15" Minimum Length Limit

Pure Muskellunge - 48" Minimum Length Limit (40)

White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Fairgrounds Pond – Fort Massac State Park, State of Illinois

Massac County

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Trout	- Fall Closed Season (10)
Trout	- Spring Closed Season (11)
Fairview Park – Dreamland Pond, City of Decatur	
Macon County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 3 Fish Daily Creel Limit
Fairies Park Pond, Decatur Park District	
Macon County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Trout	- Fall Closed Season (10)
Ferne Clyffe Lake, Ferne Clyffe State Park	
Johnson County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Trout	- Fall Closed Season (10)
Trout	- Spring Closed Season (11)
Flatfoot Lake, Cook County Forest Preserve District	
Cook County	
All Fish	- 2 Pole and Line Fishing Only (1) (36)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Foli Park Pond, Village of Plano	
Kendall County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Forbes State Lake, Stephen A. Forbes State Park (19)	
Marion County	
Recreational Use Restrictions	- All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish	- 2 Pole and Line Fishing Only (1) (5)
Bluegill or Redear Sunfish	- 8" Minimum Length Limit
Bluegill or Redear Sunfish (14)	- 10 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Large or Smallmouth Bass	-14" Minimum Length Limit
Pure Muskellunge	- 48" Minimum Length (40)
Striped, White, or Hybrid Striped Bass	- 17" Minimum Length Limit
Striped, White, or Hybrid Striped Bass (16)	- 3 Fish Daily Creel Limit

Forbes State Park Ponds, Stephen A. Forbes State Park (19)

Marion County

All Fish	- 2 Pole and Line Fishing Only (1) (5)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit

Forest Park Lagoon, City of Shelbyville

Shelby County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Trout	- Fall Closed Season (10)
Trout	- Spring Closed Season (11)

Fort de Chartres Historic Site (19)

Randolph County

Four Lakes, Winnebago County Forest Preserve

Winnebago County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Fox Chain O'Lakes (including the Fox River south of the Wisconsin-Illinois boundary to the Algonquin Dam and the Nippersink Creek upstream to the Wilmot Road Bridge) (6) (Applies to Grass Lake and Nippersink Lake State Managed Blind Areas Only (19)), State of Illinois Lake and McHenry Counties

Recreational Use Restrictions	- All live bait in excess of 8" must be rigged with a quick set rig (43)
Large or Smallmouth Bass	- 14" Minimum Length Limit (6)
Large or Smallmouth Bass (14)	- 6 Fish Daily Creel Limit of which no more than 3 can be Smallmouth Bass
Pure Muskellunge	- 48" Minimum Length Limit (40)
Smallmouth Bass	- All fish must be immediately released

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- Walleye, Sauger, or Hybrid Walleye between April 1 and June 15
 - 14" Minimum Length Limit with an 18-24" Protected Slot Length Limit (no possession) (6)
- Walleye, Sauger, or Hybrid Walleye (14) - 2 Fish \geq 14" and $<$ 18" &/or 1 Fish $>$ 24"
 Daily Creel Limit (35)

| Fox Ridge State Park (see also [Hurricane Pond](#), Wilderness Pond and Ridge Lake) (19)
 Coles County

Fox River, Algonquin Dam to confluence with the Illinois River, including tributaries, State of Illinois

Multiple Counties

- Smallmouth Bass - 1 Fish 12" or over and 2 Fish under 12"
 Daily Creel Limit

Frank Holten Lakes, Frank Holten State Park

St. Clair County

- All Fish - 2 Pole and Line Fishing Only (1)
 Channel Catfish - 6 Fish Daily Creel Limit
 Large or Smallmouth Bass - 14" Minimum Length Limit
 Trout - Fall Closed Season (10)
 Trout - Spring Closed Season (11)

Franklin Creek (within the boundaries of Franklin Creek State Natural Area)

Lee County

- All Fish - 2 Pole and Line Fishing Only (1)

Franklin Creek Mill Pond – Franklin Creek State Park, State of Illinois

Lee County

- All Fish - 2 Pole and Line Fishing Only (1)
 Large or Smallmouth Bass - 15" Minimum Length Limit
 Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Fuller Lake (19)

Calhoun County

Fulton County Camping and Recreation Area Waters, Fulton County Board

Fulton County

- All Fish - 2 Pole and Line Fishing Only (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 12"-15" Protected Slot Length Limit (no possession)
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
Blue gill or Redear Sunfish (14)	- 25 Fish Daily Creel Limit

Gages Lake, Wildwood Park District
Lake County

All Fish	- 2 Pole and Line Fishing Only (1)
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
Walleye, Sauger, or Hybrid Walleye	- 16" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye (14)	- 3 Fish Daily Creel Limit

Garfield Park Lagoon, Chicago Park District
Cook County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 4 Fish Daily Creel Limit

Gebhard Woods Ponds, Gebhard Woods State Park
Grundy County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Trout	- Spring Closed Season (11)

Germantown Lake, City of Germantown
Clinton County

All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14)	- 15 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 18" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Giant City Park Ponds, Giant City State Park
Jackson and Union Counties

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Largemouth and Spotted Bass	- 15" Minimum Length Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Gillespie New City Lake, City of Gillespie

Macoupin County

- | | |
|-------------------------------|--------------------------------|
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 12-15" Slot Length Limit (3) |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |

Gillespie Old City Lake, City of Gillespie

Macoupin County

- | | |
|-------------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |

Glades -12 Mile Island Wildlife Management Area (33)

Jersey County

Gladstone Lake, Henderson County Conservation Area

Henderson County

- | | |
|-------------------------------------|--|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Bluegill or Redear Sunfish (14) | - 10 Fish Daily Creel Limit |
| Channel or Blue Catfish (14) | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 12-15" Slot Length Limit (3) |
| Large or Smallmouth Bass (14) | - <u>1 Fish \geq 15" and/or 2 $<$ 12" Daily (31)</u> 3 Fish
Daily Creel Limit |

Glen Oak Park Lagoon, Peoria Park District

Peoria County

- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |

Glen Shoals Lake, City of Hillsboro

Montgomery County

- | | |
|--|----------------------------|
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |
| Striped, White, or Hybrid Striped Bass | - 17" Minimum Length Limit |
| Striped, White, or Hybrid Striped Bass
(16) | - 3 Fish Daily Creel Limit |

Godar-Diamond/Hurricane Island Wildlife Management Area (33)

Calhoun County

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Gompers Park Lagoon, Chicago Park District

Cook County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 4 Fish Daily Creel Limit

Gordon F. More Park Lake, City of Alton

Madison County

- All Fish - 2 Pole and Line Fishing Only (1)
- Bluegill or Redear Sunfish (14) - 25 Fish Daily Creel Limit
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Governor Bond Lake, City of Greenville

Bond County

- Channel Catfish - All jugs must be attended at all times while fishing (2)
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- Striped, White, or Hybrid Striped Bass - 17" Minimum Length Limit
- Striped, White, or Hybrid Striped Bass (16) - 3 Fish Daily Creel Limit
- White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Grayslake Park District (Grayslake and Park Ponds)

Lake County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Greenfield City Lake, City of Greenfield

Greene County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 12"-15" Protected Slot Length Limit (no possession)
- Large or Smallmouth Bass - 5 Fish Under 12" and 1 Fish Over 15" Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Greenville Old City Lake, Kingsbury Park District

Bond County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Trout	- Fall Closed Season (10)
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit

Grove Lake, DuPage County Forest Preserve DistrictDuPage County

<u>All Fish</u>	<u>- 2 Pole and Line Fishing Only (1)</u>
<u>Channel Catfish</u>	<u>- 3 Fish Daily Creel Limit</u>
<u>Channel Catfish</u>	<u>- 12" Minimum Length Limit</u>
<u>Large or Smallmouth Bass</u>	<u>- 18" Minimum Length Limit</u>
<u>Large or Smallmouth Bass (14)</u>	<u>- 1 Fish Daily Creel Limit</u>
<u>White, Black, or Hybrid Crappie</u>	<u>- 9" Minimum Length Limit</u>
<u>White, Black, or Hybrid Crappie (15)</u>	<u>- 15 Fish Daily Creel Limit</u>

Harrisburg New City Reservoir, City of Harrisburg

Saline County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Striped, White, or Hybrid Striped Bass	- 17" Minimum Length Limit
Striped, White or Hybrid Striped Bass (16)	- 3 Fish Daily Creel Limit

Heidecke Lake, Heidecke Lake State Fish and Wildlife Area

Grundy County (41)

Recreational Use Restrictions	- Heidecke Lake shall be closed to all fishing and boat traffic except for legal waterfowl hunters from 10 days prior to duck season through the day before duck season and is closed to all fishing during waterfowl season commencing with regular duck season through the close of the Canada goose and regular duck season
	- All live bait in excess of 8" must be rigged with a quick set rig (43)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- | | |
|--|--|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |
| Striped, White, or Hybrid Striped Bass (16) | - 10 Creel/3 Fish 17" or Longer Daily (17) |
| Walleye, Sauger, or Hybrid Walleye | - 16" Minimum Length Limit |
| Walleye, Sauger, or Hybrid Walleye (14) | - 3 Fish Daily Creel Limit |
|
Helmbold Slough (19)
Calhoun County | |
|
Hennepin Canal – Mainline & Feeder, Hennepin Canal Parkway State Park
Multiple Counties | |
| All Fish | - 2 Pole and Line Fishing Only (1) (13) |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
| Trout | - Fall Closed Season (10) |
| Trout | - Spring Closed Season (11) |
|
Hennepin-Hopper Lakes, The Wetlands Initiative
Putnam County | |
| Recreational Use Restrictions | - All live bait in excess of 8" must be rigged with a quick set rig (43) |
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Black, White or Hybrid Crappie | - 9" Minimum Length Limit |
| Black, White or Hybrid Crappie (15) | - 25 Fish Daily Creel Limit |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |
| Pure Muskellunge | - 42" Minimum Length Limit |
| Walleye, Sauger or Hybrid Walleye | - 18" Minimum Length Limit |
| Walleye, Sauger or Hybrid Walleye (14) | - 3 Fish Daily Creel Limit |
|
Herrin Lake #1, City of Herrin
Williamson County | |
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Herrin Lake #2, City of Herrin

Williamson County

- | | |
|-------------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |

Hidden Springs State Forest Ponds, Hidden Springs State Forest

Shelby County

- | | |
|---------------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Bluegill or Redear Sunfish (14) | - 10 Fish Daily Creel Limit |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 18" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 1 Fish Daily Creel Limit |

Highland Old City Lake, City of Highland

Madison County

- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Trout | - Fall Closed Season (10) |

Hillsboro Old City Lake, City of Hillsboro

Montgomery County

- | | |
|--------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 12-15" Slot Length Limit |

Homer Guthrie Pond – Eldon Hazlet State Park, State of Illinois

Clinton County

- | | |
|---------------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Bluegill or Redear Sunfish (14) | - 10 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 18" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 1 Fish Daily Creel Limit |

Homer Lake, Champaign County Forest Preserve District

Champaign County

- | | |
|---------------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Bluegill or Redear Sunfish | - 8" Minimum Length Limit |
| Bluegill or Redear Sunfish (14) | - 10 Fish Daily Creel Limit |

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- | | |
|--------------------------|----------------------------|
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
- Hormel Pond, Donnelly State Fish and Wildlife Area
Bureau County
- | | |
|--------------------------|--|
| All Fish | - 2 Pole and Line Fishing Only (1) (5) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
- Horseshoe Lake-Alexander Co., Horseshoe Lake Conservation Area
Alexander County
- | | |
|-------------------------------|---|
| Recreational Use Restrictions | - Only trolling motors in refuge from October 5-March 1 |
| All Fish | - 2 Pole and Line Fishing Only (1) (5) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
- Horseshoe Lake-Madison County, Horseshoe Lake State Park (33)
Madison County
- | | |
|-------------------------------------|--|
| All Fish | - 2 Pole and Line Fishing Only (1) (28) (34) |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |
| White, Black or Hybrid Crappie (15) | - 25 Fish Daily Creel Limit |
- Horton Lake, Nauvoo State Park
Hancock County
- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
- Humbolt Park Lagoon, Chicago Park District
Cook County
- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 4 Fish Daily Creel Limit |
- Hurricane Pond, Fox Ridge State Park
Coles County
- | | |
|---------------------------------|--|
| Recreational Use Restrictions | - Waterfowl Refuge and Hunting Area (19) |
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Bluegill or Redear Sunfish (14) | - 5 Fish Daily Creel Limit |
| Channel Catfish | - 6 Fish Daily Creel Limit |

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- | | |
|-------------------------------|----------------------------|
| Large or Smallmouth Bass | - 18" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 1 Fish Daily Creel Limit |

Illinois & Michigan Canal, State of Illinois
Grundy/LaSalle/ Will Counties

- | | |
|--------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Trout | - Spring Closed Season (11) |

Illinois Beach State Park Ponds, Illinois Beach State Park
Lake County

- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |

Illinois Department of Transportation Lake, State of Illinois
Sangamon County

- | | |
|--------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Trout | - Fall Closed Season (10) |
| Trout | - Spring Closed Season (11) |

Illinois River – Pool 26 (19)
Calhoun County

Illinois River – Starved Rock and Marseilles Pools
LaSalle and Grundy Counties

- | | |
|---|-----------------------------|
| Large or Smallmouth Bass | - 18" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 1 Fish Daily Creel Limit |
| Striped, White or Hybrid Striped Bass
(16) | - 10 Fish Daily Creel Limit |
| White, Black or Hybrid Crappie (15) | - 10 Fish Daily Creel Limit |

Illinois River – State of Illinois
Multiple Counties

- | | |
|--------------------------|----------------------------|
| Large or Smallmouth Bass | - 12" Minimum Length Limit |
|--------------------------|----------------------------|

Indian Boundary South Pond, Frankfort Square Park District
Will County

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
- Iroquois & Kankakee Rivers and their Tributaries, State of Illinois
Multiple Counties
- | | |
|------------------------------------|----------------------------|
| Walleye, Sauger and Hybrid Walleye | - 16" Minimum Length Limit |
| Walleye, Sauger and Hybrid Walleye | - 3 Fish Daily Creel Limit |
- Jackson Park (Columbia Basin) Lagoon, Chicago Park District
Cook County
- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 4 Fish Daily Creel Limit |
- Jim Edgar/Panther Creek Fish and Wildlife Area, All Lakes and Ponds, Jim Edgar/Panther
Creek Fish and Wildlife Area
Cass County
- | | |
|--|---|
| Recreational Use Restrictions | - All live bait in excess of 8" must be rigged
with a quick set rig (43) |
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Bluegill or Redear Sunfish | - 8" Minimum Length Limit |
| Bluegill or Redear Sunfish (14) | - 10 Fish Daily Creel Limit |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |
| Pure Muskellunge | - 48" Minimum Length Limit |
- Jim Edgar/Panther Creek Fish and Wildlife Area, Gurney Road Pond, Jim Edgar/Panther Creek
Fish and Wildlife Area
Cass County
- | | |
|--|--|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Bluegill or Redear Sunfish | - 8" Minimum Length Limit |
| Bluegill or Redear Sunfish (14) | - 10 Fish Daily Creel Limit |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |
| Trout | - Spring Closed Season (11) |
- Johnson Sauk Trail Lake & Pond, Johnson Sauk Trail State Park
Henry County
- | | |
|-------------------------------|--|
| Recreational Use Restrictions | - All live bait in excess of 8" must be rigged |
|-------------------------------|--|

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- All Fish with a quick set rig (43)
- 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit
- Johnston City Lake, City of Johnston City
Williamson County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- Jones Lake Trout Pond, Saline County Conservation Area
Saline County
Trout - Fall Closed Season (10)
- Jones Park Lake, City of East St. Louis
St. Clair County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Trout - Fall Closed Season (10)
Trout - Spring Closed Season (11)
- Jones State Lake, Saline County Conservation Area
Saline County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14"-18" Protected Slot Length Limit (no possession) (38)
Large or Smallmouth Bass - 5 Fish under 14" and 1 Fish over 18" Daily Creel Limit
- Jubilee College State Park Ponds, Jubilee College State Park
Peoria County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
- Kankakee-Iroquois Rivers and their Tributaries, State of Illinois

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Multiple Counties

- | | |
|---|----------------------------|
| Walleye, Sauger, and Hybrid Walleye | - 16" Minimum Length Limit |
| Walleye, Sauger, and Hybrid Walleye
(14) | - 3 Fish Daily Creel Limit |

Kankakee River, from the Kankakee Dam to the mouth of the Kankakee River, including tributaries, State of Illinois

Multiple Counties

- | | |
|-----------------|---|
| Smallmouth Bass | - 12"-18" Protected Slot Length Limit (no possession) |
| Smallmouth Bass | - 1 Fish over 18" and 2 Fish under 12" Daily Creel Limit (37) |

Kankakee River State Park (19)

Kankakee/Will Counties

Kaskaskia River Fish and Wildlife Area (19)

St.Clair/Randolph/Monroe Counties

Kaskaskia River Fish and Wildlife Area – Doza Creek Wildlife Management Area (33)

St.Clair County

Kendall Co. Lake #1, Kendall County Forest Preserve District

Kendall County

- | | |
|-------------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |

Kent Creek

Winnebago County

- | | |
|-------|-----------------------------|
| Trout | - Spring Closed Season (11) |
|-------|-----------------------------|

Kickapoo State Park Lakes & Pond, Kickapoo State Park

Vermilion County

- | | |
|-------------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Kincaid City Reservoir, City of Kincaid

Christian County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit

Kincaid Lake, Kincaid Lake State Fish and Wildlife Area (19)

Jackson County

- Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
- Large or Smallmouth Bass - 16" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- Pure Muskellunge - 48" Minimum Length Limit (40)
- White, Black, or Hybrid Crappie - 9" Minimum Length Limit
- White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Kinmundy Reservoir, City of Kinmundy

Marion County

- All Fish - 2 Pole and Line Fishing Only (1) (5)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Kishwaukee River and South Branch of Kishwaukee River and Tributaries, State of Illinois

Multiple Counties

- Smallmouth Bass - 14" Minimum Length Limit

Lake Atwood, McHenry County Conservation District

McHenry County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Trout - Spring Closed Season (11)

Lake Bloomington, City of Bloomington

McLean County

- All Fish - 2 Pole and Line Fishing Only (1)
- Bluegill or Redear Sunfish - 8" Minimum Length Limit
- Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Striped, White, or Hybrid Striped Bass - 17" Minimum Length Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- Striped, White, or Hybrid Striped Bass - 3 Fish Daily Creel Limit
(16)
White, Black or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Lake Carlton, Morrison-Rockwood State Park

Whiteside County

- Recreational Use Restrictions - All live bait in excess of 8" must be rigged
with a quick set rig (43)
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit
Pure Muskellunge - 36" Minimum Length Limit
White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Lake Co. Forest Preserve District Lakes (except Independence Grove Lake), Lake County Forest Preserve District

Lake County

- All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large Smallmouth Bass (14) - 1 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye - 16" Minimum Length Limit

Lake Decatur, City of Decatur

Macon County

- All Fish - 2 Pole and Line Fishing Only (1)(29)
White, Black, or Hybrid Crappie - 10" Minimum Length Limit
White, Black, or Hybrid Crappie (15) - 10 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit

Lake Depue Fish and Wildlife Area (33)

Bureau County

Lake Eureka, City of Eureka

Woodford County

- All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Lake George, Loud Thunder Forest Preserve
Rock Island County

Recreational Use Restrictions	- All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Pure Muskellunge	- 36" Minimum Length Limit
Striped, White, or Hybrid Striped Bass	- 17" Minimum Length Limit
Striped, White, or Hybrid Striped Bass (16)	- 1 Fish Daily Creel Limit
White, Black, or Hybrid Crappie (15)	- 25 Fish Daily Creel Limit

Lake Jacksonville, City of Jacksonville
Morgan County

All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish	- 8" Minimum Length Limit
Bluegill or Redear Sunfish	- 10 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Striped, White, or Hybrid Striped Bass	- 17" Minimum Length Limit
Striped, White, or Hybrid Striped Bass (16)	- 3 Fish Daily Creel Limit
White, Black, or Hybrid Crappie (15)	- 25 Fish Daily Creel Limit
White, Black, or Hybrid Crappie	- 9" Minimum Length Limit

Lake Kakusha, City of Mendota
LaSalle County

All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish	- 8" Minimum Length Limit
Bluegill or Redear Sunfish (14)	- 10 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
White, Black, or Hybrid Crappie (15)	- 25 Fish Daily Creel Limit

Lake Le-Aqua-Na, Lake Le-Aqua-Na State Park
Stephenson County

All Fish	- 2 Pole and Line Fishing Only (1)
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DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
White, Black, or Hybrid Crappie (15)	- 10 Fish Daily Creel Limit

Lake Mendota, City of Mendota
LaSalle County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass (14)	- 1 Fish \geq 15" &/or 2 <12" Daily (31)

Lake Michigan (Illinois Portion), State of Illinois
Lake/Cook Counties

Trout and Salmon	- 10" Minimum Length Limit
Trout and Salmon	- No more than 5 fish of any one species daily, except for Lake Trout
Lake Trout	- 2 Fish Daily Creel Limit
Yellow Perch	- 15 Fish Daily Creel Limit
Yellow Perch	- Taking of yellow perch from charter boats is prohibited
Yellow Perch	- Closed During July
Large or Smallmouth Bass	- 21" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Lake Milliken, Des Plaines Conservation Area
Will County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Trout	- Spring Closed Season (11)

Lake Mingo & Kennekuk Cove Park Ponds, Vermilion County Conservation Area
Vermilion County

Recreational Use Restrictions	- All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Pure Muskellunge	- 48" Minimum Length Limit (40)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Lake Murphysboro, Lake Murphysboro State Park

Jackson County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Lake Nellie, City of St. Elmo

Fayette County

- All Fish - 2 Pole and Line Fishing Only (1) (5)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit

Lake of the Woods & Elk's Pond, Champaign County Forest Preserve District

Champaign County

- Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
- All Fish - 2 Pole and Line Fishing Only (1)
- Bluegill or Redear Sunfish - 8" Minimum Length Limit
- Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
- Trout - Spring Closed Season (11)

Lake Owen, Hazel Crest Park District

Cook County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit

Lake Paradise, City of Mattoon

Coles County

- All Fish - 2 Pole and Line Fishing Only (1)
- Large or Smallmouth Bass - 14" Minimum Length Limit

Lake Paradise Shadow Ponds, City of Mattoon

Coles County

- All Fish - 2 Pole and Line Fishing Only (1)
- Large or Smallmouth Bass - 14" Minimum Length Limit
- Channel Catfish - 6 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Lake Sara, City of Effingham
Effingham County

- Large or Smallmouth Bass - 14" Minimum Length Limit
- White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Lake Shelbyville (21), U.S. Army Corps of Engineers
Moultrie/Shelby Counties

- Recreational Use Restrictions - During the regular waterfowl season, no bank or boat fishing shall be permitted on the Kaskaskia River from the Strickland Boat Access north to the Illinois Central Railroad Bridge from one-half hour before sunrise to 1 p.m.
- All live bait in excess of 8" must be rigged with a quick set rig (43)
- Large or Smallmouth Bass - 14" Minimum Length Limit
- Pure Muskellunge - 48" Minimum Length Limit (4)
- White, Black, or Hybrid Crappie (15) - 10 Fish Daily Creel Limit
- White, Black, or Hybrid Crappie - 10" Minimum Length Limit

Lake Shelbyville – U.S. Army Corps of Engineers Project Ponds and Wood Lake, and Lake Shelbyville State Fish and Wildlife Management Area Ponds (33)
Moultrie/Shelby Counties

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit
- White, Black, or Hybrid Crappie - 10" Minimum Length Limit
- White, Black, or Hybrid Crappie (15) - 10 Fish Daily Creel Limit

Lake Shermerville, Northbrook Park District
Cook County

- All Fish - 2 Pole and Line Fishing Only
- Channel Catfish - 6 Fish Daily Creel Limit

Lake Sinnissippi (19)
Whiteside CountyLake Springfield, City of Springfield
Sangamon County

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

All Fish	- 2 Pole and Line Fishing Only (1)
Large or Smallmouth Bass	- 15" Minimum Length Limit
White, Black, or Hybrid Crappie (15)	- 1025 Fish Daily Creel Limit
White, Black, or Hybrid Crappie	- 10"9" Minimum Length Limit
Lake Storey, City of Galesburg	
Knox County	
Recreational Use Restrictions	- All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill and Redear Sunfish (14)	- 25 Fish Daily Creel Limit
Channel or Blue Catfish (14)	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass (14)	- 1 Fish > 15" and/or 5 < 12" Daily (12) 12-15" Slot Length Limit (3)
Pure Muskellunge	- 42" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye (14)	- 3 Fish Daily Creel Limit
Lake Strini, Village of Romeoville	
Will County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Lake Sule, Flagg-Rochelle Park District	
Ogle County	
Recreational Use Restrictions	- All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14)	- 5 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit
Pure Muskellunge	- 36" Minimum Length Limit
White, Black or Hybrid Crappie (15)	- 10 Fish Daily Creel Limit
Lake Taylorville, City of Taylorville	
Christian County	
Large or Smallmouth Bass	- 15" Minimum Length Limit
White, Black, or Hybrid Crappie	- 9" Minimum Length Limit
White, Black, or Hybrid Crappie (15)	- 25 Fish Daily Creel Limit

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Lake Vandalia, City of Vandalia

Fayette County

- All Fish - 2 Pole and Line Fishing Only (1)
 - Channel Catfish - 6 Fish Daily Creel Limit
 - Large or Smallmouth Bass - 14" Minimum Length Limit
 - Striped, White, or Hybrid Striped Bass - 17" Minimum Length Limit
 - Striped, White, or Hybrid Striped Bass - 3 Fish Daily Creel Limit
- (16)

Lake Vermilion, Vermilion County Conservation District

Vermilion County

- All Fish - 2 Pole and Line Fishing Only (1) (26) (except that sport fisherman may take carp, carpsuckers, buffalo, gar, bowfin, and suckers by pitchfork, gigs, bow and arrow or bow and arrow devices north of Boiling Springs Road, but not within 300 feet around the wetland boardwalk)
- Large or Smallmouth Bass - 15" Minimum Length Limit
- White, Black, or Hybrid Crappie - 9" Minimum Length Limit
- White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Lake Victoria, City of South Beloit

Winnebago County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Lake Williamsville, City of Williamsville

Sangamon County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit

LaSalle Lake, LaSalle Lake State Fish and Wildlife Area~~Power Station~~

LaSalle County

- Recreational Use Restrictions - Waterfowl refuge or hunting area; LaSalle Lake is closed to all fishing and boating from October 16 until March 15; during

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

October and March, the lake is closed on
Mondays and Tuesdays

- | | |
|--|--|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Large or Smallmouth Bass (14) | - 1 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 18" Minimum Length Limit |
| Striped, White, or Hybrid Striped Bass
(16) | - 10 Creel/3 Fish 17" or Longer Daily (17) |

Levings Lake, Rockford Park District

Winnebago County

- | | |
|-------------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 1 Fish Daily Creel Limit |

Lincoln Log Cabin Pond, Lincoln Log Cabin Historical Site

Coles County

- | | |
|-------------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 1 Fish Daily Creel Limit |

Lincoln Park North Lagoon, Chicago Park District

Cook County

- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 4 Fish Daily Creel Limit |

Lincoln Park South Lagoon, Chicago Park District

Cook County

- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 4 Fish Daily Creel Limit |

Lincoln Trail Lake, Lincoln Trail State Park

Clark County

- | | |
|--------------------------|--|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 14-18" Slot Length Limit (14" to 18"
protected) |

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Large or Smallmouth Bass (14) - 4 Creel/1 Fish >18" Daily (daily Catch Limit for large or smallmouth bass, singly or in the aggregate, shall not exceed 4 fish per day, no more than one of which shall be greater than 18" in length)

Litchfield City Lake, City of Litchfield
Montgomery County

Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit – 1 Fish 15" or Over and 2 Fish Under 15" Total Length (25)
White, Black or Hybrid Crappie (15) - 15 Fish Daily Creel Limit

Loami Reservoir, City of Loami
Sangamon County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit

Lou Yeager Lake, City of Litchfield
Montgomery County

Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Lyerla Lake, Union County Conservation Area
Union County

All Fish - 2 Pole and Line Fishing Only (1)(5)
Channel Catfish - 6 Fish Daily Creel Limit

Mackinaw Ponds 1, 2, and 3, Mackinaw State Fish and Wildlife Area
Tazewell County

Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Macon County Conservation District Ponds (see also Rock Springs Pond and Rock Springs Bike Trail Pond), Macon County Conservation District

Macon County

All Fish - 2 Pole and Line Fishing Only (1)

[Mallard Lake, DuPage County Forest Preserve District](#)

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DuPage County

<u>All Fish</u>	- <u>2 Pole and Line Fishing Only (1)</u>
<u>Channel Catfish</u>	- <u>3 Fish Daily Creel Limit</u>
<u>Channel Catfish</u>	- <u>12" Minimum Length Limit</u>
<u>Large or Smallmouth Bass</u>	- <u>15" Minimum Length Limit</u>
<u>Large or Smallmouth Bass (14)</u>	- <u>3 Fish Daily Creel Limit</u>
<u>Walleye, Sauger, or Hybrid Walleye</u>	- <u>16" Minimum Length Limit</u>
<u>Walleye, Sauger, or Hybrid Walleye (14)</u>	- <u>3 Fish Daily Creel Limit</u>
<u>White, Black, or Hybrid Crappie</u>	- <u>9" Minimum Length Limit</u>
<u>White, Black, or Hybrid Crappie (15)</u>	- <u>15 Fish Daily Creel Limit</u>

Maple Lake, Cook County Preserve District
Cook County

All Fish	- 2 Pole and Line Fishing Only (1) (36)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit

Marissa City Lake, City of Marissa
St. Clair County

Channel Catfish	- 6 Fish Daily Creel Limit
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Marquette Park Lagoon, Chicago Park District
Cook County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 4 Fish Daily Creel Limit

Marshall County Conservation Area (Fishing Ditch), Marshall County Conservation Area (33)
Marshall County

All Fish	- 2 Pole and Line Fishing Only (1)
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Marshall County Conservation Area – Sparland Unit (19)
Marshall CountyMascoutah Reservoir, City of Mascoutah
St. Clair County

All Fish	- 2 Pole and Line Fishing Only (1)
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit

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Matthiessen Lake, Matthiessen State Park

LaSalle County

All Fish	- 2 Pole and Line Fishing Only (1)(5)
Bluegill or Redear Sunfish (14)	- 10 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel limit
Large or Smallmouth Bass	- 14" Minimum Length Limit

Mattoon Lake, City of Mattoon

Coles County

All Fish	- 2 Pole and Line Fishing Only (1)
Large or Smallmouth Bass	- 14" Minimum Length Limit

Mautino Fish and Wildlife Area, Mautino Fish and Wildlife Area

Bureau County

All Fish	- 2 Pole and Line Fishing Only (1) (34)
Bluegill or Redear Sunfish (14)	- 10 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Mauvaise Terre/Morgan Lake, City of Jacksonville

Morgan County

Large or Smallmouth Bass	- 15" Minimum Length Limit
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Mazonia Lakes & Ponds (excluding Ponderosa Lake), Mazonia State Fish and Wildlife Area (33)

Grundy/Kankakee/Will Counties

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
White, Black or Hybrid Crappie (15)	- 10 Fish Daily Creel Limit

McCullom Lake, City of McHenry

McHenry County

All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14)	- 25 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

McKinley Park Lagoon, Chicago Park District

Cook County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 4 Fish Daily Creel Limit

McLeansboro City Lakes, City of McLeansboro

Hamilton County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit

Meredosia Lake – Cass County Portion Only (meandered waters only) (33)

Cass County

Meredosia Lake, Cass County Portion

Cass County

- Recreational Use Restrictions - Meandered waters only; All boat traffic is prohibited from operating on meandered waters (except non-motorized boats may be used to assist in the retrieval of waterfowl shot from private land) from the period from one week before waterfowl season opens until the season closes; hunting and/or any other activity is prohibited during the period from one week before waterfowl season opens until the season closes

Mermet State Lake, Mermet Lake Conservation Area (33)

Massac County

- All Fish - 2 Pole and Line Fishing Only (1) (5)
- Bluegill or Redear Sunfish - 8" Minimum Length Limit
- Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit
- White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Middle Fork Forest Preserve Pond, Champaign County Forest Preserve

Champaign County

- All Fish - 2 Pole and Line Fishing Only (1)

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Bluegill or Redear Sunfish (14)	- 25 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit

Middle Fork of the Vermilion River, Kickapoo State Park and Middle Fork Fishing Wildlife Area

Vermilion County

All Fish	- 2 Pole and Line Fishing Only (1)
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Mill Creek Lake, Clark County Park District

Clark County

Recreational Use Restrictions	- All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 12-15" Slot Length Limit (3)
Pure Muskellunge	- 42" Minimum Length Limit

Mill Pond, Pearl City Park District

Stephenson County

All Fish	- 2 Pole and Line Fishing Only (1)
Large or Smallmouth Bass	- 14" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Mill Race Ponds, Belvidere Park District

Boone County

Trout	- Spring Closed Season (11)
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Miller Park Lake, City of Bloomington

McLean County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Trout	- Spring Closed Season (11)

Mineral Springs Park Lagoon, City of Pekin

Tazewell County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Trout	- Fall Closed Season (10)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Mississippi River Pools 16, 17, 18, 21, 22, 24, 25, 26 (19)
Multiple Counties

Mississippi River (between IL & IA), State of Illinois
Multiple Counties

- | | |
|---|---|
| Recreational Use Restrictions | <ul style="list-style-type: none"> - Any tagged sport fishing device may not be left unattended for more than 24 hours or must be completely removed - Tailwaters of Lock and Dam 12 (down to Mill Creek, an Iowa tributary located at River Mile 556.0) and tailwaters of Lock and Dam 13 (down to the downstream end of Stamp Island, River Mile 521.5) closed to all fishing from December 1 through March 15) |
| All Fish | <ul style="list-style-type: none"> - Anglers must not use more than 2 poles and each pole must not have more than 2 hooks or lures while trolling |
| Bluegill or Pumpkinseed Sunfish | <ul style="list-style-type: none"> - 25 Fish Daily Creel Limit singly or in aggregate |
| Large or Smallmouth Bass | <ul style="list-style-type: none"> - 14" Minimum Length Limit |
| Large or Smallmouth Bass (14) | <ul style="list-style-type: none"> - 5 Fish Daily Creel Limit |
| Northern Pike | <ul style="list-style-type: none"> - 5 Fish Daily Creel Limit |
| Paddlefish | <ul style="list-style-type: none"> - Snagging for paddlefish is permitted from January 1 through April 15 within a 500 yard downstream limit below locks and dams on the Mississippi River between Illinois and Iowa except the tailwaters of Lock and Dam 12 and 13 are closed to all fishing from December 1 through March 15; daily catch limit is 2 fish |
| Rock Bass | <ul style="list-style-type: none"> - 25 Fish Daily Creel Limit |
| Striped, White, Yellow or Hybrid Striped Bass | <ul style="list-style-type: none"> - 25 Fish Daily Creel Limit singly or in aggregate – statewide regulation limiting daily creel to 3 fish 17" or longer is not in effect on the Mississippi River between Illinois and Iowa |
| Walleye and Sauger (14) | <ul style="list-style-type: none"> - 6 Fish Daily Creel Limit with no more than 1 walleye greater than 27" in total length |
| Walleye | <ul style="list-style-type: none"> - 15" Minimum Length Limit with a 20-27" |

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White, Black or Hybrid Crappie (15)	Protected Slot Length Limit (24) - 25 Fish Daily Creel Limit singly or in aggregate
Yellow Perch	- 25 Fish Daily Creel Limit
Mississippi River (between IL & MO), State of Illinois Multiple Counties	
Recreational Use Restrictions	- Boating prohibited on refuge area (Ellis Bay) immediately upstream of Melvin Price Lock and Dam 26 overflow dike from October 15-April 15 - Any tagged sport fishing device may not be left unattended for more than 24 hours or must be completely removed - 100 Total Fish Daily Creel Limit
All Nongame Species Combined (Excludes endangered and threatened species and the following game species: Crappie, Channel/Blue/Flathead Catfish, Rock Bass, Warmouth, White/Yellow/Striped/Hybrid Striped Bass, Trout, Largemouth/Smallmouth/Spotted Bass, Muskellunge, Northern Pike, Chain/Grass Pickerel, Walleye, Sauger, Paddlefish)	
Channel or Blue Catfish (14)	- 20 Fish Daily Creel Limit
Flathead Catfish	- 10 Fish Daily Creel Limit
Largemouth, Smallmouth, Spotted Bass	- 12" Minimum Length Limit or
Northern Pike	- 1 Fish Daily Creel Limit
Paddlefish	- Snagging for paddlefish is permitted from September 15 through December 15 and March 15 through May 15 within a 300 yard downstream limit below locks and dams on the Mississippi River between Illinois and Missouri; daily catch limit is 2 fish
Striped, White, Yellow or Hybrid Striped Bass	- 30 Fish Daily Creel Limit singly or in aggregate – statewide regulation limiting daily creel to 3 fish 17" or longer is not in

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

effect on the Mississippi River between
Illinois and Missouri

Walleye and Sauger (14) - 8 Fish Daily Creel Limit
White, Black or Hybrid Crappie (15) - 30 Fish Daily Creel Limit

Monee Reservoir, Will County Forest Preserve District
Will County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit

Montrose Lake, City of Montrose
Cumberland County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit

Mt. Olive City Lakes (Old and New), City of Mt. Olive
Macoupin County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Mt. Pulaski Park District Lake, Mt. Pulaski Park District
Logan County

All Fish - 2 Pole and Line Fishing Only (1)

Mt. Sterling Lake, City of Mt. Sterling
Brown County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 12-15" Slot Length Limit (3)

Mt. Vernon City Park Lake, City of Mt. Vernon
Jefferson County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Mt. Vernon Game Farm Pond, Mt. Vernon Game Farm

Jefferson County

All Fish - 2 Pole and Line Fishing Only (1)
 Trout - Fall Closed Season (10)
 Trout - Spring Closed Season (11)

Mundelein Park District Ponds , City of Mundelein

Lake County

All Fish - 2 Pole and Line Fishing Only (1)
 Channel Catfish - 6 Fish Daily Creel Limit
 Large or Smallmouth Bass - 15" Minimum Length Limit
 Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Nashville City Lake, City of Nashville

Washington County

All Fish - 2 Pole and Line Fishing Only (1)
 Channel Catfish - 6 Fish Daily Creel Limit
 Large or Smallmouth Bass - 18" Minimum Length Limit

Newton Lake, Newton Lake State Fish and Wildlife Area (41)

Jasper County

Recreational Use Restrictions - The cold water arm of Newton Lake shall be closed to all fishing and boat traffic except for legal waterfowl hunters during waterfowl season commencing with regular duck season through the close of the Canada goose and regular duck season

All Fish - 2 Pole and Line Fishing Only (1) (5)
 Large or Smallmouth Bass - 18" Minimum Length Limit
 Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
 White, Black, or Hybrid Crappie (15) - 10 Fish Daily Creel Limit
 White, Black, or Hybrid Crappie - 10" Minimum Length Limit

Norris City Reservoir, City of Norris City

White County

All Fish - 2 Pole and Line Fishing Only (1)
 Channel Catfish - 6 Fish Daily Creel Limit
 Large or Smallmouth Bass - 15" Minimum Length Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

North Marcum Campground Pond, U.S. Army Corps of Engineers

Franklin County

Recreational Use Restrictions	- Fishing permitted only by persons under 16 years of age
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit

Oakford Conservation Area (Menard County) (19)

Menard County

Oakland City Lake, City Lake, City of Oakland

Coles County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit

Oblong Lake, City of Oblong

Crawford County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit

Ohio River (between Illinois & Kentucky), State of Illinois

Multiple Counties (19)

Large or Smallmouth Bass	- 12" Minimum Length Limit
Northern Pike	- No Length or Creel Limit
Muskie or Tiger Muskie	- 2 Fish Daily Creel Limit
Muskie or Tiger Muskie	- 30" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye(14)	- 10 Fish Daily Creel Limit
White, Black, or Hybrid Crappie (15)	- 30 Fish Daily Creel Limit
Striped, White, Yellow or Hybrid	- 30 Creel/4 Fish 15" or Longer Daily (32)
Striped Bass	

Ohio River – Smithland Pool Tributary Streams (in Pope/Hardin/Gallatin Counties, excluding Wabash River and Saline River Above Route 1 Bridge) (19)

Multiple Counties

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Large and Smallmouth Bass	- 12" Minimum Length Limit
Old Kinmundy Reservoir, City of Kinmundy	
Marion County	
All Fish	- 2 Pole and Line Fishing Only (1)(5)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Olsen Lake, Rock Cut State Park	
Winnebago County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit
Omaha City Reservoir, City of Omaha	
Gallatin County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Otter Lake, Otter Lake Water Commission	
Macoupin County	
Recreational Use Restrictions	- All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
Striped, White, or Hybrid Striped Bass (16)	- 10 Creel/3 Fish 17" or Longer Daily (17)
Pure Muskellunge	- 48" Minimum Length Limit (40)
Palmyra – Modesto Water Commission Lake, Palmyra/Modesto Water Commission	
Macoupin County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Pana Lake, City of Pana

Shelby and Christian Counties

Recreational Use Restrictions

- All live bait in excess of 8" must be rigged
with a quick set rig (43)

All Fish

- 2 Pole and Line Fishing Only (1)

Bluegill or Redear Sunfish

- 8" Minimum Length Limit

Bluegill or Redear Sunfish (14)

- 10 Fish Daily Creel Limit

Channel Catfish

- 6 Fish Daily Creel Limit

Large or Smallmouth Bass

- 14" Minimum Length Limit

Paris East & West Lakes , City of Paris

Edgar County

All Fish

- 2 Pole and Line Fishing Only (1)

Channel Catfish

- 6 Fish Daily Creel Limit

Large or Smallmouth Bass

- 14" Minimum Length Limit

Peabody River King, Pit #3 Lakes and Ponds, River King State Conservation Area (see also Willow Lake for additional regulations)

St Clair County

All Fish

- 2 Pole and Line Fishing Only (1) (34)

Channel Catfish

- 6 Fish Daily Creel Limit

Large or Smallmouth Bass

- 15" Minimum Length Limit

Large or Smallmouth Bass (14)

- 3 Fish Daily Creel Limit

White, Black, or Hybrid Crappie (15)

- 25 Fish Daily Creel Limit

White, Black, or Hybrid Crappie

- 9" Minimum Length Limit

Pecatonica River and Tributaries, State of Illinois

Winnebago/Stephenson Counties

Smallmouth Bass

- 14" Minimum Length Limit

Pekin Lake

Tazewell County

Perry Farm Pond, Bourbonnais Park District

Kankakee County

All Fish

- 2 Pole and Line Fishing Only (1)

Channel Catfish

- 6 Fish Daily Creel Limit

Piasa (19)

Madison/Jersey Counties

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Pierce Lake, Rock Cut State Park

Winnebago County

Recreational Use Restrictions	- All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish	- 2 Pole and Line Fishing Only (1) (7)
Bluegill or Redear Sunfish	- 8" Minimum Length Limit
Bluegill or Redear Sunfish (14)	- 10 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Pure Muskellunge	- 48" Minimum Length Limit (40)
White, Black, or Hybrid Crappie (15)	- 25 Fish Daily Creel Limit

Pike County Conservation Area (19)

Pike County

Pickneyville Lake, City of Pickneyville

Perry County

Large or Smallmouth Bass	- 18" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Pine Creek

Ogle County

Trout	- Spring Closed Season (11)
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Pine Creek (within the boundaries of White Pines Forest State Park)

Ogle County

All Fish	- 2 Pole and Line Fishing Only (1)
Trout	- Spring Closed Season (11)

Pine Lake, Village of University Park

Will County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit

Piscasaw Creek

McHenry County

Trout	- 9" Minimum Length Limit
Trout	- Spring Closed Season (11)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Pittsfield City Lake, City of Pittsfield

Pike County

All Fish	- 2 Pole and Line Fishing Only (1) (7)
Large or Smallmouth Bass	- 14" Minimum Length Limit
Striped, White, or Hybrid Striped Bass	- 17" Minimum Length
Striped, White, or Hybrid Striped Bass (16)	- 3 Fish Daily Creel Limit
White, Black, or Hybrid Crappie	- 9" Minimum Length Limit

Pocahontas Park Ponds, City of Pocahontas

Bond County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit

Ponderosa Lake, Mazonia State Fish and Wildlife Area (33)

Grundy County

All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14)	- 10 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
White, Black or Hybrid Crappie (15)	- 10 Fish Daily Creel Limit

Powerton Lake, Powerton Lake Fish and Wildlife Area (39)

Tazewell County

Recreational Use Restrictions	- Powerton Lake shall be closed to boat traffic except for legal waterfowl hunters from one week prior to regular waterfowl season to February 15, and closed to all unauthorized entry during regular Canada goose and duck season
All Fish	- 2 Pole and Line Fishing Only (1)
Channel or Blue Catfish (14)	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 18" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit
Striped, White, or Hybrid Striped Bass (16)	- 10 Creel/3 Fish 17" or Longer Daily (17)
Walleye, Sauger, or Hybrid Walleye (14)	- 3 Fish Daily Creel Limit
Walleye, Sauger, or Hybrid Walleye	- 18" Minimum Length Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Prospect Pond, City of Moline
Rock Island County
Trout

- Fall Closed Season (10)

Pyramid State Park – Blue Wing Lake, Green Wing Lake and Goldeneye Lake, Pyramid State Park

Perry County

Recreational Use Restrictions

- Waterfowl Hunting Area (from October 28 through February 28 fishing is permitted in designated areas only, and fishing hours are from ½ hour before sunrise to 2 p.m.)

All Fish

- 2 Pole and Line Fishing Only (1)

Bluegill or Redear Sunfish (14)

- 25 Fish Daily Creel Limit

Channel Catfish

- 6 Fish Daily Creel Limit

Large or Smallmouth Bass

- 18" Minimum Length Limit

Large or Smallmouth Bass (14)

- 1 Fish Daily Creel Limit

White, Black, or Hybrid Crappie (15)

- 25 Fish Daily Creel Limit

Pyramid State Park – Captain, Denmark and Galum Areas – All Lakes and Ponds except Blue Wing Lake, Green Wing Lake and Goldeneye Lake, Pyramid State Park

Perry County

Recreational Use Restrictions

- Waterfowl Refuge or Hunting Area (all use other than waterfowl hunting prohibited from ~~October 28~~ ~~October 29~~ through ~~February 28~~ ~~March 1~~)

All Fish

- 2 Pole and Line Fishing Only (1)

~~Bluegill or Redear Sunfish~~

~~- 8" Minimum Length Limit~~

Bluegill or Redear Sunfish (14)

- ~~25~~ 10 Fish Daily Creel Limit

Channel Catfish

- 6 Fish Daily Creel Limit

Large or Smallmouth Bass

- 18" Minimum Length Limit

Large or Smallmouth Bass (14)

- 1 Fish Daily Creel Limit

~~White, Black, or Hybrid Crappie~~

~~- 9" Minimum Length Limit~~

White, Black, or Hybrid Crappie (15)

- ~~25~~ 10 Fish Daily Creel Limit

Pyramid State Park Lakes & Ponds (excluding Captain, Denmark and Galum Areas), Pyramid State Park

Perry County

All Fish

- 2 Pole and Line Fishing Only (1)

Channel Catfish

- 6 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Ramsey Lake, Ramsey Lake State Park

Fayette County

All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14)	- 25 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
White, Black, or Hybrid Crappie (15)	- 10 Fish Daily Creel Limit
White, Black, or Hybrid Crappie	- 9" Minimum Length Limit

Ramsey Lake State Park Ponds, Ramsey Lake State Park

Fayette County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit

Randolph County Lake, Randolph County Conservation Area

Randolph County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
Trout	- Fall Closed Season (10)

Red Hills Lake, Red Hills State Park

Lawrence County

All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish	- 8" Minimum Length Limit
Bluegill or Redear Sunfish (14)	- 10 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit

Red's Landing Wildlife Management Area (19)

Calhoun County

(Walk-in area closed to trespassing 7 days prior to duck season)

Redwing Slough / Deer Lake (33)

Lake County

Rend Lake, U.S. Army Corps of Engineers (22) (33)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Franklin and Jefferson Counties

- | | |
|--|--|
| Channel Catfish | - All jugs must be attended at all times while fishing (2) |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
| Striped, White, Yellow, or Hybrid Striped Bass (8) | - 20 Creel/3 Fish 17" or Longer Daily |
| White, Black or Hybrid Crappie (15) | - 25 Creel/5 Fish 10" or Longer Daily |

Rend Lake Project Ponds – Jackie Branch Pond, Ina N. Borrow Pit, Green Heron Pond, North Marcum Campground Pond, U.S. Army Corps of Engineers

Franklin and Jefferson Counties

- | | |
|---------------------------------|--|
| Recreational Use Restrictions | - See kids only fishing regulations for North Marcum Campground Pond |
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Bluegill or Redear Sunfish (14) | - 10 Fish Daily Creel Limit |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 1 Fish Daily Creel Limit |

Rice Lake Fish and Wildlife Area (33)

Fulton County

Ridge Lake, Fox Ridge State Park

Coles County

- | | |
|-------------------------------|---|
| Recreational Use Restrictions | - Waterfowl Refuge or Hunting Area (19) |
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 14" Minimum Length Limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |

Riis Park Lagoon, Chicago Park District

Cook County

- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |

Riprap Landing (19)

Calhoun County

River Bend Forest Preserve Lakes (Sunset Lake and Shadow Lake), Champaign County Forest Preserve District

Champaign County

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish	- 8" Minimum Length Limit
Bluegill or Redear Sunfish (14)	- 10 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Riverside Park Lagoon, Moline Park District
Rock Island County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit

Rock Creek, State of Illinois
Kankakee County
Trout

- Spring Closed Season (11)

Rock River, from the Sears and Steel Dam downstream to confluence of the Mississippi River,
State of Illinois
Rock Island County

<u>Walleye</u>	<u>- 15" Minimum Length Limit with a 20-27" Protected Slot Length Limit (24)</u>
<u>Walleye and Sauger (14)</u>	<u>- 6 Fish Daily Creel Limit with no more than 1 walleye greater than 27" in total length</u>

Rock River, Wisconsin State Line downstream to confluence of the Mississippi River, including
tributaries, State of Illinois

Multiple Counties

Smallmouth Bass	- 14" Minimum Length Limit
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Rock Springs Bike Trail Pond, Macon County Conservation District

Macon County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Rock Springs Pond, Macon County Conservation District

Macon County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit
Trout	- Fall Closed Season (10) Spring Closed Season (11)
Roodhouse Park Lake, City of Roodhouse	
Green County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Route 154 Day Use Pond, State of Illinois	
Randolph County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit
Sag Quarry East, Cook County Forest Preserve District	
Cook County	
Rainbow Trout	- Spring Closed Season (11)
Sahara Woods Fish and Wildlife Area, State of Illinois	
Saline County	
All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14)	- 15 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 18" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit
White, Black, or Hybrid Crappie (15)	- 15 Fish Daily Creel Limit
St. Elmo South Lake, City of St. Elmo	
Fayette County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Salem Reservoir, City of Salem	
Marion County	
All Fish	- 2 Pole and Line Fishing Only (1) (5)
Channel Catfish	- 6 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- Large or Smallmouth Bass - 14" Minimum Length Limit
- Sam Dale Lake, Sam Dale Conservation Area
Wayne County
- All Fish - 2 Pole and Line Fishing Only (1)(5)
 - Channel Catfish - 6 Fish Daily Creel Limit
 - Large or Smallmouth Bass - 14" Minimum Length Limit
- Sam Dale Trout Pond, Sam Dale Conservation Area
Wayne County
- All Fish - 2 Pole and Line Fishing Only (1)
 - Channel Catfish - 6 Fish Daily Creel Limit
 - Large or Smallmouth Bass - 14" Minimum Length Limit
 - Trout - Fall Closed Season (10)
 - Trout - Spring Closed Season (11)
- Sam Parr Lake, Sam Parr State Park
Jasper County
- All Fish - 2 Pole and Line Fishing Only (1) (5)
 - Channel Catfish - 6 Fish Daily Creel Limit
 - Large or Smallmouth Bass - 14" Minimum Length Limit
- Sand Lake, Illinois Beach State Park
Lake County
- All Fish - 2 Pole and Line Fishing Only (1)
 - Channel Catfish - 6 Fish Daily Creel Limit
 - Large or Smallmouth Bass - 15" Minimum Length Limit
 - Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
 - Trout - Fall Closed Season (10)
 - Trout - Spring Closed Season (11)
- Sanganois Conservation Area (33) (42)
Mason/Cass/Schuyler/Menard Counties
- Sangchris Lake, Sangchris Lake State Park
Christian/Sangamon Counties
- Recreational Use Restrictions - Posted waterfowl refuge closed to all boat traffic during waterfowl season. Bank fishing along the dam shall be permitted. Fishing shall be prohibited in the east and

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

west arms of the lake during the period from 10 days prior to the duck season through the end of the duck season. Fishing shall be prohibited in the west arm of the lake and the east arm of the lake south of the power lines during that portion of the Canada goose season that follows the duck season

- All Fish - 2 Pole and Line Fishing Only (1) (34)
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- White, Black, or Hybrid Crappie (15) - 10 Fish Daily Creel Limit
- White, Black, or Hybrid Crappie - 10" Minimum Length Limit

Sangchris Lake Park Ponds, Sangchris Lake State Park
Sangamon County

- All Fish - 2 Pole and Line Fishing Only (1)

Schiller Pond, Cook County Forest Preserve District
Cook County

- All Fish - 2 Pole and Line Fishing Only (1) (36)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit

Schuy-Rush Lake, City of Rushville
Schuyler County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- White, Black or Hybrid Crappie - 9" Minimum Length Limit

Senior Citizen's Pond, Kankakee River State Park
Kankakee County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit

Sesser City Lake, City of Sesser
Franklin County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 18" Minimum Length Limit

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NOTICE OF PROPOSED AMENDMENTS

- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
- Shabbona Lake, Shabbona Lake State Park
DeKalb County
- Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
- All Fish - 2 Pole and Line Fishing Only (1) (7)
- Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit
- Pure Muskellunge - 48" Minimum Length Limit (40)
- Striped, White, or Hybrid Striped Bass - 17" Minimum Length Limit
- Striped, White, or Hybrid Striped Bass (16) - 3 Fish Daily Creel Limit
- Walleye, Sauger, or Hybrid Walleye - 18" Minimum Length Limit
- White, Black, or Hybrid Crappie (15) - 10 Fish Daily Creel Limit
- Shawnee National Forest Lakes and Ponds less than 10 acres, U.S. Forest Service
Multiple Counties
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Largemouth, Smallmouth or Spotted Bass - 15" Minimum Length Limit
- Shawnee National Forest – Bay Creek Lake #5 and #8 (Sugar Creek Lake), U.S. Forest Service
Pope County
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Largemouth, Smallmouth and Spotted Bass - 15" Minimum Length Limit
- Shawnee National Forest – Dutchman Lake, U.S. Forest Service
Johnson County
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Largemouth, Smallmouth or Spotted Bass - 15" Minimum Length Limit
- Shawnee National Forest – Lake Glendale, U.S. Forest Service
Pope County
- All Fish - 2 Pole and Line Fishing Only (1)

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NOTICE OF PROPOSED AMENDMENTS

Channel Catfish - 6 Fish Daily Creel Limit
Largemouth, Smallmouth or Spotted Bass - 15" Minimum Length Limit

Shawnee National Forest – Little Cache #1, U.S. Forest Service

Johnson County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Largemouth or Smallmouth Bass - 15" Minimum Length Limit

Shawnee National Forest – Little Cedar Lake, U.S. Forest Service

Jackson County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Largemouth, Smallmouth or Spotted Bass - 15" Minimum Length Limit

Shawnee National Forest – One Horse Gap Lake, U.S. Forest Service

Pope County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Largemouth, Smallmouth or Spotted Bass - 15" Minimum Length Limit

Shawnee National Forest – Pounds Hollow Lake, U.S. Forest Service

Gallatin County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Largemouth, Smallmouth or Spotted Bass - 15" Minimum Length Limit

Shawnee National Forest – Tecumseh Lake, U.S. Forest Service

Hardin County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Largemouth, Smallmouth or Spotted Bass - 15" Minimum Length Limit

Shawnee National Forest – Turkey Bayou, U.S. Forest Service

Jackson County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Largemouth, Smallmouth or Spotted Bass - 15" Minimum Length Limit

Shawnee National Forest – Whoopie Cat Lake, U.S. Forest Service

DEPARTMENT OF NATURAL RESOURCES

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Hardin Counties

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Largemouth, Smallmouth or Spotted Bass - 15" Minimum Length Limit

Sherman Park Lagoon, Chicago Park District

Cook County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 4 Fish Daily Creel Limit

Siloam Springs Lake, Siloam Springs State Park

Adams County

- All Fish - 2 Pole and Line Fishing Only (1) (7)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 12-15" Slot Length Limit (3)
- Trout - Fall Closed Season (10)
- Trout - Spring Closed Season (11)

Siloam Springs State Park Buckhorn Unit Waters, Siloam Springs State Park

Brown County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Bluegill or Redear Sunfish - 8" Minimum Length Limit
- Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
- Large and Smallmouth Bass - 18" Minimum Length Limit
- Large and Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Silver Lake, Dupage County Forest Preserve District

Dupage County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - ~~36~~ Fish Daily Creel Limit
- Channel Catfish - 12" Minimum Length Limit
- Larger or Smallmouth Bass - 15"14" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- Trout - Spring Closed Season (11)
- Walleye, Sauger, or Hybrid Walleye - 16" Minimum Length Limit
- Walleye, Sauger, or Hybrid Walleye (14) - 3 Fish Daily Creel Limit
- White, Black or Hybrid Crappie - 9" Minimum Length Limit
- White, Black or Hybrid Crappie (15) - 15 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Silver Springs S.P. (Big Lake) & Ponds, Silver Springs State Fish and Wildlife Area
Kendall County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Trout	- Fall Closed Season (10)
Trout	- Spring Closed Season (11)

Skokie Lagoons, Cook County Forest Preserve District

Cook County

All Fish	- 2 Pole and Line Fishing Only (1) (36)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye	- 18" Minimum Length Limit

Small Pit Pond, Boone County Conservation District

Boone County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Snakeden Hollow State Fish and Wildlife Area – McMaster Lake & Other Site Waters, State of Illinois

Knox County

Recreational Use Restrictions	- Waterfowl Refuge or Hunting Area (all use other than waterfowl hunting prohibited from October 1 through the end of the Canada goose season)
	- All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14)	- 10 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit <u>with only one fish 15" or longer</u>
Pure Muskellunge	- 42" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye (14)	- 3 Fish Daily Creel Limit
White, Black, or Hybrid Crappie (15)	- 5 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Sparta City Lakes, City of Sparta
Randolph County

- | | |
|--------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |

Sparta "T" Lake, City of Sparta
Randolph County

- | | |
|--------------------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Bluegill or Redear Sunfish | - 8" Minimum Length Limit |
| Bluegill or Redear Sunfish (14) | - 15 Fish Daily Creel Limit |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |
| White, Black, or Hybrid Crappie | - 9" Minimum Length Limit |
| White, Black, or Hybrid Crappie (15) | - 10 Fish Daily Creel Limit |

Spencer Lake, Boone County Conservation District
Boone County

- | | |
|-------------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 1 Fish Daily Creel Limit |

Sportsmans' Club Pond, Macon County Conservation DistrictMacon County

- | | |
|-----------------|---|
| <u>All Fish</u> | <u>- 2 Pole and Line Fishing Only (1)</u> |
| <u>Trout</u> | <u>- Spring Closed Season (11)</u> |

Spring Lake, City of Macomb
McDonough County

- | | |
|--|--|
| Recreational Use Restrictions | - All live bait in excess of 8" must be rigged with a quick set rig (43) |
| All Fish | - 2 Pole and Line Fishing Only (1) (5) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |
| Striped, White, or Hybrid Striped Bass | - 17" Minimum Length Limit |
| Striped, White, or Hybrid Striped Bass | - 3 Fish Daily Creel Limit |

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

(16)

Spring Lakes (North & South), Spring Lake Conservation Area (33)

Tazewell County

Recreational Use Restrictions	- All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish	- 2 Pole and Line Fishing Only (1) (7)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
Pure Muskellunge	- 48" Minimum Length Limit (40)
White, Black, or Hybrid Crappie (15)	- 25 Fish Daily Creel Limit
White, Black, or Hybrid Crappie	- 9" Minimum Length Limit

Spring Pond, Flagg-Rochelle Park District

Ogle County

All Fish	- 2 Pole and Line Fishing Only (1)
Large or Smallmouth Bass	- 14" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Starved Rock State Park (19)

LaSalle County

Staunton City Lake, City of Staunton

Macoupin County

Recreational Use Restrictions	- All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit

Steven A. Forbes State Park (19) (see also Forbes State Lake and Forbes State Park Ponds)

Marion County

Sterling Lake, Lake County Forest Preserve District

Lake County

Recreational Use Restrictions	- All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish	- 2 Pole and Line Fishing Only (1)

DEPARTMENT OF NATURAL RESOURCES

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Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Pure Muskellunge	- 48" Minimum Length Limit

Storm Lake, DeKalb Park District
DeKalb County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Large or Smallmouth Bass	- 1 Fish Daily Creel Limit

Stump Lake Wildlife Management Area (33)
Jersey County

Tampier Lake, Cook County Forest Preserve District
Cook County

All Fish	- 2 Pole and Line Fishing Only (36)
Bluegill or Redear Sunfish	- 8" Minimum Length Limit
Bluegill or Redear Sunfish (14)	- 10 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye	- 18" Minimum Length Limit

Taylorville Park District Pond, Taylorville Park District
Christian County

All Fish	- 2 Pole and Line Fishing Only (1)
<u>Trout</u>	- <u>Spring Closed Season (11)</u>

Ten Mile Creek Lakes, Ten Mile Creek State Fish and Wildlife Area
Hamilton/Jefferson Counties (19)

(Areas designated as refuge are closed to all access during the Canada goose season)

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit

Tilton City Lake, City of Tilton
Vermilion County

Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Toledo Reservoir, City of Toledo
Cumberland County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit

Turkey Bluff Ponds, State of Illinois
Randolph County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large and Smallmouth Bass - 15" Minimum Length Limit
- Large and Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Turner Lake, Chain O'Lakes State Park
Lake County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit

Tuscola City Lake, City of Tuscola
Douglas County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit

Union County Conservation Area

Union County

(All fishing and boat traffic prohibited October 15-March 1)

Valley Lake, Wildwood Park District
Lake County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Valmeyer Lake, City of Valmeyer
Monroe County

- All Fish - 2 Pole and Line Fishing Only (1)

DEPARTMENT OF NATURAL RESOURCES

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- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Vanhorn Woods Pond, Plainfield Park District

Will County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Vernor Lake, City of Olney

Richland County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit

Villa Grove East Lake, City of Villa Grove

Douglas County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit

Villa Grove West Lake, City of Villa Grove

Douglas County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit
- Trout - Fall Closed Season (10)

Virginia City Reservoir, City of Virginia

Cass County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit

Waddams Creek

Stephenson County

- Trout - Spring Closed Season (11)

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NOTICE OF PROPOSED AMENDMENTS

Walnut Point Lake, Walnut Point State Fish and Wildlife Area

Douglas County

- All Fish - 2 Pole and Line Fishing Only (1)
- Bluegill or Redear Sunfish - 8" Minimum Length Limit
- Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 12-15" Slot Length Limit (3)

Walton Park Lake, City of Litchfield

Montgomery County

- All Fish - 2 Pole and Line Fishing Only (1)
- Bluegill or Redear Sunfish - 8" Minimum Length Limit
- Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Wampum Lake, Cook County Forest Preserve District

Cook County

- All Fish - 2 Pole and Line Fishing Only (1) (36)
- Bluegill or Redear Sunfish - Catch and Release Only (9)
- Large or Smallmouth Bass - 14" Minimum Length Limit

Washington County Lake, Washington County Conservation Area

Washington County

- All Fish - 2 Pole and Line Fishing Only (1) (5)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit
- Striped, White, or Hybrid Striped Bass - 17" Minimum Length Limit
- Striped, White, or Hybrid Striped Bass - 3 Fish Daily Creel Limit
- (16)

Washington Park Lagoon, Chicago Park District

Cook County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 4 Fish Daily Creel Limit

Washington Park Pond, Springfield Park District

Sangamon County

- All Fish - 2 Pole and Line Fishing Only (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Channel Catfish	- 3 Fish Daily Creel Limit
Trout	- Fall Closed Season (10)
Trout	- Spring Closed Season (11)
Waverly Lake, City of Waverly	
Morgan County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Weinberg-King Pond, Weinberg-King State Park	
Schuyler County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Weldon Springs Lake, Weldon Springs State Park	
DeWitt County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit
West Frankfort New City Lake, City of West Frankfort	
Franklin County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
West Frankfort Old City Lake, City of West Frankfort	
Franklin County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
West Salem Reservoir, City of West Salem	
Edwards County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

White Hall City Lake, City of White Hall

Greene County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit

| White Oaks Park Lake, City of Bloomington

McLean County

- All Fish - 2 Pole and Line Fishing Only (1)
- | Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Wilderness Pond, Fox Ridge State Park

Coles County

- Recreational Use Restrictions - Waterfowl Refuge or Hunting Area (19)
- All Fish - 2 Pole and Line Fishing Only (1)
- Bluegill or Redear Sunfish (14) - 5 Fish Daily Creel Limit
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 18" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Wildlife Prairie State Park, State of Illinois

Peoria County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 12-18" Protected Slot Length Limit (no possession allowed within the protected slot length limit)
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- Bluegill or Redear Sunfish (14) - 25 Fish Daily Creel Limit
- White, Black or Hybrid Crappie - 9" Minimum Length Limit
- White, Black or Hybrid Crappie (15) - 25 Fish Daily Creel Limit
- Pure or Hybrid Muskellunge - 42" Minimum Length Limit

William W. Powers Conservation Area (33)

Cook County

Willow Lake, Peabody River King State Conservation Area

St. Clair County

- All Fish - 2 Pole and Line Fishing Only (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
White, Black, or Hybrid Crappie (15)	- 25 Fish Daily Creel Limit
White, Black, or Hybrid Crappie	- 9" Minimum Length Limit
Trout	- Fall Closed Season (10)

Wolf Lake, William W. Powers Conservation Area (33)

Cook County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit

Woodford Co. Cons. Area (Fishing Ditch), Woodford County Conservation Area (33)

Woodford County

All Fish	- 2 Pole and Line Fishing Only (1)
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Woodlawn Pond, Frankfort Square Park District

Will County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Wyman Lake, City of Sullivan

Moultrie County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit
Trout	- Spring Closed Season (11)

Yellow Creek

Stephenson County

Trout	- Spring Closed Season (11)
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(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 810.70 Free Fishing Days

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

| During the period of June ~~10, 11, 12, 13, 2005~~~~11, 12, 13, 14, 2004~~, it shall be legal for any person to fish in waters wholly or in part within the jurisdiction of the State, including the Illinois portion of Lake Michigan, without possessing a sport fishing license, salmon stamp or inland trout stamp.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: RCRA Permit Program
- 2) Code citation: 35 Ill. Adm. Code 703
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
703.123	Amend
- 4) Statutory authority: Implementing Sections 3.283, 3.284, 7.2, 22.23b and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/3.283, 3.284, 7.2, 22.23b, 22.4 and 27]
- 5) A Complete Description of the Subjects and Issues Involved: A more complete description of this proposal may be found in the Board's opinion and order of November 4, 2004, in Board docket R05-08. This proposal to amend Part 703 is part of a larger rulemaking in which the Board is also proposing amendments to the regulations dealing with universal waste: Parts 720, 721, 724, 725, 728, and 733 of Title 35 of the Illinois Administrative Code. The larger rulemaking, to which the Board has devoted docket R05-08, is designed to ensure that the Board's universal waste regulations are consistent with the recently enacted legislation in Public Act 93-964. This legislation designates mercury switches, mercury relays, and scientific instruments and instructional equipment containing mercury added during their manufacture as universal waste. The Board has a statutory deadline of April 18, 2005 (180 days from the date the Illinois Environmental Protection Agency filed the proposal with the Board) to adopt final rules in this rulemaking. The amendments in this rulemaking are based on a United States Environmental Protection Agency proposal published in the Federal Register at 67 Fed. Reg. 40507 (June 12, 2002) that seeks to amend the federal universal waste regulations to include mercury-containing devices as universal waste.

Specifically, the amendments to Part 703 address the exclusions from the RCRA permit program by adding mercury-containing equipment to the list of exempted universal wastes. Handlers and transporters of universal waste are not required to obtain a RCRA permit.
- 6) Will this rulemaking replace any emergency amendments 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 amendments pending on this Part? No

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 10) Statement of Statewide Policy Objectives: The proposed amendment does not create or expand a State mandate as defined in Section 3 of the State Mandates Act [30 ILCS 805].
- 11) Time, Place And Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R05-08 and be addressed to:

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

Address all questions to Marie Tipsord, at 312-814-4925 or email at tipsordm@ipcb.state.il.us.

Request copies of the Board's opinion and order at 312-814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking would impact small businesses, small municipalities, and not-for-profit corporations only if they handle or transport devices that contain mercury.
- B) Reporting, bookkeeping or other procedures required for compliance: This rulemaking eases the regulatory burden on generators, handlers, and transporters of mercury-containing wastes. For example, because these wastes would no longer be considered "hazardous", the waste would be exempted from certain manifest requirements.
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory agenda in which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: PA 93-964 only became effective on August 20, 2004, after the July 2004 Regulatory was published.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER b: PERMITSPART 703
RCRA PERMIT PROGRAM

SUBPART A: GENERAL PROVISIONS

Section	
703.100	Scope and Relation to Other Parts
703.101	Purpose
703.110	References

SUBPART B: PROHIBITIONS

Section	
703.120	Prohibitions in General
703.121	RCRA Permits
703.122	Specific Inclusions in Permit Program
703.123	Specific Exclusions from Permit Program
703.124	Discharges of Hazardous Waste
703.125	Reapplications
703.126	Initial Applications
703.127	Federal Permits (Repealed)

SUBPART C: AUTHORIZATION BY RULE AND INTERIM STATUS

Section	
703.140	Purpose and Scope
703.141	Permits by Rule
703.150	Application by Existing HWM Facilities and Interim Status Qualifications
703.151	Application by New HWM Facilities
703.152	Amended Part A Application
703.153	Qualifying for Interim Status
703.154	Prohibitions During Interim Status
703.155	Changes During Interim Status
703.156	Interim Status Standards
703.157	Grounds for Termination of Interim Status

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

703.158	Permits for Less Than an Entire Facility
703.159	Closure by Removal
703.160	Procedures for Closure Determination
703.161	Enforceable Document for Post-Closure Care

SUBPART D: APPLICATIONS

Section	
703.180	Applications in General
703.181	Contents of Part A
703.182	Contents of Part B
703.183	General Information
703.184	Facility Location Information
703.185	Groundwater Protection Information
703.186	Exposure Information
703.187	Solid Waste Management Units
703.188	Other Information
703.191	Public Participation: Pre-Application Public Notice and Meeting
703.192	Public Participation: Public Notice of Application
703.193	Public Participation: Information Repository
703.200	Specific Part B Application Information
703.201	Containers
703.202	Tank Systems
703.203	Surface Impoundments
703.204	Waste Piles
703.205	Incinerators that Burn Hazardous Waste
703.206	Land Treatment
703.207	Landfills
703.208	Boilers and Industrial Furnaces Burning Hazardous Waste
703.209	Miscellaneous Units
703.210	Process Vents
703.211	Equipment
703.212	Drip Pads
703.213	Air Emission Controls for Tanks, Surface Impoundments, and Containers
703.214	Post-Closure Care Permits

SUBPART E: SHORT TERM AND PHASED PERMITS

Section	
703.220	Emergency Permits

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

703.221	Alternative Compliance with the Federal NESHAPS
703.222	Incinerator Conditions Prior to Trial Burn
703.223	Incinerator Conditions During Trial Burn
703.224	Incinerator Conditions After Trial Burn
703.225	Trial Burns for Existing Incinerators
703.230	Land Treatment Demonstration
703.231	Research, Development and Demonstration Permits
703.232	Permits for Boilers and Industrial Furnaces Burning Hazardous Waste
703.234	Remedial Action Plans

SUBPART F: PERMIT CONDITIONS OR DENIAL

Section	
703.240	Permit Denial
703.241	Establishing Permit Conditions
703.242	Noncompliance Pursuant to Emergency Permit
703.243	Monitoring
703.244	Notice of Planned Changes (Repealed)
703.245	Twenty-four Hour Reporting
703.246	Reporting Requirements
703.247	Anticipated Noncompliance
703.248	Information Repository

SUBPART G: CHANGES TO PERMITS

Section	
703.260	Transfer
703.270	Modification
703.271	Causes for Modification
703.272	Causes for Modification or Reissuance
703.273	Facility Siting
703.280	Permit Modification at the Request of the Permittee
703.281	Class 1 Modifications
703.282	Class 2 Modifications
703.283	Class 3 Modifications

SUBPART H: REMEDIAL ACTION PLANS

Section	
703.300	Special Regulatory Format

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 703.301 General Information
- 703.302 Applying for a RAP
- 703.303 Getting a RAP Approved
- 703.304 How a RAP May Be Modified, Revoked and Reissued, or Terminated
- 703.305 Operating Under A RAP
- 703.306 Obtaining a RAP for an Off-Site Location

SUBPART I: INTEGRATION WITH MAXIMUM ACHIEVABLE
CONTROL TECHNOLOGY (MACT) STANDARDS

Section

- 703.320 Options for Incinerators and Cement and Lightweight Aggregate Kilns to Minimize Emissions from Startup, Shutdown, and Malfunction Events

703.APPENDIX A Classification of Permit Modifications

AUTHORITY: Implementing Sections 3.283, 3.284, 7.2, 22.4 and 22.23b and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/3.283, 3.284, 7.2, 22.4 and 22.23b and 27].

SOURCE: Adopted in R82-19 at 7 Ill. Reg. 14289, effective October 12, 1983; amended in R83-24 at 8 Ill. Reg. 206, effective December 27, 1983; amended in R84-9 at 9 Ill. Reg. 11899, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1110, effective January 2, 1986; amended in R85-23 at 10 Ill. Reg. 13284, effective July 28, 1986; amended in R86-1 at 10 Ill. Reg. 14093, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20702, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6121, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13543, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19383, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2584, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 13069, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 447, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18477, effective November 13, 1989; amended in R89-9 at 14 Ill. Reg. 6278, effective April 16, 1990; amended in R90-2 at 14 Ill. Reg. 14492, effective August 22, 1990; amended in R90-11 at 15 Ill. Reg. 9616, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14554, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9767, effective June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5774, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20794, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6898, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12392, effective July 29, 1994; amended in R94-5 at 18 Ill. Reg. 18316, effective December 20, 1994; amended in R95-6 at 19 Ill. Reg. 9920, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11225, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 553, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

7632, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17930, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2153, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9381, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9765, effective June 20, 2000; amended in R01-21/R01-23 at 25 Ill. Reg. 9313, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6539, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3496, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12683, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. _____, effective _____.

SUBPART B: PROHIBITIONS

Section 703.123 Specific Exclusions from Permit Program

The following persons are among those that are not required to obtain a RCRA permit:

- a) Generators that accumulate hazardous waste on-site for less than the time periods provided in 35 Ill. Adm. Code 722.134;
- b) Farmers that dispose of hazardous waste pesticides from their own use as provided in 35 Ill. Adm. Code 722.170;
- c) Persons that own or operate facilities solely for the treatment, storage, or disposal of hazardous waste excluded from regulations under this Part by 35 Ill. Adm. Code 721.104 or 721.105 (small generator exemption);
- d) An owner or operator of a totally enclosed treatment facility, as defined in 35 Ill. Adm. Code 720.110;
- e) An owner or operator of an elementary neutralization unit or wastewater treatment unit, as defined in 35 Ill. Adm. Code 720.110;
- f) A transporter that stores manifested shipments of hazardous waste in containers that meet the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less;
- g) A person who adds absorbent material to waste in a container (as defined in 35 Ill. Adm. Code 720.110) or a person who adds waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and 35 Ill. Adm. Code 724.117(b), 724.271, and 724.272 are complied with; and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

h) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) that manages the wastes listed in subsections (h)(1) through (h)(4) of this Section. Such a handler or transporter is subject to regulation under 35 Ill. Adm. Code 733.

1) Batteries, as described in 35 Ill. Adm. Code 733.102;

2) Pesticides, as described in 35 Ill. Adm. Code 733.103;

3) Thermostats, as described in 35 Ill. Adm. Code 733.104; ~~and~~

4) Lamps, as described in 35 Ill. Adm. Code 733.105; ~~and-~~

5) [Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.106.](#)

[BOARD NOTE: Subsection \(h\)\(5\) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act \[415 ILCS 5/3.283, 3.284, and 22.23b\] \(see P.A. 93-964, effective August 20, 2004\).](#)

BOARD NOTE: Derived from 40 CFR 270.1(c)(2) (2002).

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Hazardous Waste Management System: General
- 2) Code citation: 35 Ill. Adm. Code 720
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
720.110	Amend
- 4) Statutory authority: Implementing Sections 3.283, 3.284, 7.2, 22.23b, 13, and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/3.283, 3.284, 7.2, 22.23b, 13, 22.4, and 27]
- 5) A complete description of the subjects and issues involved: A more complete description of this proposal may be found in the Board's opinion and order of November 4, 2004, in Board docket R05-08. This proposal to amend Part 720 is part of a larger rulemaking in which the Board is also proposing amendments to the regulations dealing with universal waste: Parts 703, 721, 724, 725, 728, and 733 of Title 35 of the Illinois Administrative Code. The larger rulemaking, to which the Board has devoted docket R05-08, is designed to ensure that the Board's universal waste regulations are consistent with the recently enacted legislation in Public Act 93-964. This legislation designates mercury switches, mercury relays, and scientific instruments and instructional equipment containing mercury added during their manufacture as universal waste. The Board has a statutory deadline of April 18, 2005 (180 days from the date the Illinois Environmental Protection Agency filed the proposal with the Board) to adopt final rules in this rulemaking. The amendments in this rulemaking are based on a United States Environmental Protection Agency proposal published in the Federal Register at 67 Fed. Reg. 40507 (June 12, 2002) that seeks to amend the federal universal waste regulations to include mercury-containing devices as universal waste.

The amendments to Part 720 add the definition of "mercury-containing equipment" and amend the definition of "universal waste" to include mercury-containing equipment.
- 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 amendments pending on this Part? No

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 10) Statement of statewide policy objectives: The proposed amendment does not create or expand a State mandate as defined in Section 3 of the State Mandates Act [30 ILCS 805].
- 11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R05-08 and be addressed to:

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

Address all questions to Marie Tipsord, at 312-814-4925 or email at tipsordm@ipcb.state.il.us.

Request copies of the Board's opinion and order at 312-814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.

- 12) Initial regulatory flexibility analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking would impact small businesses, small municipalities, and not-for-profit corporations only if they handle or transport devices that contain mercury.
- B) Reporting, bookkeeping or other procedures required for compliance: This rulemaking eases the regulatory burden on generators, handlers, and transporters of mercury-containing wastes. For example, because these wastes would no longer be considered "hazardous," the waste would be exempted from certain manifest requirements.
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda in which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: P.A. 93-964 became effective on August 20, 2004, after the July 2004 regulatory agenda was published.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 720

HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

SUBPART A: GENERAL PROVISIONS

Section

720.101	Purpose, Scope, and Applicability
720.102	Availability of Information; Confidentiality of Information
720.103	Use of Number and Gender

SUBPART B: DEFINITIONS AND REFERENCES

Section

720.110	Definitions
720.111	References

SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

Section

720.120	Rulemaking
720.121	Alternative Equivalent Testing Methods
720.122	Waste Delisting
720.123	Petitions for Regulation as Universal Waste
720.130	Procedures for Solid Waste Determinations
720.131	Solid Waste Determinations
720.132	Boiler Determinations
720.133	Procedures for Determinations
720.140	Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis
720.141	Procedures for Case-by-Case Regulation of Hazardous Waste Recycling Activities

720.APPENDIX A Overview of 40 CFR, Subtitle C Regulations

AUTHORITY: Implementing Sections 3.283, 3.284, 7.2, 13, 22.4 and 22.23b and authorized by

POLLUTION CONTROL BOARD

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Section 27 of the Environmental Protection Act [415 ILCS 5/3.283, 3.284, 7.2, 13, 22.4, 22.23b and 27].

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-19 at 7 Ill. Reg. 14015, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11819, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 968, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 13998, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20630, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6017, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13435, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19280, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2450, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 12999, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 362, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18278, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3075, effective February 20, 1990; amended in R89-9 at 14 Ill. Reg. 6225, effective April 16, 1990; amended in R90-10 at 14 Ill. Reg. 16450, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7934, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9323, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14446, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9489, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17636, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5625, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20545, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6720, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12160, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17480, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9508, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10929, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 256, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7590, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17496, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1704, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9094, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1063, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9443, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1266, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9168, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6550, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3712, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12713, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. _____, effective _____.

SUBPART B: DEFINITIONS AND REFERENCES

Section 720.110 Definitions

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When used in 35 Ill. Adm. Code 720 through 726, 728, 733, and 739 only, the following terms have the meanings given below:

"Aboveground tank" means a device meeting the definition of tank that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

"Active life" of a facility means the period from the initial receipt of hazardous waste at the facility until the Agency receives certification of final closure.

"Active portion" means that portion of a facility where treatment, storage, or disposal operations are being or have been conducted after May 19, 1980, and which is not a closed portion. (See also "closed portion" and "inactive portion.")

"Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's designee.

"Agency" means the Illinois Environmental Protection Agency.

"Ancillary equipment" means any device, including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of hazardous waste from its point of generation to storage or treatment tanks, between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal off-site.

"Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs.

"Authorized representative" means the person responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent, or person of equivalent responsibility.

"Battery" means a device that consists of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

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"Board" means the Illinois Pollution Control Board.

"Boiler" means an enclosed device using controlled flame combustion and having the following characteristics:

Boiler physical characteristics.

The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and the unit's combustion chamber and primary energy recovery sections must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery sections (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery sections are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream) and fluidized bed combustion units; and

While in operation, the unit must maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

The unit must export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. In this calculation, no credit may be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps.); or

Boiler by designation. The unit is one that the Board has determined, on a case-by-case basis, to be a boiler, after considering the standards in Section 720.132.

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"Carbon regeneration unit" means any enclosed thermal treatment device used to regenerate spent activated carbon.

"Certification" means a statement of professional opinion based upon knowledge and belief.

"Closed portion" means that portion of a facility that an owner or operator has closed in accordance with the approved facility closure plan and all applicable closure requirements. (See also "active portion" and "inactive portion.")

"Component" means either the tank or ancillary equipment of a tank system.

"Confined aquifer" means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined groundwater.

"Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

"Containment building" means a hazardous waste management unit that is used to store or treat hazardous waste under the provisions of Subpart DD of 35 Ill. Adm. Code 724 and Subpart DD of 35 Ill. Adm. Code 725.

"Contingency plan" means a document setting out an organized, planned and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous waste or hazardous waste constituents that could threaten human health or the environment.

"Corrosion expert" means a person who, by reason of knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

"Designated facility" means a hazardous waste treatment, storage, or disposal

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facility,

Of which any of the following is true:

The facility has received a RCRA permit (or interim status) pursuant to 35 Ill. Adm. Code 702, 703, and 705;

The facility has received a RCRA permit from USEPA pursuant to 40 CFR 124 and 270 (2002) ;

The facility has received a RCRA permit from a state authorized by USEPA pursuant to 40 CFR 271 (2002) ; or

The facility is regulated under 35 Ill. Adm. Code 721.106(c)(2) or Subpart F of 35 Ill. Adm. Code 266; and

The facility has been designated on the manifest by the generator pursuant to 35 Ill. Adm. Code 722.120.

If a waste is destined to a facility in a state other than Illinois that has been authorized by USEPA pursuant to 40 CFR 271, but which has not yet obtained authorization to regulate that waste as hazardous, then the designated facility must be a facility allowed by the receiving state to accept such waste.

"Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in 35 Ill. Adm. Code 733.113(a) and (c) and 733.133(a) and (c). A facility at which a particular category of universal waste is only accumulated is not a destination facility for the purposes of managing that category of universal waste.

"Dike" means an embankment or ridge of either natural or manmade materials used to prevent the movement of liquids, sludges, solids, or other materials.

"Dioxins and furans" or "D/F" means tetra-, penta-, hexa-, hepta-, and octa-chlorinated dibenzo dioxins and furans.

"Director" means the Director of the Illinois Environmental Protection Agency.

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"Discharge" or "hazardous waste discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste into or on any land or water.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

"Disposal facility" means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water and at which waste will remain after closure. The term disposal facility does not include a corrective action management unit (CAMU) into which remediation wastes are placed.

"Drip pad" means an engineered structure consisting of a curbed, free-draining base, constructed of non-earthen materials and designed to convey preservative kick-back or drippage from treated wood, precipitation and surface water runoff to an associated collection system at wood preserving plants.

"Elementary neutralization unit" means a device of which the following is true:

It is used for neutralizing wastes that are hazardous only because they exhibit the corrosivity characteristic defined in 35 Ill. Adm. Code 721.122 or which are listed in Subpart D of 35 Ill. Adm. Code 721 only for this reason; and

It meets the definition of tank, tank system, container, transport vehicle, or vessel in this Section.

"EPA hazardous waste number" or "USEPA hazardous waste number" means the number assigned by USEPA to each hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721 and to each characteristic identified in Subpart C of 35 Ill. Adm. Code 721.

"EPA identification number" or "USEPA identification number" means the number assigned by USEPA pursuant to 35 Ill. Adm. Code 722 through 725 to each generator; transporter; and treatment, storage, or disposal facility.

"EPA region" or "USEPA region" means the states and territories found in any

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one of the following ten regions:

Region I: Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island

Region II: New York, New Jersey, Commonwealth of Puerto Rico, and the U.S. Virgin Islands

Region III: Pennsylvania, Delaware, Maryland, West Virginia, Virginia, and the District of Columbia

Region IV: Kentucky, Tennessee, North Carolina, Mississippi, Alabama, Georgia, South Carolina, and Florida

Region V: Minnesota, Wisconsin, Illinois, Michigan, Indiana, and Ohio

Region VI: New Mexico, Oklahoma, Arkansas, Louisiana, and Texas

Region VII: Nebraska, Kansas, Missouri, and Iowa

Region VIII: Montana, Wyoming, North Dakota, South Dakota, Utah, and Colorado

Region IX: California, Nevada, Arizona, Hawaii, Guam, American Samoa, and Commonwealth of the Northern Mariana Islands

Region X: Washington, Oregon, Idaho, and Alaska

"Equivalent method" means any testing or analytical method approved by the Board pursuant to Section 720.120.

"Existing hazardous waste management (HWM) facility" or "existing facility" means a facility that was in operation or for which construction commenced on or before November 19, 1980. A facility had commenced construction if the owner or operator had obtained the federal, State, and local approvals or permits necessary to begin physical construction and either of the following had occurred:

A continuous on-site, physical construction program had begun; or

The owner or operator had entered into contractual obligations that could

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not be canceled or modified without substantial loss for physical construction of the facility to be completed within a reasonable time.

"Existing portion" means that land surface area of an existing waste management unit, included in the original Part A permit application, on which wastes have been placed prior to the issuance of a permit.

"Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of hazardous waste and which was in operation, or for which installation was commenced, on or prior to July 14, 1986. Installation will be considered to have commenced if the owner or operator has obtained all federal, State, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either of the following is true:

A continuous on-site physical construction or installation program has begun; or

The owner or operator has entered into contractual obligations that cannot be canceled or modified without substantial loss for physical construction of the site or installation of the tank system to be completed within a reasonable time.

"Explosives or munitions emergency" means a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Such situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

"Explosives or munitions emergency response" means all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures, treatment, or destruction of the explosives or munitions or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an

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explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities.

"Explosives or munitions emergency response specialist" means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include United States Department of Defense (USDOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), and USDOD-certified civilian or contractor personnel and other federal, State, or local government or civilian personnel who are similarly trained in explosives or munitions emergency responses.

"Facility" means the following:

All contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).

For the purpose of implementing corrective action under 35 Ill. Adm. Code 724.201, all contiguous property under the control of the owner or operator seeking a permit under Subtitle C of RCRA. This definition also applies to facilities implementing corrective action under RCRA section 3008(h).

Notwithstanding the immediately-preceding paragraph of this definition, a remediation waste management site is not a facility that is subject to 35 Ill. Adm. Code 724.201, but a facility that is subject to corrective action requirements if the site is located within such a facility.

"Federal agency" means any department, agency, or other instrumentality of the federal government, any independent agency or establishment of the federal government, including any government corporation and the Government Printing Office.

"Federal, State, and local approvals or permits necessary to begin physical construction" means permits and approvals required under federal, State, or local

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hazardous waste control statutes, regulations, or ordinances.

"Final closure" means the closure of all hazardous waste management units at the facility in accordance with all applicable closure requirements so that hazardous waste management activities under 35 Ill. Adm. Code 724 and 725 are no longer conducted at the facility unless subject to the provisions of 35 Ill. Adm. Code 722.134.

"Food-chain crops" means tobacco, crops grown for human consumption, and crops grown for feed for animals whose products are consumed by humans.

"Freeboard" means the vertical distance between the top of a tank or surface impoundment dike and the surface of the waste contained therein.

"Free liquids" means liquids that readily separate from the solid portion of a waste under ambient temperature and pressure.

"Generator" means any person, by site, whose act or process produces hazardous waste identified or listed in 35 Ill. Adm. Code 721 or whose act first causes a hazardous waste to become subject to regulation.

"Groundwater" means water below the land surface in a zone of saturation.

"Hazardous waste" means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

"Hazardous waste constituent" means a constituent that caused the hazardous waste to be listed in Subpart D of 35 Ill. Adm. Code 721, or a constituent listed in 35 Ill. Adm. Code 721.124.

"Hazardous waste management unit" is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system, and a container storage area. A container alone does not constitute a unit; the unit includes containers, and the land or pad upon which they are placed.

"Inactive portion" means that portion of a facility that is not operated after

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November 19, 1980. (See also "active portion" and "closed portion.")

"Incinerator" means any enclosed device of which the following is true:

The facility uses controlled flame combustion, and both of the following are true of the facility :

The facility does not meet the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor

The facility is not listed as an industrial furnace; or

The facility meets the definition of infrared incinerator or plasma arc incinerator.

"Incompatible waste" means a hazardous waste that is unsuitable for the following:

Placement in a particular device or facility because it may cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or

Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire, or explosion, violent reaction, toxic dusts, mists, fumes or gases, or flammable fumes or gases.

(See Appendix E to 35 Ill. Adm. Code 725 for examples.)

"Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or energy:

Cement kilns;

Lime kilns;

Aggregate kilns;

Phosphate kilns;

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Coke ovens;

Blast furnaces;

Smelting, melting and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces);

Titanium dioxide chloride process oxidation reactors;

Methane reforming furnaces;

Pulping liquor recovery furnaces;

Combustion devices used in the recovery of sulfur values from spent sulfuric acid;

Halogen acid furnaces (HAFs) for the production of acid from halogenated hazardous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least three percent, the acid product is used in a manufacturing process, and, except for hazardous waste burned as fuel, hazardous waste fed to the furnace has a minimum halogen content of 20 percent, as generated; and

Any other such device as the Agency determines to be an industrial furnace on the basis of one or more of the following factors:

The design and use of the device primarily to accomplish recovery of material products;

The use of the device to burn or reduce raw materials to make a material product;

The use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feedstocks;

The use of the device to burn or reduce secondary materials as

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ingredients in an industrial process to make a material product;

The use of the device in common industrial practice to produce a material product; and

Other relevant factors.

"Individual generation site" means the contiguous site at or on which one or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have one or more sources of hazardous waste but is considered a single or individual generation site if the site or property is contiguous.

"Infrared incinerator" means any enclosed device that uses electric powered resistance heaters as a source of radiant heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

"Inground tank" means a device meeting the definition of tank whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

"In operation" refers to a facility that is treating, storing, or disposing of hazardous waste.

"Injection well" means a well into which fluids are being injected. (See also "underground injection.")

"Inner liner" means a continuous layer of material placed inside a tank or container that protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste.

"Installation inspector" means a person who, by reason of knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

"International shipment" means the transportation of hazardous waste into or out of the jurisdiction of the United States.

"Lamp" or "universal waste lamp" means the bulb or tube portion of an electric

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lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, or infrared regions of the electromagnetic spectrum. Examples of common universal waste lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high-pressure sodium, and metal halide lamps.

"Land treatment facility" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

"Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground mine, a cave, or a corrective action management unit (CAMU).

"Landfill cell" means a discrete volume of a hazardous waste landfill that uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits.

"LDS" means leak detection system.

"Leachate" means any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste.

"Liner" means a continuous layer of natural or manmade materials beneath or on the sides of a surface impoundment, landfill, or landfill cell that restricts the downward or lateral escape of hazardous waste, hazardous waste constituents, or leachate.

"Leak-detection system" means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of hazardous waste or accumulated liquid in the secondary containment structure. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of hazardous waste into the secondary containment structure.

"Management" or "hazardous waste management" means the systematic control

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of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste.

"Manifest" means the shipping document originated and signed by the generator that contains the information required by Subpart B of 35 Ill. Adm. Code 722.

"Manifest document number" means the USEPA twelve digit identification number assigned to the generator plus a unique five-digit document number assigned to the manifest by the generator for recording and reporting purposes.

"Mercury-containing equipment" means mercury switches and mercury relays and scientific instruments and instructional equipment containing mercury added during their manufacture.

BOARD NOTE: The definition of "mercury-containing equipment" was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

"Mercury relay" means a product or device, containing mercury added during its manufacture, that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit. Mercury relay includes, but is not limited to, mercury displacement relays, mercury wetted reed relays, and mercury contact relays. [415 ILCS 5/3.283]

BOARD NOTE: The definition of "mercury relay" was added pursuant to Section 3.283 of the Act [415 ILCS 5/3.283] (see P.A. 93-964, effective August 20, 2004).

"Mercury switch" means a product or device, containing mercury added during its manufacture, that opens or closes an electrical circuit or gas valve, including, but not limited to, mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature, and mercury flame sensors. [415 ILCS 5/3.284]

BOARD NOTE: The definition of "mercury switch" was added pursuant to Section 3.284 of the Act [415 ILCS 5/3.284] (see P.A. 93-964, effective August 20, 2004).

"Military munitions" means all ammunition products and components produced or used by or for the United States Department of Defense or the United States Armed Services for national defense and security, including military munitions

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under the control of the United States Department of Defense (USDOD), the United States Coast Guard, the United States Department of Energy (USDOE), and National Guard personnel. The term military munitions includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by USDOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components of these items and devices. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components of these items and devices. However, the term does include non-nuclear components of nuclear devices, managed under USDOE's nuclear weapons program after all sanitization operations required under the Atomic Energy Act of 1954 (42 USC 2014 et seq.), as amended, have been completed.

"Mining overburden returned to the mine site" means any material overlying an economic mineral deposit that is removed to gain access to that deposit and is then used for reclamation of a surface mine.

"Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container; tank; surface impoundment; pile; land treatment unit; landfill; incinerator; boiler; industrial furnace; underground injection well with appropriate technical standards under 35 Ill. Adm. Code 730; containment building; corrective action management unit (CAMU); unit eligible for a research, development, and demonstration permit under 35 Ill. Adm. Code 703.231; or staging pile.

"Movement" means hazardous waste that is transported to a facility in an individual vehicle.

"New hazardous waste management facility" or "new facility" means a facility that began operation, or for which construction commenced after November 19, 1980. (See also "Existing hazardous waste management facility.")

"New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation commenced after July 14, 1986; except, however, for purposes of 35 Ill. Adm. Code 724.293(g)(2) and 725.293(g)(2), a new tank system is one for which construction commenced after July 14, 1986. (See also "existing tank

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system.")

"Onground tank" means a device meeting the definition of tank that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surfaces so that the external tank bottom cannot be visually inspected.

"On-site" means the same or geographically contiguous property that may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection and access is by crossing as opposed to going along the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way that the owner controls and to which the public does not have access is also considered on-site property.

"Open burning" means the combustion of any material without the following characteristics:

Control of combustion air to maintain adequate temperature for efficient combustion;

Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

Control of emission of the gaseous combustion products.

(See also "incineration" and "thermal treatment.")

"Operator" means the person responsible for the overall operation of a facility.

"Owner" means the person that owns a facility or part of a facility.

"Partial closure" means the closure of a hazardous waste management unit in accordance with the applicable closure requirements of 35 Ill. Adm. Code 724 or 725 at a facility that contains other active hazardous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other hazardous waste management unit, while other units of the same facility continue to operate.

"Person" means an individual, trust, firm, joint stock company, federal agency,

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corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body.

"Personnel" or "facility personnel" means all persons who work at or oversee the operations of a hazardous waste facility and whose actions or failure to act may result in noncompliance with the requirements of 35 Ill. Adm. Code 724 or 725.

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or intended for use as a plant regulator, defoliant, or desiccant, other than any article that fulfills one of the following descriptions:

It is a new animal drug under section 201(v) of the Federal Food, Drug and Cosmetic Act (FFDCA; 21 USC 321(v)), incorporated by reference in Section 720.111;

It is an animal drug that has been determined by regulation of the federal Secretary of Health and Human Services pursuant to FFDCA section 512 (21 USC 360b), incorporated by reference in Section 720.111, to be an exempted new animal drug; or

It is an animal feed under FFDCA section 201(w) (21 USC 321(w)), incorporated by reference in Section 720.111, that bears or contains any substances described in either of the two preceding paragraphs of this definition.

BOARD NOTE: The second exception of corresponding 40 CFR 260.10 reads as follows: "Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug." This is very similar to the language of section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 USC 136(u)). The three exceptions, taken together, appear intended not to include as pesticide any material within the scope of federal Food and Drug Administration regulation. The Board codified this provision with the intent of retaining the same meaning as its federal counterpart while adding the definiteness required under Illinois law.

"Pile" means any noncontainerized accumulation of solid, non-flowing hazardous waste that is used for treatment or storage, and that is not a containment building.

"Plasma arc incinerator" means any enclosed device that uses a high intensity

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electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

"Point source" means any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

"Publicly owned treatment works" or "POTW" is as defined in 35 Ill. Adm. Code 310.110.

"Qualified groundwater scientist" means a scientist or engineer who has received a baccalaureate or postgraduate degree in the natural sciences or engineering, and has sufficient training and experience in groundwater hydrology and related fields, as demonstrated by state registration, professional certifications, or completion of accredited university courses that enable the individual to make sound professional judgments regarding groundwater monitoring and contaminant rate and transport.

BOARD NOTE: State registration includes, but is not limited to, registration as a professional engineer with the Department of Professional Regulation, pursuant to 225 ILCS 325 and 68 Ill. Adm. Code 1380. Professional certification includes, but is not limited to, certification under the certified groundwater professional program of the National Ground Water Association.

"RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 USC 6901 et seq.).

"Regional Administrator" means the Regional Administrator for the USEPA Region in which the facility is located or the Regional Administrator's designee.

"Remediation waste" means all solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris that are managed for implementing cleanup.

"Remediation waste management site" means a facility where an owner or operator is or will be treating, storing, or disposing of hazardous remediation wastes. A remediation waste management site is not a facility that is subject to corrective action under 35 Ill. Adm. Code 724.201, but a remediation waste management site is subject to corrective action requirements if the site is located

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in such a facility.

"Replacement unit" means a landfill, surface impoundment, or waste pile unit from which all or substantially all of the waste is removed, and which is subsequently reused to treat, store, or dispose of hazardous waste. Replacement unit does not include a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility, in accordance with a closure or corrective action plan approved by USEPA or the Agency.

"Representative sample" means a sample of a universe or whole (e.g., waste pile, lagoon, groundwater) that can be expected to exhibit the average properties of the universe or whole.

"Runoff" means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

"Runon" means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

"Saturated zone" or "zone of saturation" means that part of the earth's crust in which all voids are filled with water.

"SIC Code" means Standard Industrial Classification Code as defined in Standard Industrial Classification Manual, incorporated by reference in Section 720.111.

"Sludge" means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, exclusive of the treated effluent from a wastewater treatment plant.

"Sludge dryer" means any enclosed thermal treatment device that is used to dehydrate sludge and which has a total thermal input, excluding the heating value of the sludge itself, of 2500 Btu/lb or less of sludge treated on a wet-weight basis.

"Small quantity generator" means a generator that generates less than 1000 kg of hazardous waste in a calendar month.

"Solid waste" means a solid waste as defined in 35 Ill. Adm. Code 721.102.

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"Sorbent" means a material that is used to soak up free liquids by either adsorption or absorption, or both. "Sorb" means to either adsorb or absorb, or both.

"Staging pile" means an accumulation of solid, non-flowing "remediation waste" (as defined in this Section) that is not a containment building and that is used only during remedial operations for temporary storage at a facility. Staging piles must be designated by the Agency according to the requirements of 35 Ill. Adm. Code 724.654.

"State" means any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"Storage" means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

"Sump" means any pit or reservoir that meets the definition of tank and those troughs or trenches connected to it that serve to collect hazardous waste for transport to hazardous waste storage, treatment, or disposal facilities; except that, as used in the landfill, surface impoundment, and waste pile rules, sump means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for subsequent removal from the system.

"Surface impoundment" or "impoundment" means a facility or part of a facility that is a natural topographic depression, manmade excavation, or diked area formed primarily of earthen materials (although it may be lined with manmade materials) that is designed to hold an accumulation of liquid wastes or wastes containing free liquids and which is not an injection well. Examples of surface impoundments are holding, storage, settling and aeration pits, ponds, and lagoons.

"Tank" means a stationary device, designed to contain an accumulation of hazardous waste, that is constructed primarily of nonearthen materials (e.g., wood, concrete, steel, plastic) that provide structural support.

"Tank system" means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

"TEQ" means toxicity equivalence, the international method of relating the

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toxicity of various dioxin and furan congeners to the toxicity of 2,3,7,8-tetrachlorodibenzo-p-dioxin.

"Thermal treatment" means the treatment of hazardous waste in a device that uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge. (See also "incinerator" and "open burning.")

"Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element and mercury-containing ampules that have been removed from such a temperature control device in compliance with the requirements of 35 Ill. Adm. Code 733.113(c)(2) or 733.133(c)(2).

"Totally enclosed treatment facility" means a facility for the treatment of hazardous waste that is directly connected to an industrial production process and which is constructed and operated in a manner that prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized.

"Transfer facility" means any transportation related facility, including loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

"Transport vehicle" means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

"Transportation" means the movement of hazardous waste by air, rail, highway, or water.

"Transporter" means a person engaged in the off-site transportation of hazardous waste by air, rail, highway, or water.

"Treatability study" means the following:

A study in which a hazardous waste is subjected to a treatment process to determine the following:

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Whether the waste is amenable to the treatment process;

What pretreatment (if any) is required;

The optimal process conditions needed to achieve the desired treatment;

The efficiency of a treatment process for a specific waste or wastes; and

The characteristics and volumes of residuals from a particular treatment process;

Also included in this definition for the purpose of 35 Ill. Adm. Code 721.104(e) and (f) exemptions are liner compatibility, corrosion and other material compatibility studies, and toxicological and health effects studies. A treatability study is not a means to commercially treat or dispose of hazardous waste.

"Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize the waste, recover energy or material resources from the waste, or render the waste non-hazardous or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.

"Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed, or immobilized.

"Underground injection" means the subsurface emplacement of fluids through a bored, drilled, or driven well or through a dug well, where the depth of the dug well is greater than the largest surface dimension. (See also "injection well.")

"Underground tank" means a device meeting the definition of tank whose entire surface area is totally below the surface of and covered by the ground.

"Unfit-for-use tank system" means a tank system that has been determined, through an integrity assessment or other inspection, to be no longer capable of storing or treating hazardous waste without posing a threat of release of hazardous

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waste to the environment.

"United States" means the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"Universal waste" means any of the following hazardous wastes that are managed under the universal waste requirements of 35 Ill. Adm. Code 733:

Batteries, as described in 35 Ill. Adm. Code 733.102;

Pesticides, as described in 35 Ill. Adm. Code 733.103;

Thermostats, as described in 35 Ill. Adm. Code 733.104; ~~and~~

Lamps, as described in 35 Ill. Adm. Code 733.105; ~~and~~

[Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.106.](#)

[BOARD NOTE: Mercury-containing equipment was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act \[415 ILCS 5/3.283, 3.284, and 22.23b\] \(see P.A. 93-964, effective August 20, 2004\).](#)

"Universal waste handler" means either of the following:

A generator (as defined in this Section) of universal waste; or

The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates the universal waste, and sends that universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

"Universal waste handler" does not mean either of the following:

A person that treats (except under the provisions of Section 733.113(a) or (c) or 733.133(a) or (c)), disposes of, or recycles universal waste; or

A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer

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facility.

"Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

"Unsaturated zone" or "zone of aeration" means the zone between the land surface and the water table.

"Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

"USDOT" or "Department of Transportation" means the United States Department of Transportation.

"Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

"USEPA" or "EPA" or "U.S. EPA" means the United States Environmental Protection Agency.

"Vessel" includes every description of watercraft used or capable of being used as a means of transportation on the water.

"Wastewater treatment unit" means a device of which the following is true:

It is part of a wastewater treatment facility that has an NPDES permit pursuant to 35 Ill. Adm. Code 309 or a pretreatment permit or authorization to discharge pursuant to 35 Ill. Adm. Code 310; and

It receives and treats or stores an influent wastewater that is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or generates and accumulates a wastewater treatment sludge that is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or treats or stores a wastewater treatment sludge that is a hazardous waste as defined in 35 Ill. Adm. Code 721.103; and

It meets the definition of tank or tank system in this Section.

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"Water (bulk shipment)" means the bulk transportation of hazardous waste that is loaded or carried on board a vessel without containers or labels.

"Well" means any shaft or pit dug or bored into the earth, generally of a cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in.

"Well injection" (See "underground injection.")

"Zone of engineering control" means an area under the control of the owner or operator that, upon detection of a hazardous waste release, can be readily cleaned up prior to the release of hazardous waste or hazardous constituents to groundwater or surface water.

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

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- 1) Heading of the Part: Identification and Listing of Hazardous Waste
- 2) Code citation: 35 Ill. Adm. Code 721
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
721.109	Amend
- 4) Statutory Authority: Implementing Sections 3.283, 3.284, 7.2, 22.23b and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/3.283, 3.284, 7.2, 22.23b, 22.4 and 27]
- 5) A complete description of the subjects and issues involved: A more complete description of this proposal may be found in the Board's opinion and order of November 4, 2004, in Board docket R05-08. This proposal to amend Part 721 is part of a larger rulemaking in which the Board is also proposing amendments to the regulations dealing with universal waste: Parts 703, 720, 724, 725, 728, and 733 of Title 35 of the Illinois Administrative Code. The larger rulemaking, to which the Board has devoted docket R05-08, is designed to ensure that the Board's universal waste regulations are consistent with the recently enacted legislation in Public Act 93-964. This legislation designates mercury switches, mercury relays, and scientific instruments and instructional equipment containing mercury added during their manufacture as universal waste. The Board has a statutory deadline of April 18, 2005 (180 days from the date the Illinois Environmental Protection Agency filed the proposal with the Board) to adopt final rules in this rulemaking. The amendments in this rulemaking are based on a United States Environmental Protection Agency proposal published in the Federal Register at 67 Fed. Reg. 40507 (June 12, 2002) that seeks to amend the federal universal waste regulations to include mercury-containing devices as universal waste.

The amendments to Part 721 add mercury-containing equipment to the list of wastes that are regulated under the universal waste rules.
- 6) Will this proposed rulemaking replace emergency rules currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of statewide policy objectives: The proposed amendment does not create or

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expand a State mandate as defined in Section 3 of the State Mandates Act [30 ILCS 805].

- 11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R05-08 and be addressed to:

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

Address all questions to Marie Tipsord, at 312-814-4925 or email at tipsordm@ipcb.state.il.us.

Request copies of the Board's opinion and order at 312-814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>

- 12) Initial regulatory flexibility analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking would impact small businesses, small municipalities, and not-for-profit corporations only if they handle or transport devices that contain mercury.
 - B) Reporting, bookkeeping or other procedures required for compliance: This rulemaking eases the regulatory burden on generators, handlers, and transporters of mercury-containing wastes. For example, because these wastes would no longer be considered "hazardous", the waste would be exempted from certain manifest requirements.
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included in either of the two most recent regulatory agendas because: PA 93-964 became effective on August 20, 2004, after the July 2004 regulatory agenda was published.

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTSPART 721
IDENTIFICATION AND LISTING OF
HAZARDOUS WASTE

SUBPART A: GENERAL PROVISIONS

Section	
721.101	Purpose and Scope
721.102	Definition of Solid Waste
721.103	Definition of Hazardous Waste
721.104	Exclusions
721.105	Special Requirements for Hazardous Waste Generated by Small Quantity Generators
721.106	Requirements for Recyclable Materials
721.107	Residues of Hazardous Waste in Empty Containers
721.108	PCB Wastes Regulated under TSCA
721.109	Requirements for Universal Waste

SUBPART B: CRITERIA FOR IDENTIFYING THE
CHARACTERISTICS OF HAZARDOUS WASTE
AND FOR LISTING HAZARDOUS WASTES

Section	
721.110	Criteria for Identifying the Characteristics of Hazardous Waste
721.111	Criteria for Listing Hazardous Waste

SUBPART C: CHARACTERISTICS OF HAZARDOUS WASTE

Section	
721.120	General
721.121	Characteristic of Ignitability
721.122	Characteristic of Corrosivity
721.123	Characteristic of Reactivity
721.124	Toxicity Characteristic

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SUBPART D: LISTS OF HAZARDOUS WASTE

Section

721.130	General
721.131	Hazardous Wastes from Nonspecific Sources
721.132	Hazardous Waste from Specific Sources
721.133	Discarded Commercial Chemical Products, Off-Specification Species, Container Residues, and Spill Residues Thereof
721.135	Wood Preserving Wastes
721.138	Comparable or Syngas Fuel Exclusion
721.APPENDIX A	Representative Sampling Methods
721.APPENDIX B	Method 1311 Toxicity Characteristic Leaching Procedure (TCLP)
721.APPENDIX C	Chemical Analysis Test Methods
721.TABLE A	Analytical Characteristics of Organic Chemicals (Repealed)
721.TABLE B	Analytical Characteristics of Inorganic Species (Repealed)
721.TABLE C	Sample Preparation/Sample Introduction Techniques (Repealed)
721.APPENDIX G	Basis for Listing Hazardous Wastes
721.APPENDIX H	Hazardous Constituents
721.APPENDIX I	Wastes Excluded by Administrative Action
721.TABLE A	Wastes Excluded by USEPA under 40 CFR 260.20 and 260.22 from Non-Specific Sources
721.TABLE B	Wastes Excluded by USEPA under 40 CFR 260.20 and 260.22 from Specific Sources
721.TABLE C	Wastes Excluded by USEPA under 40 CFR 260.20 and 260.22 from Commercial Chemical Products, Off-Specification Species, Container Residues, and Soil Residues Thereof
721.TABLE D	Wastes Excluded by the Board by Adjusted Standard
721.APPENDIX J	Method of Analysis for Chlorinated Dibenzo-p-Dioxins and Dibenzofurans (Repealed)
721.APPENDIX Y	Table to Section 721.138
721.APPENDIX Z	Table to Section 721.102

AUTHORITY: Implementing Sections 3.283, 3.284, 7.2, 22.4 and 22.23b and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/3.283, 3.284, 7.2, 22.4, 22.23b and 27].

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg.

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2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 13999, effective October 12, 1983; amended in R84-34, 61 at 8 Ill. Reg. 24562, effective December 11, 1984; amended in R84-9 at 9 Ill. Reg. 11834, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 998, effective January 2, 1986; amended in R85-2 at 10 Ill. Reg. 8112, effective May 2, 1986; amended in R86-1 at 10 Ill. Reg. 14002, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20647, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6035, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13466, effective August 4, 1987; amended in R87-32 at 11 Ill. Reg. 16698, effective September 30, 1987; amended in R87-5 at 11 Ill. Reg. 19303, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2456, effective January 15, 1988; amended in R87-30 at 12 Ill. Reg. 12070, effective July 12, 1988; amended in R87-39 at 12 Ill. Reg. 13006, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 382, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18300, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14401, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16472, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7950, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9332, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14473, effective September 30, 1991; amended in R91-12 at 16 Ill. Reg. 2155, effective January 27, 1992; amended in R91-26 at 16 Ill. Reg. 2600, effective February 3, 1992; amended in R91-13 at 16 Ill. Reg. 9519, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17666, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5650, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20568, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6741, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12175, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17490, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9522, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10963, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 275, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7615, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17531, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1718, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9135, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9481, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1281, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9108, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6584, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 12760, effective July 17, 2003; amended in R04-16 at 28 Ill. Reg. 10693, effective July 19, 2004; amended in R05-8 at 29 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 721.109 Requirements for Universal Waste

The wastes listed in this Section are exempt from regulation under 35 Ill. Adm. Code 702 703, 722 through 726, and 728, except as specified in 35 Ill. Adm. Code 733, and are therefore not

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fully regulated as hazardous waste. The following wastes are subject to regulation under 35 Ill. Adm. Code 733:

- a) Batteries, as described in 35 Ill. Adm. Code 733.102;
- b) Pesticides, as described in 35 Ill. Adm. Code 733.103;
- c) Thermostats, as described in 35 Ill. Adm. Code 733.104; ~~and~~
- d) Lamps, as described in 35 Ill. Adm. Code 733.105; ~~and~~;
- e) Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.106.
BOARD NOTE: Subsection (e) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

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

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- 1) Heading of the Part: Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
- 2) Code citation: 35 Ill. Adm. Code 724
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
724.101	Amend
- 4) Statutory authority: Implementing Sections 5, 10, 13, 21, 22, 22.01, and 22.2 and authorized by Section 27 of the Environmental Protection Act. [415 ILCS 5/5, 10, 13, 21, 22, 22.01, 22.1, and 27]
- 5) A complete description of the subjects and issues involved:

A more complete description of this proposal may be found in the Board's opinion and order of November 4, 2004, in Board docket R05-08. This proposal to amend Part 724 is part of a larger rulemaking in which the Board is also proposing amendments to the regulations dealing with universal waste: Parts 703, 720, 721, 725, 728, and 733 of Title 35 of the Illinois Administrative Code. The larger rulemaking, to which the Board has devoted docket R05-08, is designed to ensure that the Board's universal waste regulations are consistent with the recently enacted legislation in Public Act 93-964. This legislation designates mercury switches, mercury relays, and scientific instruments and instructional equipment containing mercury added during their manufacture as universal waste. The Board has a statutory deadline of April 18, 2005 (180 days from the date the Illinois Environmental Protection Agency filed the proposal with the Board) to adopt final rules in this rulemaking. The amendments in this rulemaking are based on a United States Environmental Protection Agency proposal published in the Federal Register at 67 Fed. Reg. 40507 (June 12, 2002) that seeks to amend the federal universal waste regulations to include mercury-containing devices as universal waste.

The amendments to Part 724 add mercury-containing equipment to the list of wastes that are exempted as universal waste from the hazardous waste regulations of Part 724.

- 6) Will this rulemaking replace any emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No

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- 9) Are there any other amendments pending on this Part? No
- 10) Statement of statewide policy objectives: The proposed amendment does not create or expand a State mandate as defined in Section 3 of the State Mandates Act [30 ILCS 805].
- 11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R05-08 and be addressed to:

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

Address all questions to Marie Tipsord, at 312-814-4925 or email at tipsordm@ipcb.state.il.us.

Request copies of the Board's opinion and order at 312-814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.

- 12) Initial regulatory flexibility analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking would impact small businesses, small municipalities, and not-for-profit corporations only if they handle or transport devices that contain mercury.
- B) Reporting, bookkeeping or other procedures required for compliance: This rulemaking eases the regulatory burden on generators, handlers, and transporters of mercury-containing wastes. For example, because these wastes would no longer be considered "hazardous" the waste would be exempted from certain manifest requirements.
- 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 2 most recent regulatory agendas because: PA93-964 became effective August 20, 2004, after the July 2004 regulatory agenda was published.

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTSPART 724
STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE
TREATMENT, STORAGE, AND DISPOSAL FACILITIES

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724.APPENDIX E	Examples of Potentially Incompatible Waste
724.APPENDIX I	Groundwater Monitoring List

AUTHORITY: Implementing Sections 3.283, 3.284, 7.2, 22.4 and 22.23b and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/3.283, 3.284, 7.2, 22.4, 22.23b and 27].

SOURCE: Adopted in R82-19 at 7 Ill. Reg. 14059, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11964, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1136, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14119, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6138, effective March 24, 1987; amended in R86-28 at 11 Ill. Reg. 8684, effective April 21, 1987; amended in R86-46 at 11 Ill. Reg. 13577, effective August

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4, 1987; amended in R87-5 at 11 Ill. Reg. 19397, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13135, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 458, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18527, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14511, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16658, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9654, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14572, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17702, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5806, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20830, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6973, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12487, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17601, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9951, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11244, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 636, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7638, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17972, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2186, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9437, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1146, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9833, effective June 20, 2000; expedited correction at 25 Ill. Reg. 5115, effective June 20, 2000; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6635, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3725, effective February 14, 2003; amended in R05-8 at 29 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 724.101 Purpose, Scope, and Applicability

- a) The purpose of this Part is to establish minimum standards that define the acceptable management of hazardous waste.
- b) The standards in this Part apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste, except as specifically provided otherwise in this Part or 35 Ill. Adm. Code 721.
- c) The requirements of this Part apply to a person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the federal Marine Protection, Research and Sanctuaries Act (16 USC 1431-1434, 33 USC 1401) only to the extent they are included in a RCRA permit by rule granted to such a person under 35 Ill. Adm. Code 703.141. A "RCRA permit" is a permit required by Section 21(f) of the Environmental Protection Act [415 ILCS 5/21(f)] and 35 Ill. Adm. Code 703.121.

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BOARD NOTE: This Part does apply to the treatment or storage of hazardous waste before it is loaded onto an ocean vessel for incineration or disposal at sea.

- d) The requirements of this Part apply to a person disposing of hazardous waste by means of underground injection subject to a permit issued by the Agency pursuant to Section 12(g) of the Environmental Protection Act [415 ILCS 5/12(g)] only to the extent they are required by Subpart F of 35 Ill. Adm. Code 704.

BOARD NOTE: This Part does apply to the above-ground treatment or storage of hazardous waste before it is injected underground.

- e) The requirements of this Part apply to the owner or operator of a POTW (publicly owned treatment works) that treats, stores, or disposes of hazardous waste only to the extent included in a RCRA permit by rule granted to such a person under 35 Ill. Adm. Code 703.141.
- f) This subsection (f) corresponds with 40 CFR 264.1(f), which provides that the federal regulations do not apply to T/S/D activities in authorized states, except under limited, enumerated circumstances. This statement maintains structural consistency with USEPA rules.
- g) The requirements of this Part do not apply to the following:
- 1) The owner or operator of a facility permitted by the Agency under Section 21 of the Environmental Protection Act [415 ILCS 5/21] to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under this Part by 35 Ill. Adm. Code 721.105.

BOARD NOTE: The owner or operator may be subject to 35 Ill. Adm. Code 807 and may have to have a supplemental permit under 35 Ill. Adm. Code 807.210.

- 2) The owner or operator of a facility managing recyclable materials described in 35 Ill. Adm. Code 721.106(a)(2) through (a)(4) (except to the extent that requirements of this Part are referred to in Subpart C, F, G, or H of 35 Ill. Adm. Code 726 or 35 Ill. Adm. Code 739).
- 3) A generator accumulating waste on-site in compliance with 35 Ill. Adm.

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Code 722.134.

- 4) A farmer disposing of waste pesticides from the farmer's own use in compliance with 35 Ill. Adm. Code 722.170.
- 5) The owner or operator of a totally enclosed treatment facility, as defined in 35 Ill. Adm. Code 720.110.
- 6) The owner or operator of an elementary neutralization unit or a wastewater treatment unit, as defined in 35 Ill. Adm. Code 720.110, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in Table T to 35 Ill. Adm. Code 728) or reactive (D003) waste to remove the characteristic before land disposal, the owner or operator must comply with the requirements set out in Section 724.117(b).
- 7) This subsection (g)(7) corresponds with 40 CFR 264.1(g)(7), reserved by USEPA. This statement maintains structural consistency with USEPA rules.
- 8) Immediate response.
 - A) Except as provided in subsection (g)(8)(B) of this Section, a person engaged in treatment or containment activities during immediate response to any of the following situations:
 - i) A discharge of a hazardous waste;
 - ii) An imminent and substantial threat of a discharge of hazardous waste;
 - iii) a discharge of a material that becomes a hazardous waste when discharged; or
 - iv) An immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosives or munitions emergency response specialist as defined in 35 Ill. Adm. Code 720.110.

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- B) An owner or operator of a facility otherwise regulated by this Part must comply with all applicable requirements of Subparts C and D of this Part.
- C) Any person that is covered by subsection (g)(8)(A) of this Section and that continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Part and 35 Ill. Adm. Code 702, 703, and 705 for those activities.
- D) In the case of an explosives or munitions emergency response, if a federal, State, or local official acting within the scope of his or her official responsibilities or an explosives or munitions emergency response specialist determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters that do not have USEPA identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.
- 9) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less.
- 10) The addition of absorbent materials to waste in a container (as defined in 35 Ill. Adm. Code 720) or the addition of waste to absorbent material in a container, provided these actions occur at the time waste is first placed in the container, and Sections 724.117(b), 724.271, and 724.272 are complied with.
- 11) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) that handles any of the wastes listed below is subject to regulation under 35 Ill. Adm. Code 733 when handling the following universal wastes:

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- A) Batteries, as described in 35 Ill. Adm. Code 733.102;
- B) Pesticides, as described in 35 Ill. Adm. Code 733.103;
- C) Thermostats, as described in 35 Ill. Adm. Code 733.104; ~~and~~
- D) Lamps, as described in 35 Ill. Adm. Code 733.105; ~~and~~

E) Mercury-containing equipment as described in 35 Ill. Adm. Code 733.106.

BOARD NOTE: Subsection (g)(11)(E) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

- h) This Part applies to owners and operators of facilities that treat, store, or dispose of hazardous wastes referred to in 35 Ill. Adm. Code 728.
- i) 35 Ill. Adm. Code 726.505 identifies when the requirements of this Part apply to the storage of military munitions classified as solid waste under 35 Ill. Adm. Code 726.302. The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in 35 Ill. Adm. Code 702, 703, 705, 720 through 726, and 728.
- j) The requirements of Subparts B, C, and D of this Part and Section 724.201 do not apply to remediation waste management sites. (However, some remediation waste management sites may be a part of a facility that is subject to a traditional RCRA permit because the facility is also treating, storing, or disposing of hazardous wastes that are not remediation wastes. In these cases, Subparts B, C, and D of this Part, and Section 724.201 do apply to the facility subject to the traditional RCRA permit.) Instead of the requirements of Subparts B, C, and D of this Part, owners or operators of remediation waste management sites must comply with the following requirements:
 - 1) The owner or operator must obtain a USEPA identification number by applying to USEPA using USEPA Form 8700-12;
 - 2) The owner or operator must obtain a detailed chemical and physical analysis of a representative sample of the hazardous remediation wastes to be managed at the site. At a minimum, the analysis must contain all of the

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information that must be known to treat, store, or dispose of the waste according to this Part and 35 Ill. Adm. Code 728, and the owner or operator must keep the analysis accurate and up to date;

- 3) The owner or operator must prevent people who are unaware of the danger from entering the site, and the owner or operator must minimize the possibility for unauthorized people or livestock entering onto the active portion of the remediation waste management site, unless the owner or operator can demonstrate the following to the Agency:
 - A) That physical contact with the waste, structures, or equipment within the active portion of the remediation waste management site will not injure people or livestock that may enter the active portion of the remediation waste management site; and
 - B) That disturbance of the waste or equipment by people or livestock that enter onto the active portion of the remediation waste management site will not cause a violation of the requirements of this Part;
- 4) The owner or operator must inspect the remediation waste management site for malfunctions, deterioration, operator errors, and discharges that may be causing or may lead to a release of hazardous waste constituents to the environment or a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment, and the owner or operator must remedy the problem before it leads to a human health or environmental hazard. Where a hazard is imminent or has already occurred, the owner or operator must immediately take remedial action;
- 5) The owner or operator must provide personnel with classroom or on-the-job training on how to perform their duties in a way that ensures the remediation waste management site complies with the requirements of this Part, and on how to respond effectively to emergencies;
- 6) The owner or operator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste, and the owner or operator must prevent threats to human health and the environment from ignitable, reactive, and incompatible waste;

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- 7) For remediation waste management sites subject to regulation under Subparts I through O and Subpart X of this Part, the owner or operator must design, construct, operate, and maintain a unit within a 100-year floodplain to prevent washout of any hazardous waste by a 100-year flood, unless the owner or operator can meet the requirements of Section 724.118(b);
- 8) The owner or operator must not place any non-containerized or bulk liquid hazardous waste in any salt dome formation, salt bed formation, underground mine, or cave;
- 9) The owner or operator must develop and maintain a construction quality assurance program for all surface impoundments, waste piles, and landfill units that are required to comply with Sections 724.321(c) and (d), 724.351(c) and (d), and 724.401(c) and (d) at the remediation waste management site, according to the requirements of Section 724.119;
- 10) The owner or operator must develop and maintain procedures to prevent accidents and a contingency and emergency plan to control accidents that occur. These procedures must address proper design, construction, maintenance, and operation of remediation waste management units at the site. The goal of the plan must be to minimize the possibility of, and the hazards from, a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water that could threaten human health or the environment. The plan must explain specifically how to treat, store, and dispose of the hazardous remediation waste in question, and must be implemented immediately whenever a fire, explosion, or release of hazardous waste or hazardous waste constituents occurs that could threaten human health or the environment;
- 11) The owner or operator must designate at least one employee, either on the facility premises or on call (that is, available to respond to an emergency by reaching the facility quickly), to coordinate all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry

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out the contingency plan;

- 12) The owner or operator must develop, maintain, and implement a plan to meet the requirements in subsections (j)(2) through (j)(6) and (j)(9) through (j)(10) of this Section; and
- 13) The owner or operator must maintain records documenting compliance with subsections (j)(1) through (j)(12) of this Section.

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

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- 1) Heading of the Part: Interim Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
- 2) Code citation: 35 Ill. Adm. Code 725
- 3)

<u>Section Numbers</u>	<u>Proposed Action:</u>
725.101	Amend
- 4) Statutory authority: Implementing Sections 3.283, 3.284, 7.2, 22.23b and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/3.283, 3.284, 7.2, 22.23b, 22.4, and 27]
- 5) A complete description of the subjects and issues involved: A more complete description of this proposal may be found in the Board's opinion and order of November 4, 2004, in Board docket R05-08. This proposal to amend Part 725 is part of a larger rulemaking in which the Board is also proposing amendments to the regulations dealing with universal waste: Parts 703, 720, 721, 724, 728, and 733 of Title 35 of the Illinois Administrative Code. The larger rulemaking, to which the Board has devoted docket R05-08, is designed to ensure that the Board's universal waste regulations are consistent with the recently enacted legislation in Public Act 93-964. This legislation designates mercury switches, mercury relays, and scientific instruments and instructional equipment containing mercury added during their manufacture as universal waste. The Board has a statutory deadline of April 18, 2005 (180 days from the date the Illinois Environmental Protection Agency filed the proposal with the Board) to adopt final rules in this rulemaking. The amendments in this rulemaking are based on a United States Environmental Protection Agency proposal published in the Federal Register at 67 Fed. Reg. 40507 (June 12, 2002) that seeks to amend the federal universal waste regulations to include mercury-containing devices as universal waste.

The amendments to Part 725 add mercury-containing equipment to the list of universal waste that is exempted from the standards of Part 725 for hazardous waste.

- 6) Will this proposed rule replace any emergency rule 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 amendments pending on this Part? No

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 10) Statement of statewide policy objectives: The proposed amendment does not create or expand a State mandate as defined in Section 3 of the State Mandates Act [30 ILCS 805].
- 11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R05-08 and be addressed to:

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

Address all questions to Marie Tipsord, at 312-814-4925 or email at tipsordm@ipcb.state.il.us.

Request copies of the Board's opinion and order at 312-814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.

- 12) Initial regulatory flexibility analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking would impact small businesses, small municipalities, and not-for-profit corporations only if they handle or transport devices that contain mercury.
- B) Reporting, bookkeeping or other procedures required for compliance: This rulemaking eases the regulatory burden on generators, handlers, and transporters of mercury-containing wastes. For example, because these wastes would no longer be considered "hazardous" the waste would be exempted from certain manifest requirements.
- 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 2 most recent regulatory agendas because: PA93-964 became effective August 20, 2004 after the July 20044 regulatory agenda was published.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 725

INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS
WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

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725.101 Purpose, Scope, and Applicability
725.104 Imminent Hazard Action

SUBPART B: GENERAL FACILITY STANDARDS

- Section
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SUBPART Q: CHEMICAL, PHYSICAL AND BIOLOGICAL TREATMENT

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SUBPART W: DRIP PADS

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725.540 Applicability
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SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

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725.930	Applicability
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SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

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SUBPART CC: AIR EMISSION STANDARDS FOR TANKS, SURFACE
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725.980	Applicability
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725.982	Schedule for Implementation of Air Emission Standards
725.983	Standards: General
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725.988	Standards: Closed-Vent Systems and Control Devices
725.989	Inspection and Monitoring Requirements
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SUBPART DD: CONTAINMENT BUILDINGS

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725.1100	Applicability
725.1101	Design and operating standards
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725.1202	Closure and Post-Closure Care post-closure care

725.APPENDIX A	Recordkeeping Instructions
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725.APPENDIX C	EPA Interim Primary Drinking Water Standards
725.APPENDIX D	Tests for Significance
725.APPENDIX E	Examples of Potentially Incompatible Waste
725.APPENDIX F	Compounds With Henry's Law Constant Less Than 0.1 Y/X (at 25°C)

AUTHORITY: Implementing Sections 3.283, 3.284, 7.2, 22.23b and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/3.283, 3.284, 7.2, 22.23b, 22.4, and 27].

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 14034, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11869, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1085, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14069, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6044, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13489, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19338, effective November 10, 1987; amended in R87-26 at 12 Ill. Reg. 2485, effective January 15,

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1988; amended in R87-39 at 12 Ill. Reg. 13027, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 437, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18354, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14447, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16498, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9398, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14534, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9578, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17672, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5681, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20620, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6771, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12190, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17548, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9566, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11078, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 369, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7620, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17620, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1850, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9168, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1076, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9575, effective June 20, 2000; amended in R03-7 at 27 Ill. Reg. 4187, effective February 14, 2003; amended in R05-8 at 29 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 725.101 Purpose, Scope, and Applicability

- a) The purpose of this Part is to establish minimum standards that define the acceptable management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure care requirements, until post-closure care responsibilities are fulfilled.
- b) Except as provided in Section 725.980(b), the standards in this Part and 35 Ill. Adm. Code 724.652 through 724.654 apply to owners and operators of facilities that treat, store, or dispose of hazardous waste that have fully complied with the requirements for interim status under Section 3005(e) of the Resource Conservation and Recovery Act (RCRA) (42 USC 6901 et seq.) and 35 Ill. Adm. Code 703, until either a permit is issued under Section 3005 of the Resource Conservation and Recovery Act or Section 21(f) of the Environmental Protection Act, or until applicable closure and post-closure care responsibilities under this Part are fulfilled, and to those owners and operators of facilities in existence on November 19, 1980, that have failed to provide timely notification as required by Section 3010(a) of RCRA or that have failed to file Part A of the Permit

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Application, as required by 40 CFR 270.10(e) and (g) or 35 Ill. Adm. Code 703.150 and 703.152. These standards apply to all treatment, storage, or disposal of hazardous waste at these facilities after November 19, 1980, except as specifically provided otherwise in this Part or 35 Ill. Adm. Code 721.

BOARD NOTE: As stated in Section 3005(a) of RCRA, after the effective date of regulations under that Section (i.e., 40 CFR 270 and 124) the treatment, storage, or disposal of hazardous waste is prohibited except in accordance with a permit. Section 3005(e) of RCRA provides for the continued operation of an existing facility that meets certain conditions until final administrative disposition of the owner's and operator's permit application is made. 35 Ill. Adm. Code 703.140 et seq. provide that a permit is deemed issued under Section 21(f)(1) of the Environmental Protection Act under conditions similar to federal interim status.

- c) The requirements of this Part do not apply to:
- 1) A person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research and Sanctuaries Act (16 USC 1431-1434; 33 USC 1401);
BOARD NOTE: This Part applies to the treatment or storage of hazardous waste before it is loaded into an ocean vessel for incineration or disposal at sea, as provided in subsection (b) of this Section.
 - 2) This subsection corresponds with 40 CFR 265.1(c)(2), marked "reserved" by USEPA. This statement maintains structural consistency with USEPA rules;
 - 3) The owner or operator of a POTW (publicly owned treatment works) that treats, stores, or disposes of hazardous waste;
BOARD NOTE: The owner or operator of a facility under subsections (c)(1) and (c)(3) is subject to the requirements of 35 Ill. Adm. Code 724 to the extent they are included in a permit by rule granted to such a person under 35 Ill. Adm. Code 702 and 703 or are required by 35 Ill. Adm. Code 704.Subpart F.
 - 4) This subsection corresponds with 40 CFR 265.1(c)(4), which pertains exclusively to the applicability of the federal regulations in authorized states. There is no need for a parallel provision in the Illinois regulations. This statement maintains structural consistency with USEPA rules;

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- 5) The owner or operator of a facility permitted, licensed, or registered by Illinois to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under this Part by 35 Ill. Adm. Code 721.105;
- 6) The owner or operator of a facility managing recyclable materials described in 35 Ill. Adm. Code 721.106(a)(2) through (a)(4), except to the extent that requirements of this Part are referred to in 35 Ill. Adm. Code 726.Subparts C, F, G, or H or 35 Ill. Adm. Code 739;
- 7) A generator accumulating waste on-site in compliance with 35 Ill. Adm. Code 722.134, except to the extent the requirements are included in 35 Ill. Adm. Code 722.134;
- 8) A farmer disposing of waste pesticides from the farmer's own use in compliance with 35 Ill. Adm. Code 722.170;
- 9) The owner or operator of a totally enclosed treatment facility, as defined in 35 Ill. Adm. Code 720.110;
- 10) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in 35 Ill. Adm. Code 720.110, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in 35 Ill. Adm. Code 728.Table T) or reactive (D003) waste in order to remove the characteristic before land disposal, the owner or operator shall comply with the requirements set out in Section 725.117(b);
- 11) Immediate response:
 - A) Except as provided in subsection (c)(11)(B) of this Section, a person engaged in treatment or containment activities during immediate response to any of the following situations:
 - i) A discharge of a hazardous waste;
 - ii) An imminent and substantial threat of a discharge of a hazardous waste;
 - iii) A discharge of a material that becomes a hazardous waste

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when discharged; or

- iv) An immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosives or munitions emergency response specialist as defined in 35 Ill. Adm. Code 720.110.
 - B) An owner or operator of a facility otherwise regulated by this Part shall comply with all applicable requirements of Subparts C and D of this Part.
 - C) Any person that is covered by subsection (c)(11)(A) of this Section that continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Part and 35 Ill. Adm. Code 702, 703, and 705 for those activities;
 - D) In the case of an explosives or munitions emergency response, if a federal, state, or local official acting within the scope of his or her official responsibilities or an explosives or munitions emergency response specialist determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters that do not have USEPA identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit shall retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition;
- 12) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less;
 - 13) The addition of absorbent material to waste in a container (as defined in 35 Ill. Adm. Code 720.110) or the addition of waste to the absorbent material in a container, provided that these actions occur at the time that

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the waste is first placed in the containers and Sections 725.117(b), 725.271, and 725.272 are complied with;

- 14) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) that handles any of the wastes listed below is subject to regulation under 35 Ill. Adm. Code 733 when handling the following universal wastes:

- A) Batteries, as described in 35 Ill. Adm. Code 733.102;
- B) Pesticides, as described in 35 Ill. Adm. Code 733.103;
- C) Thermostats, as described in 35 Ill. Adm. Code 733.104; ~~and~~
- D) Lamps, as described in 35 Ill. Adm. Code 733.105; and-

E) Mercury-containing equipment as described in 35 Ill. Adm. Code 733.106.

BOARD NOTE: Subsection (c)(14)(E) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

- d) The following hazardous wastes must not be managed at facilities subject to regulation under this Part: hazardous waste numbers F020, F021, F022, F023, F026, or F027 unless:
- 1) The wastewater treatment sludge is generated in a surface impoundment as part of the plant's wastewater treatment system;
 - 2) The waste is stored in tanks or containers;
 - 3) The waste is stored or treated in waste piles that meet the requirements of 35 Ill. Adm. Code 724.350(c) and all other applicable requirements of Subpart L of this Part;
 - 4) The waste is burned in incinerators that are certified pursuant to the standards and procedures in Section 725.452; or
 - 5) The waste is burned in facilities that thermally treat the waste in a device

POLLUTION CONTROL BOARD

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other than an incinerator and that are certified pursuant to the standards and procedures in Section 725.483.

- e) This Part applies to owners and operators of facilities that treat, store, or dispose of hazardous wastes referred to in 35 Ill. Adm. Code 728, and the 35 Ill. Adm. Code 728 standards are considered material conditions or requirements of the interim status standards of this Part.
- f) 35 Ill. Adm. Code 726.505 identifies when the requirements of this Part apply to the storage of military munitions classified as solid waste under 35 Ill. Adm. Code 726.302. The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in 35 Ill. Adm. Code 702, 703, 705, 720 through 726, and 728.
- g) Other bodies of regulations may apply to a person, facility, or activity, such as 35 Ill. Adm. Code 809 (special waste hauling), 35 Ill. Adm. Code 807 or 810 through 817 (solid waste landfills), 35 Ill. Adm. Code 848 or 849 (used and scrap tires), or 35 Ill. Adm. Code 1420 through 1422 (potentially infectious medical waste), depending on the provisions of those other regulations.

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

POLLUTION CONTROL BOARD

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- 1) Heading of the Part: Land Disposal Restrictions
- 2) Code citation: 35 Ill. Adm. Code 728
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
728.101	Amend
- 4) Statutory authority: Implementing Sections 3.283, 3.284, 7.2, 22.23b and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/3.283, 3.284, 7.2, 22.23b, 22.4 and 27]
- 5) A complete description of the subjects and issues involved: A more complete description of this proposal may be found in the Board's opinion and order of November 4, 2004, in Board docket R05-08. This proposal to amend Part 728 is part of a larger rulemaking in which the Board is also proposing amendments to the regulations dealing with universal waste: Parts 703, 720, 721, 724, 725, and 733 of Title 35 of the Illinois Administrative Code. The larger rulemaking, to which the Board has devoted docket R05-08, is designed to ensure that the Board's universal waste regulations are consistent with the recently enacted legislation in Public Act 93-964. This legislation designates mercury switches, mercury relays, and scientific instruments and instructional equipment containing mercury added during their manufacture as universal waste. The Board has a statutory deadline of April 18, 2005 (180 days from the date the Illinois Environmental Protection Agency filed the proposal with the Board) to adopt final rules in this rulemaking. The amendments in this rulemaking are based on a United States Environmental Protection Agency proposal published in the Federal Register at 67 Fed. Reg. 40507 (June 12, 2002) that seeks to amend the federal universal waste regulations to include mercury-containing devices as universal waste.

The amendments to Part 728 add mercury-containing equipment to the list of universal waste that is exempted from certain reporting, record keeping, and storage requirements for hazardous waste.
- 6) Will these proposed rules replace 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 amendments pending on this Part? No

POLLUTION CONTROL BOARD

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- 10) Statement of statewide policy objectives: The proposed amendment does not create or expand a State mandate as defined in Section 3 of the State Mandates Act [30 ILCS 805].
- 11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R05-08 and be addressed to:
- Ms. Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601
- Address all questions to Marie Tipsord, at 312-814-4925 or email at tipsordm@ipcb.state.il.us.
- Request copies of the Board's opinion and order at 312-814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.
- 12) Initial regulatory flexibility analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking would impact small businesses, small municipalities, and not-for-profit corporations only if they handle or transport devices that contain mercury.
- B) Reporting, bookkeeping or other procedures required for compliance: This rulemaking eases the regulatory burden on generators, handlers, and transporters of mercury-containing wastes. For example, because these wastes would no longer be considered "hazardous" the waste would be exempted from certain manifest requirements.
- 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 2 most recent regulatory agendas because: the authorizing legislation was not effective until August 20, 2004, the Board did not anticipate the need for this rulemaking when compiling the July 2004 regulatory agenda was published.

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTSPART 728
LAND DISPOSAL RESTRICTIONS

SUBPART A: GENERAL

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728.101	Purpose, Scope, and Applicability
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728.133	Waste-Specific Prohibitions: Chlorinated Aliphatic Wastes

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- 728.134 Waste-Specific Prohibitions: Toxicity Characteristic Metal Wastes
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728.136 Waste-Specific Prohibitions: Inorganic Chemical Wastes
728.137 Waste-Specific Prohibitions: Ignitable and Corrosive Characteristic Wastes
Whose Treatment Standards Were Vacated
728.138 Waste-Specific Prohibitions: Newly-Identified Organic Toxicity Characteristic
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728.139 Waste-Specific Prohibitions: Spent Aluminum Potliners and Carbamate Wastes

SUBPART D: TREATMENT STANDARDS

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- 728.140 Applicability of Treatment Standards
728.141 Treatment Standards Expressed as Concentrations in Waste Extract
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728.145 Treatment Standards for Hazardous Debris
728.146 Alternative Treatment Standards Based on HTMR
728.148 Universal Treatment Standards
728.149 Alternative LDR Treatment Standards for Contaminated Soil

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Section

- 728.150 Prohibitions on Storage of Restricted Wastes
- 728.APPENDIX A Toxicity Characteristic Leaching Procedure (TCLP) (Repealed)
728.APPENDIX B Treatment Standards (As concentrations in the Treatment Residual
Extract) (Repealed)
728.APPENDIX C List of Halogenated Organic Compounds Regulated under Section
728.132
728.APPENDIX D Wastes Excluded from Lab Packs
728.APPENDIX E Organic Lab Packs (Repealed)
728.APPENDIX F Technologies to Achieve Deactivation of Characteristics
728.APPENDIX G Federal Effective Dates
728.APPENDIX H National Capacity LDR Variances for UIC Wastes
728.APPENDIX I EP Toxicity Test Method and Structural Integrity Test
728.APPENDIX J Recordkeeping, Notification, and Certification Requirements (Repealed)
728.APPENDIX K Metal-Bearing Wastes Prohibited from Dilution in a Combustion Unit

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	According to Section 728.103(c)
728.TABLE A	Constituent Concentrations in Waste Extract (CCWE)
728.TABLE B	Constituent Concentrations in Wastes (CCW)
728.TABLE C	Technology Codes and Description of Technology-Based Standards
728.TABLE D	Technology-Based Standards by RCRA Waste Code
728.TABLE E	Standards for Radioactive Mixed Waste
728.TABLE F	Alternative Treatment Standards for Hazardous Debris
728.TABLE G	Alternative Treatment Standards Based on HTMR
728.TABLE H	Wastes Excluded from CCW Treatment Standards
728.TABLE I	Generator Paperwork Requirements
728.TABLE T	Treatment Standards for Hazardous Wastes
728.TABLE U	Universal Treatment Standards (UTS)

AUTHORITY: Implementing Sections 3.283, 3.284, 7.2, 22.23b and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/3.283, 3.284, 7.2, 22.23b, 22.4 and 27].

SOURCE: Adopted in R87-5 at 11 Ill. Reg. 19354, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13046, effective July 29, 1988; amended in R89-1 at 13 Ill. Reg. 18403, effective November 13, 1989; amended in R89-9 at 14 Ill. Reg. 6232, effective April 16, 1990; amended in R90-2 at 14 Ill. Reg. 14470, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16508, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9462, effective June 17, 1991; amended in R90-11 at 15 Ill. Reg. 11937, effective August 12, 1991; amendment withdrawn at 15 Ill. Reg. 14716, October 11, 1991; amended in R91-13 at 16 Ill. Reg. 9619, effective June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5727, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20692, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6799, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12203, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17563, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9660, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11100, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 783, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7685, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17706, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1964, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9204, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9623, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1296, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9181, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6687, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 13045, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

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Section 728.101 Purpose, Scope, and Applicability

- a) This Part identifies hazardous wastes that are restricted from land disposal and defines those limited circumstances under which an otherwise prohibited waste may continue to be land disposed.
- b) Except as specifically provided otherwise in this Part or 35 Ill. Adm. Code 721, the requirements of this Part apply to persons that generate or transport hazardous waste and to owners and operators of hazardous waste treatment, storage, and disposal facilities.
- c) Restricted wastes may continue to be land disposed as follows:
 - 1) Where a person has been granted an extension to the effective date of a prohibition under Subpart C of this Part or pursuant to Section 728.105, with respect to those wastes covered by the extension;
 - 2) Where a person has been granted an exemption from a prohibition pursuant to a petition under Section 728.106, with respect to those wastes and units covered by the petition;
 - 3) A waste that is hazardous only because it exhibits a characteristic of hazardous waste and which is otherwise prohibited under this Part is not prohibited if the following is true of the waste:
 - A) The waste is disposed into a nonhazardous or hazardous waste injection well, as defined in 35 Ill. Adm. Code 704.106(a); and
 - B) The waste does not exhibit any prohibited characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721 at the point of injection.
 - 4) A waste that is hazardous only because it exhibits a characteristic of hazardous waste and which is otherwise prohibited under this Part is not prohibited if the waste meets any of the following criteria, unless the waste is subject to a specified method of treatment other than DEACT in Section 728.140 or is D003 reactive cyanide:
 - A) Any of the following is true of either treatment or management of

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the waste:

- i) The waste is managed in a treatment system that subsequently discharges to waters of the United States pursuant to a permit issued under 35 Ill. Adm. Code 309;
 - ii) The waste is treated for purposes of the pretreatment requirements of 35 Ill. Adm. Code 307 and 310; or
 - iii) The waste is managed in a zero discharge system engaged in Clean Water Act (CWA)-equivalent treatment, as defined in Section 728.137(a); and
- B) The waste no longer exhibits a prohibited characteristic of hazardous waste at the point of land disposal (i.e., placement in a surface impoundment).
- d) This Part does not affect the availability of a waiver under Section 121(d)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 USC 9621(d)(4)).
- e) The following hazardous wastes are not subject to any provision of this Part:
- 1) Waste generated by small quantity generators of less than 100 kg of non-acute hazardous waste or less than 1 kg of acute hazardous waste per month, as defined in 35 Ill. Adm. Code 721.105;
 - 2) Waste pesticide that a farmer disposes of pursuant to 35 Ill. Adm. Code 722.170;
 - 3) Waste identified or listed as hazardous after November 8, 1984, for which USEPA has not promulgated a land disposal prohibition or treatment standard;
 - 4) De minimis losses of waste that exhibits a characteristic of hazardous waste to wastewaters are not considered to be prohibited waste and are defined as losses from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers or leaks from pipes, valves, or other devices used to transfer materials); minor leaks of process equipment, storage tanks, or containers; leaks from

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well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; rinsate from empty containers or from containers that are rendered empty by that rinsing; and laboratory waste that does not exceed one percent of the total flow of wastewater into the facility's headworks on an annual basis, or with a combined annualized average concentration not exceeding one part per million (ppm) in the headworks of the facility's wastewater treatment or pretreatment facility; or

- 5) Land disposal prohibitions for hazardous characteristic wastes do not apply to laboratory wastes displaying the characteristic of ignitability (D001), corrosivity (D002), or organic toxicity (D012 through D043) that are mixed with other plant wastewaters at facilities whose ultimate discharge is subject to regulation under the CWA (including wastewaters at facilities that have eliminated the discharge of wastewater), provided that the annualized flow of laboratory wastewater into the facility's headworks does not exceed one percent or that the laboratory wastes' combined annualized average concentration does not exceed one part per million in the facility's headworks.

- f) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) is exempt from Sections 728.107 and 728.150 for the hazardous wastes listed below. Such a handler or transporter is subject to regulation under 35 Ill. Adm. Code 733.
 - 1) Batteries, as described in 35 Ill. Adm. Code 733.102;
 - 2) Pesticides, as described in 35 Ill. Adm. Code 733.103;
 - 3) Thermostats, as described in 35 Ill. Adm. Code 733.104; ~~and~~
 - 4) Lamps, as described in 35 Ill. Adm. Code 733.105; ~~and~~
 - 5) Mercury-containing equipment as described in 35 Ill. Adm. Code 733.106.
BOARD NOTE: Subsection (f)(5) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

- g) This Part is cumulative with the land disposal restrictions of 35 Ill. Adm. Code

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729. The Environmental Protection Agency (Agency) must not issue a wastestream authorization pursuant to 35 Ill. Adm. Code 709 or Section 22.6 or 39(h) of the Environmental Protection Act [415 ILCS 5/22.6 or 39(h)] unless the waste meets the requirements of this Part as well as 35 Ill. Adm. Code 729.

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

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- 1) Heading of the Part: Standards for Universal Waste Management
- 2) Code citation: 35 Ill. Adm. Code 733
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
733.101	Amend
733.106	Amend
733.109	Amend
733.113	Amend
733.114	Amend
733.132	Amend
733.133	Amend
733.134	Amend
- 4) Statutory authority: Implementing Sections 3.283, 3.284, 7.2, 22.23b, 22.4 and 22.23a and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/3.283, 3.284, 7.2, 22.23b, 22.4, 22.23a, and 27]
- 5) A complete description of the subjects and issues involved: A more complete description of this proposal may be found in the Board's opinion and order of November 4, 2004, in Board docket R05-08. This proposal to amend Part 733 is part of a larger rulemaking in which the Board is also proposing amendments to the regulations dealing with universal waste: Parts 703, 720, 721, 724, 725, and 728 of Title 35 of the Illinois Administrative Code. The larger rulemaking, to which the Board has devoted docket R05-08, is designed to ensure that the Board's universal waste regulations are consistent with the recently enacted legislation in Public Act 93-964. This legislation designates mercury switches, mercury relays, and scientific instruments and instructional equipment containing mercury added during their manufacture as universal waste. The Board has a statutory deadline of April 18, 2005 (180 days from the date the Illinois Environmental Protection Agency filed the proposal with the Board) to adopt final rules in this rulemaking. The amendments in this rulemaking are based on a United States Environmental Protection Agency proposal published in the Federal Register at 67 Fed. Reg. 40507 (June 12, 2002) that seeks to amend the federal universal waste regulations to include mercury-containing devices as universal waste.

The amendments to Part 733 add mercury-containing equipment to the universal waste regulations. The Section 733.106 addresses the applicability of the universal waste rules to mercury-containing equipment, including instances where mercury-containing equipment is not subject to the universal rules. The amendments also add definitions and add mercury-containing wastes to the standards for small and large quantity handlers of

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universal waste.

- 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 amendments pending on this Part? No
- 10) Statement of statewide policy objectives: The proposed amendments do not create or expand a State mandate as defined in Section 3 of the State Mandates Act [30 ILCS 805].
- 11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R05-08 and be addressed to:

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

Address all questions to Marie Tipsord, at 312-814-4925 or email at tipsordm@ipcb.state.il.us.

Request copies of the Board's opinion and order at 312-814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.

- 12) Initial regulatory flexibility analysis:
 - A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking would impact small businesses, small municipalities, and not-for-profit corporations only if they handle or transport devices that contain mercury.
 - B) Reporting, bookkeeping or other procedures required for compliance: This rulemaking eases the regulatory burden on generators, handlers, and transporters of mercury-containing wastes. For example, because these wastes would no

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longer be considered "hazardous" the waste would be exempted from certain manifest requirements.

- 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 2 most recent regulatory agendas because: PA 93-964 because effective on August 20, 2004, after the July 2004 regulatory agenda was published.

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTSPART 733
STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

SUBPART A: GENERAL

Section	
733.101	Scope
733.102	Applicability – Batteries
733.103	Applicability – Pesticides
733.104	Applicability – Mercury Thermostats
733.105	Applicability – Lamps
733.106	<u>Applicability – Mercury-Containing Equipment Definitions (Renumbered)</u>
733.107	Applicability – Mercury-Containing Lamps (Repealed)
733.108	Applicability – Household and Conditionally Exempt Small Quantity Generator Waste
733.109	Definitions

SUBPART B: STANDARDS FOR SMALL QUANTITY HANDLERS

Section	
733.110	Applicability
733.111	Prohibitions
733.112	Notification
733.113	Waste Management
733.114	Labeling and Marking
733.115	Accumulation Time Limits
733.116	Employee Training
733.117	Response to Releases
733.118	Off-Site Shipments
733.119	Tracking Universal Waste Shipments
733.120	Exports

SUBPART C: STANDARDS FOR LARGE QUANTITY HANDLERS

Section

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733.130	Applicability
733.131	Prohibitions
733.132	Notification
733.133	Waste Management
733.134	Labeling and Marking
733.135	Accumulation Time Limits
733.136	Employee Training
733.137	Response to Releases
733.138	Off-Site Shipments
733.139	Tracking Universal Waste Shipments
733.140	Exports

SUBPART D: STANDARDS FOR UNIVERSAL WASTE TRANSPORTERS

Section	
733.150	Applicability
733.151	Prohibitions
733.152	Waste Management
733.153	Accumulation Time Limits
733.154	Response to Releases
733.155	Off-site Shipments
733.156	Exports

SUBPART E: STANDARDS FOR DESTINATION FACILITIES

Section	
733.160	Applicability
733.161	Off-Site Shipments
733.162	Tracking Universal Waste Shipments

SUBPART F: IMPORT REQUIREMENTS

Section	
733.170	Imports

SUBPART G: PETITIONS TO INCLUDE OTHER WASTES

Section	
733.180	General
733.181	Factors for Petitions to Include Other Wastes

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AUTHORITY: Implementing Sections 3.283, 3.284, 7.2, 22.4, 22.23a, and 22.23b and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/3.283, 3.284, 7.2, 22.4, 22.23a, 22.23b, and 27].

SOURCE: Adopted in R95-20 at 20 Ill. Reg. 11291, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 944, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7650, effective April 15, 1998; amended in R99-15 at 23 Ill. Reg. 9502, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9874, effective June 20, 2000; amended in R05-08 at 29 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 733.101 Scope

- a) This Part establishes requirements for managing the following:
- 1) Batteries, as described in Section 733.102;
 - 2) Pesticides, as described in Section 733.103;
 - 3) Thermostats, as described in Section 733.104; ~~and~~
 - 4) Lamps, as described in Section 733.105; ~~and~~
 - 5) Mercury-containing equipment, as described in Section 733.106.
BOARD NOTE: Subsection (a)(5) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).
- b) This Part provides an alternative set of management standards in lieu of regulation under 35 Ill. Adm. Code 702 through 705, 720 through 726, and 728.

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

Section 733.106 Applicability – Mercury-Containing Equipment Definitions (Renumbered)

- a) Mercury-containing equipment covered under this Part. The requirements of this Part apply to persons managing mercury-containing equipment as described in Section 733.109, except those listed in subsection (b) of this Section.

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- b) Mercury-containing equipment not covered under this Part. The requirements of this Part do not apply to persons managing the following mercury-containing equipment:
- 1) Mercury-containing equipment that is not yet a waste under 35 Ill. Adm. Code 721. Subsection (c) of this Section describes when mercury-containing equipment becomes a waste.
 - 2) Mercury-containing equipment that is not a hazardous waste. Mercury-containing equipment is a hazardous waste if it exhibits one or more of the characteristics identified in 35 Ill. Adm. Code 721.Subpart C.
- c) Generation of waste mercury-containing equipment.
- 1) Used mercury-containing equipment becomes a waste on the day it is discarded.
 - 2) Unused mercury-containing equipment becomes a waste on the day the handler decides to discard it.

BOARD NOTE: This Section 733.106 was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

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

Section 733.109 Definitions

"Battery" means a device consisting of one or more electrically connected electrochemical cells that is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

"Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in Sections 733.113(a) and (c) and 733.133(a) and (c). A facility at which a particular category of universal waste is only accumulated is not a

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destination facility for purposes of managing that category of universal waste.

"FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC 136 through 136y).

"Generator" means any person, by site, whose act or process produces hazardous waste identified or listed in 35 Ill. Adm. Code 721 or whose act first causes a hazardous waste to become subject to regulation.

"Lamp" or "universal waste lamp" is defined as the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, or infra-red regions of the electromagnetic spectrum. Common examples of universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

"Large quantity handler of universal waste" means a universal waste handler (as defined in this Section) that accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, thermostats, ~~or~~ lamps, or mercury-containing equipment, calculated collectively) at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which 5,000 kilograms or more total of universal waste is accumulated.

BOARD NOTE: Mercury-containing equipment was added to this definition of "large quantity handler of universal waste" pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

"Mercury-containing equipment" means mercury switches and mercury relays and scientific instruments and instructional equipment containing mercury added during their manufacture.

BOARD NOTE: The definition of "mercury-containing equipment" was pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

"Mercury-containing lamp" means an electric lamp into which mercury is purposely introduced by the manufacturer for the operation of the lamp. Mercury-containing lamps include, but are not limited to, fluorescent lamps and high-intensity discharge lamps.

BOARD NOTE: The definition of "mercury-containing lamp" was added

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pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

"Mercury relay" means a product or device, containing mercury added during its manufacture, that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit. Mercury relay includes, but is not limited to, mercury displacement relays, mercury wetted reed relays and mercury contact relays. [415 ILCS 5/3.283]

BOARD NOTE: The definition of "mercury relay" was added pursuant to Section 3.283 of the Act [415 ILCS 5/3.283] (see P.A. 93-964, effective August 20, 2004).

"Mercury switch" means a product or device, containing mercury added during its manufacture, that opens or closes an electrical circuit or gas valve, including, but not limited to, mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature, and mercury flame sensors. [415 ILCS 5/3.284]

BOARD NOTE: The definition of "mercury switch" was added pursuant to Section 3.284 of the Act [415 ILCS 5/3.284] (see P.A. 93-964, effective August 20, 2004).

"On-site" means the same or geographically contiguous property that may be divided by public or private right-of-way, provided that the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along the right of way. Non-contiguous properties, owned by the same person but connected by a right-of-way that that person controls and to which the public does not have access, are also considered on-site property.

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or intended for use as a plant regulator, defoliant, or desiccant, other than any article that fulfills one of the following descriptions:

It is a new animal drug under Section 201(v) of the Federal Food, Drug and Cosmetic Act (FFDCA; 21 USC 321(v)), incorporated by reference in 35 Ill. Adm. Code 720.111;

It is an animal drug that has been determined by regulation of the federal

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Secretary of Health and Human Services pursuant to FFDCa Section 360b(j), incorporated by reference in 35 Ill. Adm. Code 720.111, to be an exempted new animal drug; or

It is an animal feed under FFDCa Section 201(w) (21 USC 321(w)), incorporated by reference in 35 Ill. Adm. Code 720.111, that bears or contains any substances described in either of the two preceding paragraphs of this definition.

BOARD NOTE: The second exception of corresponding 40 CFR 273.6 reads as follows: "Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug". This is very similar to the language of Section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 USC 136(u)). The three exceptions, taken together, appear intended not to include as "pesticide" any material within the scope of federal Food and Drug Administration regulation. The Board codified this provision with the intent of retaining the same meaning as its federal counterpart while adding the definiteness required under Illinois law.

"Small quantity handler of universal waste" means a universal waste handler (as defined in this Section) that does not accumulate 5,000 kilograms or more total of universal waste (batteries, pesticides, thermostats, ~~or~~ lamps, or mercury-containing equipment, calculated collectively) at any time.

BOARD NOTE: Mercury-containing equipment was added to this definition of "small quantity handler of universal waste" pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

"Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element and mercury-containing ampules that have been removed from such a temperature control device in compliance with the requirements of Section 733.113(c)(2) or 733.133(c)(2).

"Universal waste" means any of the following hazardous wastes that are subject to the universal waste requirements of this Part:

Batteries, as described in Section 733.102;

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Pesticides, as described in Section 733.103;

Thermostats, as described in Section 733.104; ~~and~~

Lamps, as described in Section 733.105; ~~and~~

Mercury-containing equipment as defined in Section 733.106.

BOARD NOTE: Mercury-containing equipment was added to this definition of "universal waste" pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

"Universal waste handler" means either of the following:

A generator (as defined in this Section) of universal waste; or

The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

Universal waste handler does not mean:

A person that treats (except under the provisions of Section 733.113(a) or (c) or 733.133(a) or (c)), disposes of, or recycles universal waste; or

A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

"Universal waste transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas, and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less.

"Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

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

SUBPART B: STANDARDS FOR SMALL QUANTITY HANDLERS

Section 733.113 Waste Management

- a) Universal waste batteries. A small quantity handler of universal waste shall manage universal waste batteries in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- 1) A small quantity handler of universal waste shall contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
 - 2) A small quantity handler of universal waste may conduct the following activities, as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):
 - A) Sorting batteries by type;
 - B) Mixing battery types in one container;
 - C) Discharging batteries so as to remove the electric charge;
 - D) Regenerating used batteries;
 - E) Disassembling batteries or battery packs into individual batteries or cells;
 - F) Removing batteries from consumer products; or
 - G) Removing electrolyte from batteries.
 - 3) A small quantity handler of universal waste that removes electrolyte from batteries, or that generates other solid waste (e.g., battery pack materials,

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discarded consumer products) as a result of the activities listed above, shall determine whether the electrolyte or other solid waste exhibits a characteristic of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C.

- A) If the electrolyte or other solid waste exhibits a characteristic of hazardous waste, it is subject to all applicable requirements of 35 Ill. Adm. Code 702 through 705, 720 through 726, and 728. The handler is considered the generator of the hazardous electrolyte or other waste and is subject to 35 Ill. Adm. Code 722.
- B) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (nonhazardous) waste regulations.

BOARD NOTE: See generally the Act and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or nonhazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

- b) Universal waste pesticides. A small quantity handler of universal waste shall manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:
 - 1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;
 - 2) A container that does not meet the requirements of subsection (b)(1) of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of subsection (b)(1);
 - 3) A tank that meets the requirements of 35 Ill. Adm. Code 725.Subpart J, except for 35 Ill. Adm. Code 725.297(c), 265.300, and 265.301; or
 - 4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage

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that could cause leakage under reasonably foreseeable conditions.

- c) Universal waste thermostats and mercury-containing equipment. A small quantity handler of universal waste shall manage universal waste thermostats and mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- 1) A small quantity handler of universal waste shall contain any universal waste thermostat or mercury-containing equipment that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat or mercury-containing equipment, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
 - 2) A small quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats or mercury-containing equipment provided the handler follows each of the following procedures:
 - A) It removes the ampules in a manner designed to prevent breakage of the ampules;
 - B) It removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);
 - C) It ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.134;
 - D) It immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.134;
 - E) It ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

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- F) It ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;
 - G) It stores removed ampules in closed, non-leaking containers that are in good condition; and
 - H) It packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation.
- 3) Required hazardous waste determination and further waste management.
- A) A small quantity handler of universal waste that removes mercury-containing ampules from thermostats or mercury-containing equipment shall determine whether the following exhibit a characteristic of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C:
 - i) Mercury or clean-up residues resulting from spills or leaks; or
 - ii) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units or mercury-containing equipment).
 - B) If the mercury, residues, or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705, 720 through 726, and 728. The handler is considered the generator of the mercury, residues, or other waste and shall manage it as subject to 35 Ill. Adm. Code 722.
 - C) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (nonhazardous) waste regulations.

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BOARD NOTE: See generally the Act and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or nonhazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

- d) Lamps. A small quantity handler of universal waste shall manage lamps in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- 1) A small quantity handler of universal waste lamps shall contain all lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
 - 2) A small quantity handler of universal waste lamps shall immediately clean up and place in a container any lamp that is broken, and the small quantity handler shall place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Any container used must be closed, structurally sound, compatible with the contents of the lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.
 - 3) Small quantity handlers of universal waste lamps may treat those lamps for volume reduction at the site where they were generated under the following conditions:
 - A) The lamps must be crushed in a closed system designed and operated in such a manner that any emission of mercury from the crushing system shall not exceed 0.1 mg/m^3 when measured on the basis of time weighted average over an 8-hour period;
 - B) The handler must provide notification of crushing activity to the Agency quarterly, in a form as provided by the Agency. Such notification must include the following information:

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- i) Name and address of the handler;
 - ii) Estimated monthly amount of lamps crushed; and
 - iii) The technology employed for crushing, including any certification or testing data provided by the manufacturer of the crushing unit verifying that the crushing device achieves the emission controls required in subsection (d)(5)(A) of this Section;
- C) The handler immediately transfers any material recovered from a spill or leak to a container that meets the requirements of 40 CFR 262.34, and has available equipment necessary to comply with this requirement;
- D) The handler ensures that the area in which the lamps are crushed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
- E) The handler ensures that employees crushing lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers; and
- F) The crushed lamps are stored in closed, non-leaking containers that are in good condition (e.g., no severe rusting, apparent structural defects or deterioration), suitable to prevent releases during storage, handling and transportation.

BOARD NOTE: Subsection (d) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a]. Additionally, mercury-containing equipment was added to this Section pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

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

Section 733.114 Labeling and Marking

A small quantity handler of universal waste shall label or mark the universal waste to identify the

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type of universal waste as follows:

- a) Universal waste batteries (i.e., each battery) or a container in which the batteries are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste – Batteries", "Waste Batteries", or "Used Batteries";
- b) A container (or multiple container package unit), tank, transport vehicle, or vessel in which recalled universal waste pesticides, as described in Section 733.103(a)(1), are contained must be labeled or marked clearly as follows:
 - 1) The label that was on or accompanied the product as sold or distributed; and
 - 2) The words "Universal Waste – Pesticides" or "Waste – Pesticides";
- c) A container, tank, or transport vehicle, or vessel in which unused pesticide products, as described in Section 733.103(a)(2), are contained must be labeled or marked clearly as follows:
 - 1) Pesticide labeling:
 - A) The label that was on the product when purchased, if still legible;
 - B) If using the labels described in subsection (c)(1)(A) of this Section is not feasible, the appropriate label as required under USDOT regulation 49 CFR 172; or
 - C) If using the labels described in subsections (c)(1)(A) and (c)(1)(B) of this Section is not feasible, another label prescribed or designated by the waste pesticide collection program administered or recognized by a state; and
 - 2) The words "Universal Waste – Pesticides" or "Waste – Pesticides";
- d) Universal waste thermostats (i.e., each thermostat) or a container in which the thermostats are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste – Mercury Thermostats", or "Waste Mercury Thermostats", or "Used Mercury Thermostats"; and
- e) Each lamp or a container or package in which such lamps are contained must be

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labeled or clearly marked with one of the following phrases: "Universal Waste – Lamps", "Waste Lamps" or "Used Lamps".

- f) Mercury-containing equipment, or a container in which the equipment is contained, must be labeled or marked clearly with any of the following phrases: "Universal Waste – Mercury-Containing Equipment," or "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."
BOARD NOTE: Subsection (f) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

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

SUBPART C: STANDARDS FOR LARGE QUANTITY HANDLERS

Section 733.132 Notification

- a) Written notification of universal waste management.
- 1) Except as provided in subsections (a)(2) and (a)(3) of this Section, a large quantity handler of universal waste shall have sent written notification of universal waste management to the Agency, and received a USEPA Identification Number, before meeting or exceeding the 5,000 kilogram storage limit.
 - 2) A large quantity handler of universal waste that has already notified USEPA or the Agency of its hazardous waste management activities and has received a USEPA Identification Number is not required to renotify under this Section.
 - 3) A large quantity handler of universal waste that manages recalled universal waste pesticides, as described in Section 733.103(a)(1), and that has sent notification to USEPA or the Agency, as required by 40 CFR 165, is not required to notify for those recalled universal waste pesticides under this Section.
- b) This notification must include:
- 1) The universal waste handler's name and mailing address;

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- 2) The name and business telephone number of the person at the universal waste handler's site who should be contacted regarding universal waste management activities;
- 3) The address or physical location of the universal waste management activities;
- 4) A list of all of the types of universal waste managed by the handler (e.g., batteries, pesticides, thermostats, ~~or lamps~~ or mercury-containing equipment); and
- 5) A statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time and the types of universal waste (e.g., batteries, pesticides, thermostats, ~~or lamps~~ or mercury-containing equipment) the handler is accumulating above this quantity.

BOARD NOTE: At 60 Fed. Reg. 25520-21 (May 11, 1995), USEPA explained the generator or consolidation point may use USEPA Form 8700-12 for notification. (To obtain USEPA Form 8700-12 call the Agency at 217-782-6761.) USEPA further explained that it is not necessary for the handler to aggregate the amounts of waste at multiple non-contiguous sites for the purposes of the 5,000 kilogram determination.

BOARD NOTE: Mercury-containing equipment was added to this Section pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

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

Section 733.133 Waste Management

- a) Universal waste batteries. A large quantity handler of universal waste shall manage universal waste batteries in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
 - 1) A large quantity handler of universal waste shall contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage,

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spillage, or damage that could cause leakage under reasonably foreseeable conditions.

- 2) A large quantity handler of universal waste may conduct the following activities, as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):
 - A) Sorting batteries by type;
 - B) Mixing battery types in one container;
 - C) Discharging batteries so as to remove the electric charge;
 - D) Regenerating used batteries;
 - E) Disassembling batteries or battery packs into individual batteries or cells;
 - F) Removing batteries from consumer products; or
 - G) Removing electrolyte from batteries.
- 3) A large quantity handler of universal waste that removes electrolyte from batteries or that generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed above shall determine whether the electrolyte or other solid waste exhibits a characteristic of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C.
 - A) If the electrolyte or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705, 720 through 726, and 728. The handler is considered the generator of the hazardous electrolyte or other waste and is subject to 35 Ill. Adm. Code 722.
 - B) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (nonhazardous) waste

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regulations.

BOARD NOTE: See generally the Act and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or nonhazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

- b) Universal waste pesticides. A large quantity handler of universal waste shall manage universal waste pesticides in a manner that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:
- 1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;
 - 2) A container that does not meet the requirements of subsection (b)(1) of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of subsection (b)(1);
 - 3) A tank that meets the requirements of 35 Ill. Adm. Code 725.Subpart J, except for 35 Ill. Adm. Code 725.297(c), 725.300, and 725.301; or
 - 4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
- c) Universal waste thermostats and mercury-containing equipment. A large quantity handler of universal waste shall manage universal waste thermostats and mercury-containing equipment in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- 1) A large quantity handler of universal waste shall contain any universal waste thermostat or mercury-containing equipment that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat and/or equipment, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

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- 2) A large quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats or mercury-containing equipment provided the handler follows each of the following procedures:
 - A) It removes the ampules in a manner designed to prevent breakage of the ampules;
 - B) It removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);
 - C) It ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.134;
 - D) It immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.134;
 - E) It ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
 - F) It ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;
 - G) It stores removed ampules in closed, non-leaking containers that are in good condition; and
 - H) It packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation.
- 3) Required hazardous waste determination and further waste management.

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- A) A large quantity handler of universal waste that removes mercury-containing ampules from thermostats or mercury-containing equipment shall determine whether the following exhibit a characteristic of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C:
- i) Mercury or clean-up residues resulting from spills or leaks;
or
 - ii) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units or mercury-containing equipment).
- B) If the mercury, residues, or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705, 720 through 726, and 728. The handler is considered the generator of the mercury, residues, or other waste and is subject to 35 Ill. Adm. Code 722.
- C) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State or local solid (nonhazardous) waste regulations.
- BOARD NOTE: See generally the Act and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or nonhazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.
- d) Lamps. A large quantity handler of universal waste shall manage lamps in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- 1) A large quantity handler of universal waste lamps shall contain all lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable

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conditions.

- 2) A large quantity handler of universal waste lamps shall immediately clean up and place in a container any lamp that is broken, and the large quantity handler shall place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Any container used must be closed, structurally sound, compatible with the contents of the lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.
- 3) Large quantity handlers of universal waste lamps may treat those lamps for volume reduction at the site where they were generated under the following conditions:
 - A) The lamps must be crushed in a closed system designed and operated in such a manner that any emission of mercury from the crushing system shall not exceed 0.1 mg/m^3 when measured on the basis of time weighted average over an 8-hour period;
 - B) The handler must provide notification of crushing activity to the Agency quarterly, in a form as provided by the Agency. Such notification must include the following information:
 - i) Name and address of the handler;
 - ii) Estimated monthly amount of lamps crushed; and
 - iii) The technology employed for crushing, including any certification or testing data provided by the manufacturer of the crushing unit verifying that the crushing device achieves the emission controls required in subsection (d)(5)(A) of this Section;
 - C) The handler immediately transfers any material recovered from a spill or leak to a container that meets the requirements of 40 CFR 262.34, and has available equipment necessary to comply with this requirement;

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- D) The handler ensures that the area in which the lamps are crushed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
- E) The handler ensures that employees crushing lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers; and
- F) The crushed lamps are stored in closed, non-leaking containers that are in good condition (e.g., no severe rusting, apparent structural defects or deterioration), suitable to prevent releases during storage, handling and transportation.

BOARD NOTE: Subsection (d) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a]. Additionally, mercury-containing equipment was added to this Section pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

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

Section 733.134 Labeling and Marking

A large quantity handler of universal waste shall label or mark the universal waste to identify the type of universal waste as follows:

- a) Universal waste batteries (i.e., each battery), or a container or tank in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste – Batteries"; or "Waste Batteries"; or "Used Batteries";
- b) A container (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in Section 733.103(a)(1) are contained must be labeled or marked clearly as follows:
 - 1) The label that was on or accompanied the product as sold or distributed; and
 - 2) The words "Universal Waste – Pesticides" or "Waste – Pesticides";

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- c) A container, tank, or transport vehicle or vessel in which unused pesticide products, as described in Section 733.103(a)(2), are contained must be labeled or marked clearly as follows:
- 1) Pesticide labeling:
 - A) The label that was on the product when purchased, if still legible;
 - B) If using the labels described in subsection (c)(1)(A) of this Section is not feasible, the appropriate label as required under the USDOT regulation 49 CFR 172; or
 - C) If using the labels described in subsections (c)(1)(A) and (c)(1)(B) of this Section is not feasible, another label prescribed or designated by the pesticide collection program; and
 - 2) The words "Universal Waste – Pesticides" or "Waste – Pesticides";
- d) Universal waste thermostats (i.e., each thermostat) or a container or tank in which the thermostats are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste – Mercury Thermostats", or "Waste Mercury Thermostats", or "Used Mercury Thermostats"; and
- e) Each lamp or a container or package in which such lamps are contained must be labeled or clearly marked with any one of the following phrases: "Universal Waste – Lamps", "Waste Lamps" or "Used Lamps".
- f) Mercury-containing equipment, or a container in which the equipment is contained, must be labeled or marked clearly with any of the following phrases: "Universal Waste – Mercury-Containing Equipment," or "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."
BOARD NOTE: Subsection (f) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

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

DEPARTMENT OF REVENUE

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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>Proposed 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
- 4) Statutory Authority: 35 ILCS 120/12, P. A. 93-724, 93-840, 93-926, and 93-1033
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking implements the provisions of PA 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 PA 93-840, which reinstates the manufacturer's purchase credit program and the graphic arts machinery and equipment exemption, beginning September 1, 2004. Section 130.553 is also amended in response to PA 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 PA 93-1003. 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 PA 93-840 and 93-24.
- 6) Will this proposed amendment replace any emergency amendment currently in effect?
Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 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>
130.341	New Section	28 Ill. Reg. 4106, 03/05/04

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

Samuel Moore
Associate Counsel
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-2844

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Companies claiming the rolling stock, printing and manufacturing exemptions will be affected. Also, affected are liquor distributors and retailers, and lessors of aircraft and watercraft.
- B) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping/accounting procedures
- C) Types of professional skills necessary for compliance: Accounting, clerical
- 13) Regulatory Agenda on which this rulemaking was summarized: July 2004

The full text of the Proposed Amendment is identical to the text of the Emergency Amendment on page 15193 of this issue of the *Illinois Register*.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Service Occupation Tax
 - 2) Code Citation: 86 Ill. Adm. Code 140
 - 3) Section Number: 140.124 Proposed Action: New Section
 - 4) Statutory Authority: P. A. 93-1033
 - 5) A Complete Description of the Subjects and Issues Involved: 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.
 - 6) Will this rulemaking replace an emergency rulemaking currently in effect: Yes
 - 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> |
|------------------------|------------------------|-----------------------------------|
| 140.101 | Amendment | 28 Ill. Reg. 4528, 03/12/04 |
| 140.125 | Amendment | 28 Ill. Reg. 4528, 03/12/04 |
- 10) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
 - 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed amendment may submit them in writing by no later than 45 days after publication of this notice to:

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Trucking companies and sellers of motor vehicles for which the CDF Sales Tax Exemption may be claimed may be affected by this rulemaking.
 - B) Reporting, bookkeeping or other procedures required for compliance: Purchasers must fill out an exemption certificate at the time of purchase of a qualifying motor vehicle in order to claim the exemption.
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: July 2004

The full text of the Proposed Amendment is identical to the text of the Emergency Amendment on page 15257 of this issue of the *Illinois Register*.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 150
- 3) Section Number: 150.311 Proposed Action:
New Section
- 4) Statutory Authority: P.A. 93-1033
- 5) A Complete Description of the Subjects and Issues Involved: 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.
- 6) Will this rulemaking replace an emergency amendment currently in effect? Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Terry D. Charlton
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-2844
- 12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- A) Types of small businesses, small municipalities and not for profit corporations affected: Trucking companies and sellers of motor vehicles for which the CDF Sales Tax Exemption may be claimed may be affected by this rulemaking.
- B) Reporting, bookkeeping or other procedures required for compliance: Purchasers must fill out an exemption certificate at the time of purchase of a qualifying motor vehicle in order to claim the exemption.
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: July, 2004

The full text of the Proposed Amendment is identical to the text of the Emergency Amendment on page 15266 of this issue of the *Illinois Register*.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Service Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 160
- 3) Section Number: 160.111 Proposed Action:
New Section
- 4) Statutory Authority: P.A. 93-1033
- 5) A Complete Description of the Subjects and Issues Involved: 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.
- 6) Will this proposed amendment replace any emergency amendment currently in effect?
Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Terry D. Charlton
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-2844
- 12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- A) Types of small businesses, small municipalities and not for profit corporations affected: Trucking companies and sellers of motor vehicles for which the CDF Sales Tax Exemption may be claimed may be affected by this rulemaking.
 - B) Reporting, bookkeeping or other procedures required for compliance: Purchasers must fill out an exemption certificate at the time of purchase of a qualifying motor vehicle in order to claim the exemption.
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: July 2004.

The full text of the Proposed Amendment is identical to the text of the Emergency Amendment on page 15275 of this issue of the *Illinois Register*.

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENEDMENT

- 1) Heading of the Part: General Procedures
- 2) Code Citation: 80 Ill. Adm. Code 1200
- 3) Section Number: 120.3 Proposed Action: New
- 4) Statutory Authority: 5 ILCS 315; Implementing 50 ILCS 705/6.1
- 5) Effective Date of Rulemaking: November 1, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposed Rules Published in the Illinois Register: May 28, 2004 28 Ill. Reg. 7529
- 10) Has JCAR issued a Statement of Objection to the amendment? 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 agreements issued by JCAR? Yes
- 13) Will this amendment replace any emergency amendment currently in effect? No. The emergency rulemaking expired October 8, 2004.
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: The purpose of the amendment is to implement P.A. 93-655.
- 16) Information and questions regarding this adopted rules shall be directed to:

Jennifer A. Niemiec

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENEDMENT

Illinois Labor Relations Board
160 N. LaSalle St., Ste. S-400
Chicago, IL 60601

(312) 793-6480

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

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENEDMENT

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

Section

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

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

SOURCE: Emergency rule adopted at 8 Ill. Reg. 17314, effective September 11, 1984, for a maximum of 150 days; adopted at 9 Ill. Reg. 1846, effective January 25, 1985; amended at 11 Ill. Reg. 6428, effective March 27, 1987; amended at 12 Ill. Reg. 20096, effective November 18, 1988; amended at 14 Ill. Reg. 19896, effective November 30, 1990; amended at 17 Ill. Reg. 15588, effective September 13, 1993; amended at 20 Ill. Reg. 7391, effective May 10, 1996;

ILLINOIS LABOR RELATIONS BOARD

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amended at 27 Ill. Reg. 7365, effective May 1, 2003; emergency amendment at 27 Ill. Reg. 15557, effective September 22, 2003, for a maximum of 150 days; emergency amendment expired February 18, 2004; amended at 28 Ill. Reg. 4166, effective February 19, 2004; emergency amendment at 28 Ill. Reg. 7540, effective May 12, 2004, for a maximum of 150 days; emergency expired October 8, 2004; amended at 28 Ill. Reg. _____, effective November 1, 2004.

Section 1200.3 General Statement of Purpose

The regulations contained in this Part detail the procedures that employers, employees and labor organizations should use when filing petitions and charges pursuant to Parts 1210, 1220 and 1230, which implement the provisions of the Illinois Public Labor Relations Act [5 ILCS 315]. This Part shall not apply to cases filed pursuant to Section 6.1 of the Illinois Police Training Act [50 ILCS 705/6.1].

(Source: Added at 28 Ill. Reg. _____, effective November 1, 2004)

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Police Officer Decertification Proceedings
- 2) Code Citation: 80 Ill. Adm. Code 1240
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1240.10	New Section
1240.20	New Section
1240.30	New Section
1240.40	New Section
1240.50	New Section
1240.60	New Section
1240.70	New Section
1240.80	New Section
1240.90	New Section
1240.100	New Section
1240.110	New Section
1240.120	New Section
1240.130	New Section
1240.140	New Section
1240.150	New Section
1240.160	New Section
1240.170	New Section
1240.180	New Section
1240.190	New Section
- 4) Statutory Authority: 5 ILCS 315; Implementing 50 ILCS 705/6.1
- 5) Effective Date of Rulemaking: November 1, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposed Rules Published in the Illinois Register: May 28, 2004; 28 Ill. Reg. 7531
- 10) Has JCAR issued a Statement of Objection to these rules? No

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED RULES

- 11) Differences between proposal and final version: None
- 13) 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 rules currently in effect? No. The emergency rulemaking expired October 8, 2004.
- 14) Are there any amendments pending on this Part? No
- 17) Summary and Purpose of Rules: The purpose of the rules is to implement P.A. 93-655.
- 18) Information and questions regarding these adopted rules shall be directed to:

Jennifer A. Niemiec
Illinois Labor Relations Board
160 N. LaSalle St., Ste. S-400
Chicago, IL 60601

(312) 793-6480

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

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED RULES

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE C: LABOR RELATIONS
CHAPTER IV: ILLINOIS LABOR RELATIONS BOARDPART 1240
POLICE OFFICER DECERTIFICATION PROCEEDINGS

Section

1240.10	General Statement of Purpose
1240.20	Board Information and Business Hours
1240.30	Definitions
1240.40	Board's Jurisdiction
1240.50	Filing and Service
1240.60	Investigation
1240.70	Hearing
1240.80	Authority of Administrative Law Judges
1240.90	Computation and Extensions of Time
1240.100	Motions
1240.110	Subpoenas
1240.120	Officer Indemnification
1240.130	Representation of Parties
1240.140	Board Review of the Administrative Law Judge's Recommended Decision
1240.150	Appellate Review
1240.160	Conflicts of Interest
1240.170	Ex Parte Communications
1240.180	Amicus Curiae Briefs
1240.190	Variances and Suspensions of Rules

AUTHORITY: Implementing Section 6.1 of the Illinois Police Training Act [50 ILCS 705/6.1] and authorized by the Illinois Public Labor Relations Act [5 ILCS 315].

SOURCE: Adopted by emergency rulemaking at 28 Ill. Reg. 7531, effective May 12, 2004, for a maximum of 150 days; emergency expired October 8, 2004; adopted at 28 Ill. Reg. _____, effective November 1, 2004.

Section 1240.10 General Statement of Purpose

The regulations contained in this Part detail the procedures for obtaining an Illinois Labor Relations Board hearing to determine decertification of a police officer based upon that officer's commission of perjury in a murder case pursuant to Section 6.1 of the Illinois Police Training

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Act [50 ILCS 705/6.1]. The Illinois Labor Relations Board does not recognize or effectuate any other type of police officer decertification. The provisions of this Part shall not apply to any charges or petitions filed with the Illinois Labor Relations Board pursuant to the Illinois Public Labor Relations Act [5 ILCS 315].

Section 1240.20 Board Information and Business Hours

The State Panel of the Illinois Labor Relations Board can be contacted at:

Springfield Office:
320 West Washington Street, Suite 500
Springfield, Illinois 62701
(217)785-3155
Facsimile: (217)785-4146
Website: www.state.il.us/ilrb

Chicago Office:
160 North LaSalle Street, Suite S-400
Chicago, Illinois 60601
(312)793-6400
Facsimile: (312)793-6989
Website: www.state.il.us/ilrb

The official business hours of the Illinois Labor Relations Board are 8:30 a.m. to 5:00 p.m., Monday through Friday.

Section 1240.30 Definitions

Some of the terms used in this Part have the definition ascribed in Section 6.1 of the Illinois Police Training Act. Other definitions of terms used in this Part follow.

"Act" means the Illinois Police Training Act [50 ILCS 705].

"Administrative Law Judge" means an employee of the Illinois Labor Relations Board who is an attorney licensed to practice in Illinois.

"Board" means the Illinois Labor Relations Board State Panel, individually as applicable, or an agent designated by the Illinois Labor Relations Board State Panel.

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"Board agent" means any Board employee who is designated by the Board to perform the acts and/or responsibilities outlined in this Part.

"Complainant" means the individual who has filed a verified complaint or petition for hearing pursuant to Sec 6.1 of the Act [50 ILCS 705/6.1].

"Interested party" means *the defendant or any police officer who has personal knowledge that the police officer who is the subject of a complaint has, while under oath, knowingly and willfully made false statements as to a material fact going to an element of the offense of murder.* [50 ILCS 705/6.1(q)]

"LETSB" means the Illinois Law Enforcement Training Standards Board created by the Illinois Police Training Act [50 ILCS 705].

"Perjury" is, while under oath, knowingly and willfully making false statements as to a material fact going to an element of the offense of murder.

"Petition for hearing" means a document filed with the Board by a defendant or police officer with personal knowledge of perjured testimony in a murder prosecution where there has been a finding of guilt.

"Police officer" or "officer" means any individual who has been certified pursuant to the Act.

"Respondent" means the officer named in a verified complaint or petition for hearing filed pursuant to Section 6.1 of the Act.

"Verified complaint" or "complaint" means the document filed with the Illinois Law Enforcement Training Standards Board by a defendant or police officer with personal knowledge of perjured testimony in a murder prosecution where there has been an acquittal.

Section 1240.40 Board's Jurisdiction

The Board shall undertake the process of determining whether a police officer has committed perjury only under the following circumstances:

- a) Where there has been an acquittal on a charge of murder and the defendant, or a police officer with personal knowledge of perjury, files a verified complaint with

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the Illinois Law Enforcement Training Standards Board (LETSB) and LETSB has investigated the case and submitted a report to the Board's Executive Director; or

- b) Where there has been a finding of guilt on the offense of murder and a new trial has been granted on direct appeal or a State post-conviction evidentiary hearing has been ordered based on the claim that a police officer committed perjury and an interested party has filed a timely petition for hearing with the Board.

Section 1240.50 Filing and Service

- a) General Procedures
 - 1) All initial documents relating to the decertification of police officers, except those filed pursuant to subsection (b), must be filed in the Board's Springfield office (see Section 1240.20). All subsequent documents shall be filed in the Board's Chicago office, as directed by the Board. Two copies of each document shall be filed.
 - 2) Documents may be filed by any of the following methods:
 - A) By actual delivery of documents to the Board;
 - B) By first class, registered or certified United States mail or by commercial parcel delivery company; or
 - C) By fax, subject to the following limitations:
 - i) Parties shall transmit one copy of the documents, accompanied by a cover sheet or form identifying the party filing the documents, the total number of pages in the fax transmission, and the name, address, telephone number and fax number of the person sending the fax;
 - ii) The original documents filed by fax shall be mailed or delivered to the appropriate Board office on the same day the fax is transmitted, together with a fax confirmation receipt;

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- iii) The appropriate case number shall be indicated on the front page of each document filed by fax, unless the document is being filed to initiate proceedings before the Board; and
 - iv) If receipt of a fax transmission commences after the close of the Board's business hours, the documents will be deemed filed on the next business day.
 - 3) All petitions for hearing, amendments to verified complaints and amendments to petitions for hearing shall be served on the appropriate parties by the Board by certified mail. All other documents shall be served by the party filing the document on all other parties to the proceeding. The document shall not be considered properly served unless accompanied by proof of service. Proof of service shall consist of a written statement, signed by the party effecting service, detailing the name of the party served and the date and manner of service.
 - 4) When a party is represented in a proceeding before the Board, service shall be on the party's representative. When a party is not represented, service shall be on the party.
 - 5) A document shall be considered filed with the Board on the date that it is postmarked, tendered to a delivery service or received by personal delivery in the appropriate Board office before the close of the Board's business hours. Service made by fax shall be regarded as completed upon production by the fax machine of confirmation of transmission, together with the same-day mailing of a copy of the papers, postage pre-paid and properly addressed, to the person being served.
- b) Cases Arising Upon Acquittal
- 1) In the case of an acquittal on a charge of murder, the defendant in the criminal case or a police officer with personal knowledge of perjured testimony may file a verified complaint with the Executive Director of LETSB, pursuant to 20 Ill. Adm. Code 1720.120.
 - 2) The Illinois Labor Relations Board will not accept the filing of the verified complaint at its offices.
- c) Cases Arising Upon a Finding of Guilt

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- 1) In the case of a finding of guilt on the offense of murder, the Board will hold a hearing where either a new trial was granted on direct appeal or a State post-conviction evidentiary hearing has been ordered *based on a claim that a police officer, under oath, knowingly and willfully made false statements as to a material fact going to an element of the offense of murder.* [50 ILCS 705/6.1(k)]
- 2) An interested party must file a petition for hearing with the Board within 2 years after the court's decision in order for the petition to be considered timely filed.
- 3) The petition for hearing must contain the following information:
 - A) names and, to the extent known, addresses of individuals and representatives of the parties involved;
 - B) a summary of the procedural history of the underlying criminal case;
 - C) a description of the conduct alleged to be remediable by the Board within the meaning of Section 6.1 of the Act; and
 - D) a copy of the court order granting either a new trial or a State post-conviction evidentiary hearing.

Section 1240.60 Investigation

- a) Cases Arising Upon a Finding of Acquittal
 - 1) LETSB will investigate the verified complaint pursuant to 20 Ill. Adm. Code 1720.120.
 - 2) Upon receipt of a report from LETSB, the Illinois Labor Relations Board's Executive Director shall, within 30 days, review the investigative report and determine whether sufficient evidence exists to conduct an evidentiary hearing on the verified complaint.
 - A) If the Executive Director determines that a hearing should not be conducted, a written order dismissing the complaint will be issued.

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This decision is in the Executive Director's sole discretion, and this dismissal may not be appealed. [50 ILCS 705/6.1(j)]

- B) If the Executive Director determines that there is sufficient evidence to warrant a hearing to determine, by clear and convincing evidence, whether a police officer, under oath, knowingly and willfully made false statements as to a material fact going to an element of the offense of murder, he or she will issue an order notifying the parties that a hearing in the matter has been granted. The Executive Director will assign the case to an Administrative Law Judge within 30 days following that order. The Board will serve a copy of the verified complaint and a copy of the Executive Director's order on the Illinois Department of Professional Regulation within 30 days after issuance of the Executive Director's order.
- b) Cases Arising Upon a Finding of Guilt
- 1) If a complainant seeks a Board-conducted hearing where either a new trial has been granted on direct appeal or a State post-conviction evidentiary hearing has been ordered based upon the claim that a police officer committed perjury, the Board's Executive Director will assign the case to an Administrative Law Judge within 30 days after filing of the petition for hearing. The Board will serve a copy of the petition for hearing on the Department of Professional Regulation within 30 days after filing of the petition for hearing.
 - 2) If a complainant seeks a Board-conducted hearing where the requirements set forth in Sections 1240.40(b) and 1240.50(c) have not been met, the Executive Director will issue an order dismissing the petition without prejudice.
 - 3) Appeal of Dismissal
 - A) Parties may appeal the dismissal to the Board by filing an appeal with the Board's General Counsel, in the Board's Chicago office, no later than 10 days after service of the Executive Director's dismissal. The appeal shall be served on all other parties by the party filing the appeal.

ILLINOIS LABOR RELATIONS BOARD

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- B) A party may file a response to the appeal and any materials in support of the response no later than 5 days after service of the appeal. The response shall be served on all other parties by the party filing the response.
- C) The Board will review the dismissal only upon the timely filing of an appeal. Parties desiring oral argument before the Board shall request oral argument and state the reasons for the requests in their appeals or responses. The Board shall grant or deny requests for oral argument depending on the significance, complexity and novelty of the issues. In addition, the Board may, on its own motion, request oral argument, depending upon the significance, complexity and novelty of the issues. The Board may adopt all, part or none of the order depending on the extent to which it is consistent with the record and applicable law. The Board shall issue and serve on all parties its decision.

Section 1240.70 Hearing

An Administrative Law Judge (ALJ) employed by the Board shall conduct a hearing for the purpose of receiving into evidence relevant testimony and documents to support or disprove the allegations of perjury. The ALJ shall make a recommended decision to the Board as to whether the complainant proved by clear and convincing evidence that the respondent had, while under oath, knowingly and willfully made false statements as to a material fact going to an element of the offense of murder.

- a) Process
 - 1) The ALJ shall set dates for a hearing and serve notice of the hearing on all parties. A hearing shall be set not less than 14 days after service of the verified complaint or petition for hearing on the Illinois Department of Professional Regulation (DPR).
 - 2) DPR shall proceed first and present its case in support of the verified complaint or petition for hearing. DPR shall have the burden of proving the allegations in the verified complaint or petition for hearing by clear and convincing evidence. After DPR has completed presenting its case, the Respondent may present evidence in support of his/her defense.

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- 3) The ALJ shall inquire fully into all matters in dispute and shall obtain a full and complete record either by taking evidence or accepting parties' stipulations.
 - 4) Upon request, a party is entitled to a reasonable period of time at the close of the hearing for oral argument, which shall be made part of the record. The ALJ may direct the filing of briefs when the filing is, in the opinion of the ALJ, warranted by the nature of the proceedings or the particular issues involved.
 - 5) The ALJ shall issue a recommended decision. That recommended decision shall be served upon all parties to the proceeding and upon the Executive Director of LETSB.
- b) **Intermediate Rulings**
Intermediate rulings of the ALJ shall not be subject to interlocutory appeal. Parties may raise objections to intermediate rulings in their exceptions to the ALJ's recommended decision.
- c) **Amendments to Complaints**
The ALJ, on his or her own motion, or on the motion of a party, may allow amendments to the verified complaint or petition for hearing only if the amendments are related to the allegations that the respondent knowingly and willfully made false statements as to a material fact going to an element of the offense of murder.
- d) **Recording of Hearings**
Whenever a hearing is held pursuant to the provisions of this Part, it shall be recorded by stenographic or other means that adequately preserves the record. The ALJ or the Board may order that the hearings be transcribed. Parties may order transcripts and shall bear the costs of any transcripts that they order.
- e) **Rules of Evidence**
Considering the nature of the case and the representatives of the parties, the ALJ will, insofar as practicable, apply the rules of evidence applicable in Illinois courts. The ALJ may, upon proper objection, exclude evidence that is irrelevant, immaterial or unduly repetitious. Evidence may be presented in the form of testimony, exhibits or stipulations. Testimonial evidence shall be taken only on oath or affirmation.

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- f) **Brief Requirements**
All briefs shall be no more than a total of 50 double-spaced pages with margins of at least ½ inch, including attachments. All of the pages in excess of the 50-page limit will be rejected. The ALJ may grant approval of briefs containing more than 50 pages only in extraordinary circumstances (e.g., in cases involving extremely complex issues, in cases involving factual or legal issues of first impression or in cases involving a lengthy factual record).
- g) **Security**
The ALJ may, for safety and security reasons, convene the hearing at a location different from the Board's offices.

Section 1240.80 Authority of Administrative Law Judges

The Administrative Law Judge (ALJ) shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, to maintain order and to ensure development of a clear and complete record. The ALJ shall have all powers necessary to achieve these ends, including, but not limited to, the discretionary authority to:

- a) Require the parties to participate in a pre-hearing conference before proceeding with a hearing;
- b) Require all parties to submit pre-hearing information, including, but not limited to, a detailed written statement of the issue to be resolved at hearing and its position; a list of witnesses each party intends to call, the nature of their testimony, the estimated time for each witness' testimony, and the estimated time for the party's case in chief; a list of exhibits to be offered by each party in its case in chief and a copy of each exhibit; and all other information the ALJ requests;
- c) Regulate the proceedings of the case and the conduct of the parties and their counsel;
- d) Administer oaths and affirmations;
- e) Receive relevant testimony and evidence;
- f) Establish reasonable limits on the frequency and duration of the testimony of any witness and limit repetitious or cumulative testimony;

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NOTICE OF ADOPTED RULES

- g) Examine witnesses and direct witnesses to testify; however, this provision does not lessen any party's burden of proof;
- h) Issue subpoenas and rule upon motions to revoke subpoenas;
- i) Take administrative notice of generally recognized facts of which Illinois courts may take judicial notice and of other facts within the specialized knowledge and experience of the Board;
- j) Rule on objections, motions and questions of procedure;
- k) Authorize the submission of briefs and set the time for their filing;
- l) Hear closing argument;
- m) Order a hearing reopened prior to the issuance of the ALJ's recommended decision;
- n) Render and serve the recommended decision on the parties to the proceeding;
- o) Carry out the duties of ALJs as provided or otherwise authorized by this Part, 80 Ill. Adm. Code 1200, 1210, 1220 or 1230, or Section 6.1 of the Act.

Section 1240.90 Computation and Extensions of Time

- a) In computing any period of time prescribed by this Part, the designated period of time begins to run the day after the act, event, or default and ends on the last day of the period so computed. If the last day falls on a Saturday, Sunday, or legal holiday, the time period shall be automatically extended to the next day that is not a Saturday, Sunday or legal holiday.
- b) When a time period prescribed under this Part is less than 7 days, intervening Saturdays, Sundays, or legal holidays shall not be included.
- c) Service of a document upon a party by mail shall be presumed complete 3 days after mailing, if proof of service shows the document was properly addressed. This presumption may be overcome by the addressee, with evidence establishing that the document was not delivered or was delivered at a later date. A party's failure to accept or claim a document served by mail shall not be grounds for overcoming the presumption.

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- d) Requests for postponements of hearings shall be filed in accordance with Section 1240.100. Requests for postponements of investigations or scheduled conferences, as well as requests for extensions for the filing of briefs, exceptions or responses must be made prior to the existing deadlines. Such requests will not be granted unless good and sufficient cause is shown and the following requirements are met:
- 1) all requests must be in writing directed to the Administrative Law Judge, Executive Director or General Counsel responsible for the proceeding;
 - 2) the grounds for the request must be set forth in detail;
 - 3) the requesting party must specify alternative dates for scheduling the hearing or conference or for the due date of any documents;
 - 4) the position of all parties concerning both the postponement or extension requested and the proposed alternative dates must be ascertained in advance by the requesting party and set forth in the request;
 - 5) for the purposes of this Section, good and sufficient cause may include a showing to the satisfaction of the Board or its agents that a postponement or extension will result in settlement of the case;
 - 6) except for good cause shown, no request for postponement will be granted on any of the 3 days immediately preceding the date of a hearing, investigation or conference;
 - 7) all continuances must be to a date and time certain; in no event shall an indefinite continuance be granted.

Section 1240.100 Motions

- a) In matters set for hearing, all motions must be filed with the assigned Administrative Law Judge (ALJ). Once the ALJ's recommended decision has issued, all motions should be filed with the General Counsel in the Board's Chicago office.
- b) Motions must be made in writing unless made during the hearing, at which time the motions may be made orally on the record. Motions must briefly state the

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grounds for the motion and any relief requested. Written motions must be served in accordance with Section 1240.50.

- 1) Motions to extend time for the filing of documents must contain a statement that the moving party discussed the requested extension with the other parties. If no objections were raised, the moving party must certify that the other parties were consulted and authorized the moving party to represent that they have no objections. If objections were raised, the moving party must describe those objections and its response.
- 2) At any time prior to the issuance of the recommended decision, a party may move to disqualify the ALJ on the grounds of bias or conflict of interest. The motion shall be in writing to the General Counsel, with a copy to the ALJ, setting out the specific instances of bias or conflict of interest. An adverse decision or ruling, in and of itself, will not be considered grounds for disqualification. The General Counsel may decline to disqualify the ALJ or may appoint another ALJ to hear the case.
- c) Responses and any other answering documents, including memoranda and affidavits, must be filed within 5 days after service of the motion, or as otherwise required by the ALJ or the Board. Responses must be served in accordance with Section 1240.50.
- d) Rulings on motions shall be made in writing and served on all parties to the proceeding. The ALJ may reserve ruling on any motion until the issuance of the recommended decision.
- e) Rulings on motions shall not be appealed to the Board, unless as otherwise provided by the Board.

Section 1240.110 Subpoenas

The Board, upon the request of an Administrative Law Judge (ALJ) or upon the written application of a party, shall have the power to issue subpoenas for witnesses and subpoenas for documents.

- a) Subpoenas for Witnesses
 - 1) A party's written application for subpoenas for witnesses must be directed to the ALJ, and must contain the following information:

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- A) the title and case number of the proceeding;
 - B) the name, address and phone number of the party requesting the subpoena and its representative;
 - C) the name of the person to be subpoenaed; and
 - D) the date, time and place of the appearance to be commanded.
- 2) Applications must be filed with the Board and served on the other parties to the case at least 10 days before the hearing. The requested subpoenas may be picked up at the Board's office where the hearing will be held or at the office specified by the applicant in the subpoena request. Upon request, the Board will mail the subpoenas to the applicant.
 - 3) The party requesting the subpoenas shall be responsible for serving the subpoenas on the witnesses at least 5 days before the hearing date. The party requesting the subpoenas shall also be responsible for payment of the witness fees for attendance, subsistence and mileage at the time the subpoena is served. Witnesses appearing at a hearing pursuant to subpoena are entitled to the same fees and mileage as are allowed witnesses in civil cases in the courts of the State of Illinois, pursuant to Section 4.3 of the Circuit Court Act [705 ILCS 35/4.3]. The requesting party must tender all fees with the subpoena. A witness appearing at the request of the Board shall submit the subpoena with a voucher when claiming reimbursement.
 - 4) Board employees shall not be subpoenaed to testify regarding matters that occurred during their employment with the Board.
 - 5) Subpoenas shall remain in effect throughout the course of the proceedings.
- b) Subpoenas for Documents (Subpoena Duces Tecum)
 - 1) A party's written application for subpoenas for documents must be directed to the ALJ and must contain the following information:
 - A) the title and case number of the proceeding;

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- B) the name, address and phone number of the party requesting the subpoena and its representative;
 - C) a detailed description of the books, papers, documents or other objects to be produced pursuant to the subpoena;
 - D) the name of the person to be served with the subpoena; and
 - E) the date, time and place of production to be commanded.
- 2) Applications must be filed with the Board and served on the other parties to the case at least 10 days before the hearing and 10 days before the date on which the documents are to be produced. The date and time for production of documents may be prior to the hearing. The requested subpoenas may be picked up at the Board's office where the hearing will be held or at the office specified by the applicant in the subpoena request. Upon request, the Board will mail the subpoenas to the applicant.
- 3) The party requesting the subpoenas shall be responsible for serving the subpoenas at least 5 days before the hearing date and 5 days before the date on which the documents are to be produced.
- 4) Confidential Board documents as defined in 2 Ill. Adm. Code 2501.20(c) shall not be subpoenaed.
- c) **Motions to Revoke Subpoenas**
A person objecting to the subpoena may file a motion to revoke the subpoena. The motion must be filed at least 3 days prior to the hearing and shall be filed with the ALJ assigned to the case. Grounds for revocation shall include irrelevance, undue burden and privilege.

Section 1240.120 Officer Indemnification

An officer named in any verified complaint shall be indemnified for his or her reasonable attorney's fees and costs by his or her employer. *These fees shall be paid in a regular and timely manner. The State, upon application by the public employer, shall reimburse the public employer for the accused officer's reasonable attorney's fees and costs. At no time and under no circumstances will the accused officer be required to pay his or her own reasonable attorney's fees and costs.* [50 ILCS 705/6.1(1)]

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Section 1240.130 Representation of Parties

- a) A verified complaint or petition for hearing shall be prosecuted by an agent of the Illinois Department of Professional Regulation.
- b) The complainant or respondent may be represented by counsel or any other representative of his or her choosing.
- c) The representative of each party shall file a Notice of Appearance with the Board. Filing pleadings on behalf of a party shall be equivalent to filing a Notice of Appearance.

Section 1240.140 Board Review of the Administrative Law Judge's Recommended Decision

The State Panel of the Illinois Labor Relations Board shall review the Administrative Law Judge's (ALJ's) recommended decision and determine by a majority vote whether there was clear and convincing evidence that the respondent, while under oath, knowingly and willfully made false statements as to a material fact going to the offense of murder.

- a) Parties may file exceptions to the ALJ's recommended decision and briefs in support of those exceptions no later than 30 days after service of the recommended decision. Exceptions must be filed with the Board's General Counsel in the Board's Chicago office. Exceptions shall specifically set forth the questions of procedure, fact, law or policy to which exception is taken, shall identify that part of the ALJ's recommended decision to which exception is made, and shall state the grounds for the exceptions and shall include the citation of authorities unless set forth in a supporting brief. Any exception to a ruling, finding, conclusion or recommendation that is not specifically raised shall be deemed to have been waived. Any exception that fails to comply with the foregoing requirements may be disregarded. If no exceptions to the ALJ's recommended decision are filed within the prescribed time period, the parties will be deemed to have waived their exceptions.
- b) Parties may file responses to the exceptions and briefs in support of those responses no later than 15 days after service of the exceptions. Responses shall be limited to the issues raised in the exceptions.
- c) Any brief in support of the exceptions or responses shall be confined to the subjects raised in the exceptions and shall contain:

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- 1) a clear and concise statement of the case containing all that is material to the consideration of the questions presented;
 - 2) a specification of the questions involved and the issues to be argued; and
 - 3) an argument, presenting clearly the points of fact and law relied upon in support of the position taken on each question.
- d) All briefs shall be no more than a total of 50 double-spaced pages with margins of at least ½ inch, including attachments. All of the pages in excess of the 50-page limit will be rejected. The General Counsel may grant approval of briefs containing more than 50 pages only in extraordinary circumstances (e.g., in cases involving extremely complex issues, in cases involving factual or legal issues of first impression, or in cases involving a lengthy factual record).
- e) The Board will review the ALJ's recommended decision upon the timely filing of exceptions. The Board will make a finding to uphold, vacate or modify the recommended decision. The Board may adopt all, part or none of the recommended decision depending on the extent to which it is consistent with the record and applicable law. The Board shall issue and serve its decision and order upon the parties and upon LETSB. If no exceptions to the ALJ's recommended decision are filed within the prescribed time period, the Board's General Counsel shall issue an order so providing and serve it upon the parties and upon LETSB.
- f) *None of the Illinois Labor Relations Board State Panel's findings or determinations shall set any precedent in any of its decisions decided pursuant to the Illinois Public Labor Relations Act by the Illinois Labor Relations Board or the courts.* [50 ILCS 705/6.1(o)]

Section 1240.150 Appellate Review

- a) A party aggrieved by a final order of the Illinois Labor Relations Board State Panel may obtain judicial review of that order in accordance with the provisions of the Administrative Review Law [735 ILCS 5/Art. III], except that such review shall be afforded directly in the Appellate Court for the district in which the accused officer resides. The appeal shall be filed within 35 days from the date that a copy of the Board's decision was served upon the party affected by the decision.

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- b) If LETSB has revoked an accused officer's certification as the result of an adverse finding of the Board, the officer may petition the Appellate Court to stay the revocation of his or her certification pending the court's review of the matter.

Section 1240.160 Conflicts of Interest

No person who has been a Board member or an employee of the Board shall engage in practice before the Board in any respect in connection with any case or proceeding that was pending during the person's membership on or employment with the Board.

Section 1240.170 Ex Parte Communications

No party or other persons legally interested in the outcome of a hearing may communicate ex parte, either directly or indirectly, with an Administrative Law Judge or with any member of the Board regarding matters pending before the Board.

Section 1240.180 Amicus Curiae Briefs

Parties may file a motion with the Board to request leave to file an amicus curiae brief or the Board, on its own motion, may solicit such briefs. The Board's standards by which to grant leave to file an amicus curiae brief will include the importance of the issue presented, the general application of the issue presented and the need perceived by the Board for additional briefing on the issue presented. The amicus curiae brief shall conform to any conditions imposed by the Board for briefs in the case in which the brief is filed. Amicus curiae parties may be invited to participate in oral arguments heard by the Board. The Board will accept amicus curiae briefs in its proceedings. The filing of such briefs shall not serve to postpone or delay the proceedings.

Section 1240.190 Variances and Suspensions of Rules

The provisions of this Part may be waived by the Board when it finds that:

- a) The provision from which the variance is granted is not statutorily mandated;
- b) No party will be injured by the granting of the variance; and
- c) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Determination of Need (DON) and Resulting Service Cost Maximums (SCMs)
- 2) Code Citation: 89 Ill. Adm. Code 679
- 3) Section Number: 679.50 Emergency Action: Amendment
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].
- 5) Effective Date of Amendment: November 8, 2004
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not applicable
- 7) Date filed with the Index Department: November 8, 2004
- 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) Reason for Emergency: The public will be harmed without the emergency passage of this rule because individuals in the class of the Division of Specialized Care for Children will not be able to live independently in the community and be relegated to nursing home placement at an extreme cost to the State of Illinois.
- 10) A Complete Description of the Subject and Issues: This rulemaking provides that customers who cannot be served under the waiver program's Service Cost Maximums and who meet the criteria established by DPA, may be eligible for an exceptional care rate. Companion amendments are also being proposed to 89 Ill. Adm. Code 682 and 684.
- 11) Are there any other amendments pending on this Part? No
- 12) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.
- 13) Information and questions regarding this amendment shall be directed to:

Tracie Drew, Bureau Chief

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENT

Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Bldg., 3rd Floor
Springfield, Illinois 62762
(217) 785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAMPART 679
DETERMINATION OF NEED (DON) AND
RESULTING SERVICE COST MAXIMUMS (SCMs)

Section

- 679.10 General Provisions
679.20 Composition of the DON
679.30 Scoring of the DON Except for Respite Cases
679.40 Scoring the DON for Respite Cases
679.50 Service Cost Maximums (SCMs)

EMERGENCY

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5062, effective March 21, 1995; amended at 20 Ill. Reg. 6303, effective April 18, 1996; amended at 21 Ill. Reg. 2674, effective February 7, 1997; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; emergency amendment at 22 Ill. Reg. 2328, effective January 12, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 10445, effective May 29, 1998; emergency amendment at 22 Ill. Reg. 16031, effective August 14, 1998, for a maximum of 150 days; emergency expired on January 11, 1999; amended at 23 Ill. Reg. 1615, effective January 20, 1999; amended at 23 Ill. Reg. 7492, effective June 17, 1999; emergency amendment at 23 Ill. Reg. 10526, effective August 10, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 285, effective December 23, 1999; amended at 24 Ill. Reg. 6563, effective May 1, 2000; emergency amendment at 24 Ill. Reg. 9966, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 17126, effective November 3, 2000; emergency amendment at 27 Ill. Reg. 17428, effective November 6, 2003, for a maximum of 150 days; emergency expired April 3, 2004; amended at 28 Ill. Reg. 7056, effective April 30, 2004; emergency amendment at 28 Ill. Reg. 15178, effective November 8, 2004, for a maximum of 150 days.

Section 679.50 Service Cost Maximums (SCMs)EMERGENCY

- a) For each individual meeting the minimum required DON scores for eligibility (see 89 Ill. Adm. Code 682), there is a corresponding Service Cost Maximum

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(SCM) for his/her DON score which is the maximum amount that may be expended for services through HSP for an individual who chooses HSP services over institutionalization. This amount directly corresponds to the amount the State would expect to pay for the nursing care component of institutionalization if the individual chose institutionalization.

- b) The SCMs for individuals served under the HSP Medicaid Waiver are:

DON Range	11/1/03 SCM	8/1/04 SCM	8/1/05 SCM	8/1/06 SCM	8/1/07 SCM
29-32	\$1,154	\$1,194	\$1,249	\$1,329	\$1,488
33-40	\$1,326	\$1,371	\$1,435	\$1,527	\$1,710
41-49	\$1,475	\$1,526	\$1,597	\$1,699	\$1,902
50-59	\$1,766	\$1,827	\$1,912	\$2,034	\$2,277
60-69	\$2,076	\$2,147	\$2,247	\$2,390	\$2,677
70-79	\$2,244	\$2,322	\$2,430	\$2,585	\$2,894
80-100	\$2,412	\$2,495	\$2,612	\$2,778	\$3,111

- c) The SCMs for individuals served under the AIDS Medicaid Waiver are:

DON Range	11/1/03 SCM	8/1/04 SCM	8/1/05 SCM	8/1/06 SCM	8/1/07 SCM
29-32	\$1,486	\$1,538	\$1,609	\$1,712	\$1,917
33-40	\$2,228	\$2,305	\$2,412	\$2,566	\$2,873
41-49	\$2,970	\$3,073	\$3,216	\$3,421	\$3,831
50-59	\$3,714	\$3,842	\$4,021	\$4,278	\$4,790
60-69	\$4,458	\$4,611	\$4,827	\$5,134	\$5,749
70-79	\$5,198	\$5,378	\$5,628	\$5,987	\$6,704
80-100	\$5,943	\$6,148	\$6,435	\$6,845	\$7,664

- d) The exceptional care rate established by DPA is comparable to the assessed cost for institutionalization. Therefore, the rate shall not be exceeded. The SCM for individuals served through the Medicaid Waiver for Ventilator Assisted Individuals shall be no higher than the comparable institutionalized cost of care for the individual, less the costs for equipment and supplies.

- e) The SCM for an individual may be exceeded on a monthly basis to meet a temporary increase in need for services as long as the average monthly cost for services during the twelve month period does not exceed the SCM. Such an increase in services shall not last more than 3 months.

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- f) The monthly SCMs for individuals served under the Medicaid Waiver for Persons with a Brain Injury are:

DON Range	11/1/03 SCM	8/1/04 SCM	8/1/05 SCM	8/1/06 SCM	8/1/07 SCM
29-32	\$1,286	\$1,331	\$1,393	\$1,482	\$1,659
33-40	\$1,427	\$1,476	\$1,545	\$1,644	\$1,841
41-49	\$1,586	\$1,640	\$1,717	\$1,826	\$2,045
50-59	\$1,901	\$1,966	\$2,058	\$2,189	\$2,451
60-69	\$2,234	\$2,311	\$2,419	\$2,573	\$2,881
70-79	\$2,415	\$2,499	\$2,615	\$2,782	\$3,115
80-100	\$2,597	\$2,686	\$2,811	\$2,990	\$3,349

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 15178, effective November 8, 2004, for a maximum of 150 days)

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NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Eligibility
- 2) Code Citation: 89 Ill. Adm. Code 682
- 3) Section Numbers: 682.100 Emergency Action:
Amendment
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3]
- 5) Effective Date of Amendment: November 8, 2004
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not applicable
- 7) Date filed with the Index Department: November 8, 2004
- 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) Reason for Emergency: The public will be harmed without the emergency passage of this rule because individuals in the class of the Division of Specialized Care for Children will not be able to live independently in the community and be relegated to nursing home placement at an extreme cost to the State of Illinois.
- 10) A Complete Description of the Subject and Issues: This rulemaking provides that a physician's certification will be done every two years. Implementing this rule change with the exceptional care rulemaking will provide for greater continuity of services and more accurate case reviews, along with assisting HSP to better serve children transitioning out of the DSCC waiver. Companion amendments are also being proposed on 89 Ill. Adm. Code 679 and 684.
- 11) Are there any other amendments pending on this Part? No
- 12) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.
- 13) Information and questions regarding this amendment shall be directed to:

Tracie Drew, Bureau Chief

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENT

Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Bldg., 3rd Floor
Springfield, Illinois 62762
217/785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 682
ELIGIBILITY

SUBPART A: GENERAL APPLICABILITY

Section
682.10 General Applicability

SUBPART B: NON-FINANCIAL ELIGIBILITY CRITERIA

Section
682.100 General Eligibility Criteria
EMERGENCY

SUBPART C: FINANCIAL ELIGIBILITY CRITERIA

Section
682.200 Assets Limitation
682.210 Transfer of Assets
682.220 Exempt Assets
682.230 Assets Held in Joint Ownership
682.240 Income Allowances (Repealed)
682.250 Cost Sharing Provisions (Repealed)
682.260 General Exceptions to Cost Share Provisions (Repealed)

SUBPART D: EFFECT OF OTHER SERVICES ON HSP

Section
682.300 Effect of Other Services on HSP

SUBPART E: REDETERMINATION OF ELIGIBILITY

Section
682.400 Redetermination Requirements
682.410 Redetermination Time Frames

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SUBPART F: GRANDFATHERING PROVISIONS

Section

682.500	Exceptions to Eligibility Standards
682.510	Exceptions to Cost Sharing Provisions (Repealed)
682.520	Exceptions to Service Cost Maximums

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5070, effective March 21, 1995; amended at 20 Ill. Reg. 6307, effective April 18, 1996; amended at 20 Ill. Reg. 15749, effective December 3, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 2226, effective January 12, 1998; amended at 23 Ill. Reg. 3981, effective March 19, 1999; amended at 23 Ill. Reg. 14450, effective December 6, 1999; amended at 24 Ill. Reg. 7724, effective May 12, 2000; amended at 25 Ill. Reg. 6278, effective May 15, 2001; emergency amendment at 28 Ill. Reg. 15183, effective November 8, 2004, for a maximum of 150 days.

SUBPART B: NON-FINANCIAL ELIGIBILITY CRITERIA

Section 682.100 General Eligibility Criteria**EMERGENCY**

In order to receive services through HSP a customer must:

- a) be a citizen of the United States, or be an individual who is living permanently in the United States after having been legally admitted;
- b) have applied for, be a recipient of, or be found eligible for Medicaid benefits through DPA and within 60 days after the date of application for HSP provide verification to the HSP counselor of the aforementioned. Customers may be found eligible for Medicaid and be placed on Spend Down. However, a customer is not required to meet the eligibility criteria for Medicaid to receive benefits, nor is Medicaid eligibility or verification of application required to receive Interim Services (see 89 Ill. Adm. Code 682). The customer must agree to apply for Medicaid, and cooperate with the Department of Public Aid, to receive Interim Services. Customers having applied for HSP services prior to October 1, 1991, may choose to apply for Medicaid;

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- c) be a resident of the State of Illinois;
- d) be under the age of 60 at the time of application for HSP services, unless the individual is applying for services under the Medicaid Waiver for Persons with AIDS or for Persons with a Brain Injury, in which case there is no age criteria for application;
- e) have a severe disability which is expected to last for at least 12 months or for the duration of life;
- f) be an individual with a disability who is in need of long-term care, as determined by the DON score completed as a result of a prescreening (89 Ill. Adm. Code 679) or application for HSP services. In order to be determined to have met this criteria, the individual must receive a DON score of at least 15 points on part A, which includes, if applicable, the 10 points from the Mini-Mental Examination, with a total DON score of at least 29 points;
- g) obtain certification every two years from a physician or from a neuropsychologist for a person with a brain injury, with DHS assistance, that the individual is in need of long-term care and this care can safely and adequately be provided in the individual's home as provided in the HSP Service Plan developed for the individual; and
- h) not require in-home services that are expected to cost more than the cost the State would pay for institutional care for an individual with a similar DON score.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 15183, effective November 8, 2004, for a maximum of 150 days)

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NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Service Planning and Provision
- 2) Code Citation: 89 Ill. Adm. Code 684
- 3)

<u>Section Numbers:</u>	<u>Emergency Action:</u>
684.70	Amendment
684.75	Amendment
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].
- 5) Effective Date of Amendments: November 8, 2004
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not applicable
- 7) Date filed with the Index Department: November 8, 2004
- 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) Reason for Emergency: The public will be harmed without the emergency passage of this rule because individuals in the class of the Division of Specialized Care for Children will not be able to live independently in the community and be relegated to nursing home placement at an extreme cost to the State of Illinois.
- 10) A Complete Description of the Subject and Issues: This rulemaking provides that customers who cannot be served under the waiver program's Service Cost Maximums and who meet the criteria established by DPA, may be eligible for an exceptional care rate. This rulemaking also provides that a physician's certification will be done every two years. Implementing this rulemaking will provide for greater continuity of services and more accurate case reviews, along with assisting HSP to better serve children transitioning out of the DSCC waiver. Companion amendments are also being proposed on 89 Ill. Adm. Code 679 and 682.
- 11) Are there any other amendments pending on this Part? No
- 12) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

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

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Bldg., 3rd Floor
Springfield, Illinois 62762
(217) 785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAMPART 684
SERVICE PLANNING AND PROVISION

Section

684.10	Service Plan
684.20	Procuring an Appropriate Service Provider
684.30	Family Members as Service Providers
684.40	Distribution of the Service Plan
684.50	Service Plan Content
684.60	Provision of Services
684.70	Service Planning Limitations

EMERGENCY

684.75	Required Physician's Certification of HSP Service Plan
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EMERGENCY

684.80	Interim Services
684.90	Coordination of HSP and Other Services
684.100	Denial or Termination of HSP Services

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5129, effective March 21, 1995; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 18955, effective October 1, 1998; amended at 23 Ill. Reg. 6470, effective May 17, 1999; amended at 23 Ill. Reg. 12644, effective October 4, 1999; amended at 24 Ill. Reg. 2687, effective February 2, 2000; amended at 24 Ill. Reg. 10220, effective June 27, 2000; emergency amendment at 28 Ill. Reg. 15188, effective November 8, 2004, for a maximum of 150 days.

Section 684.70 Service Planning Limitations**EMERGENCY**

- a) For customers served through the standard Medicaid Waiver, all services listed on the Service Plan must be necessary to meet an unmet care need of the individual or, for respite cases, to provide relief to the caregiver, and must be within the SCM for the DON score attained by the customer as a result of the determination

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or redetermination of eligibility.

- b) For customers receiving services through the Medicaid Waiver for Persons with AIDS, all services listed on the Service Plan must be necessary to meet an unmet care need of the customer or, for respite cases, to provide relief to the caregiver, and must be within the SCM for the DON score attained by the customer as a result of the determination or redetermination of eligibility.
- c) Customers who cannot be served under the waiver programs SCM and who meet the criteria established by DPA may be eligible for an exceptional care rate. The SCM may be exceeded for ventilator assisted individuals (VAIs) who are receiving HSP services but have had established, through DPA, a higher rate less the cost of supplies and equipment established by DPA for institutional placement. In such cases, the amount that may be expended for HSP services shall not exceed the special care rate established for that customer by DPA.
- d) The monthly cost of the services through the Home Services Program shall not exceed the exceptional care rate.
- e) For individuals served through the Medicaid Waiver for Persons with Brain Injury, all services listed on the Service Plan must be necessary to provide a package of HSP services, including the specific community based services, to meet their unmet service needs. The cost of the services must be within the SCM for the DON score attained by the individual as a result of the determination or redetermination of eligibility.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 15188, effective November 8, 2004)

Section 684.75 Required Physician's Certification of HSP Service Plan**EMERGENCY**

A Physician's Certification (IL 488-1780) shall be obtained from the customer's physician when:

- a) the customer's initial service plan is developed (Section 684.10); and
- b) every two years during the redetermination of eligibility after any service cost increase longer than 90 days, when the increase is caused by an increase in the hours of service or in the type of service that raises the service cost to a level higher than allowed by the customer's current DON score;

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- e) ~~the cost of services decreases for a period longer than 90 days to a level lower than the SCM for the customer's current DON score and the decrease is due to the customer's health improving; or~~
- d) ~~during the redetermination of eligibility (89 Ill. Adm. Code 682: Subpart E) either:~~
 - 1) ~~the service costs increase to a level higher than the customer's previous DON score SCM due to an increase in the hours of service;~~
 - 2) ~~the type of service increases to a level higher than the customer's previous DON score SCM; or~~
 - 3) ~~the service costs decrease to a lower SCM level than the customer's previous DON score because of an improvement in the customer's health.~~

The services provided to the customer shall not be interrupted while the new Physician's Certification is being secured by DHS-ORS/HSP.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 15188, effective November 8, 2004)

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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>Emergency 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
- 4) Statutory Authority: 35 ILCS 120/12, P. A. 93-724, 93-840, 93-926, and 93-1033
- 5) Effective Date of Emergency Amendments: November 3, 2004
- 6) If these Emergency Amendments are to expire before the end of the 150-day period, please specify the date on which it is to expire: These Emergency Amendments will not expire before the end of the 150-day period.
- 7) Date filed with the Index Department: November 3, 2004
- 8) A copy of the emergency amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The changes made by this rulemaking result from legislation that was recently passed and signed into law. Because these statutory provisions are now effective, it is important that the Department provide guidance on these statutory changes to taxpayers as soon as possible through emergency rules.
- 10) A Complete Description of the Subjects and Issues Involved: This rulemaking implements the provisions of PA 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 PA 93-840, which reinstates the manufacturer's purchase credit program and the graphic arts machinery and equipment exemption, beginning September 1, 2004. Section 130.553 is also amended in response to PA 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

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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 PA 93-1003. This rulemaking also amends Section 130.111 to clarify that when a person is engaged in the business of leasing watercraft and in connection with such business sells any used 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 watercraft sold. This change is mandated by the provisions of PA 93-840.

- 11) Are there any proposed amendments to this Part pending? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
130.341	New Section	28 Ill. Reg. 4106, 03/05/04

- 12) Statement of Statewide Policy Objectives: This rulemaking neither imposes a State mandate, nor modifies an existing mandate.

- 13) Information and questions regarding these Emergency Amendments shall be directed to:

Samuel Moore
Associate Counsel
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-2844

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

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENTS

TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 130

RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section

130.101 Character and Rate of Tax

EMERGENCY

130.105 Responsibility of Trustees, Receivers, Executors or Administrators

130.110 Occasional Sales

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

130.115 Habitual Sales

130.120 Nontaxable Transactions

EMERGENCY

SUBPART B: SALE AT RETAIL

Section

130.201 The Test of a Sale at Retail

130.205 Sales for Transfer Incident to Service

130.210 Sales of Tangible Personal Property to Purchasers for Resale

130.215 Further Illustrations of Sales for Use or Consumption Versus Sales for Resale

130.220 Sales to Lessors of Tangible Personal Property

130.225 Drop Shipments

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section

130.305 Farm Machinery and Equipment

130.310 Food, Drugs, Medicines and Medical Appliances

130.315 Fuel Sold for Use in Vessels on Rivers Bordering Illinois

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

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130.321 Fuel Used by Air Common Carriers in International Flights

130.325 Graphic Arts Machinery and Equipment Exemption

EMERGENCY

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

SUBPART D: GROSS RECEIPTS

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

SUBPART E: RETURNS

- Section
130.501 Monthly Tax Returns – When Due – Contents
130.502 Quarterly Tax Returns
130.505 Returns and How to Prepare
130.510 Annual Tax Returns
130.515 First Return
130.520 Final Returns When Business is Discontinued
130.525 Who May Sign Returns

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

SUBPART F: INTERSTATE COMMERCE

Section

- 130.601 Preliminary Comments
- 130.605 Sales of Property Originating in Illinois
- 130.610 Sales of Property Originating in Other States

SUBPART G: CERTIFICATE OF REGISTRATION

Section

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

SUBPART H: BOOKS AND RECORDS

Section

- 130.801 General Requirements
- 130.805 What Records Constitute Minimum Requirement
- 130.810 Records Required to Support Deductions

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

SUBPART I: PENALTIES AND INTEREST

- Section
- 130.901 Civil Penalties
 - 130.905 Interest
 - 130.910 Criminal Penalties

SUBPART J: BINDING OPINIONS

- Section
- 130.1001 When Opinions from the Department are Binding

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

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

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

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

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

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

SUBPART N: SALES FOR RESALE

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Section

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

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section

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

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

Section

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

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section

- 130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

Section

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

SUBPART S: SPECIFIC APPLICATIONS

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENTS

Section

- 130.1901 Addition Agents to Plating Baths
- 130.1905 Agricultural Producers
- 130.1910 Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
- 130.1915 Auctioneers and Agents
- 130.1920 Barbers and Beauty Shop Operators
- 130.1925 Blacksmiths
- 130.1930 Chiropodists, Osteopaths and Chiropractors
- 130.1935 Computer Software
- 130.1940 Construction Contractors and Real Estate Developers
- 130.1945 Co-operative Associations
- 130.1950 Dentists
- 130.1951 Enterprise Zones
- 130.1952 Sales of Building Materials to a High Impact Business
- 130.1955 Farm Chemicals
- 130.1960 Finance Companies and Other Lending Agencies – Installment Contracts – Bad Debts
- 130.1965 Florists and Nurserymen
- 130.1970 Hatcheries
- 130.1971 Sellers of Pets and the Like
- 130.1975 Operators of Games of Chance and Their Suppliers
- 130.1980 Optometrists and Opticians
- 130.1985 Pawnbrokers
- 130.1990 Peddlers, Hawkers and Itinerant Vendors
- 130.1995 Personalizing Tangible Personal Property
- 130.2000 Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
- 130.2004 Sales to Nonprofit Arts or Cultural Organizations
- 130.2005 Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons
- 130.2006 Sales by Teacher-Sponsored Student Organizations
- 130.2007 Exemption Identification Numbers
- 130.2008 Sales by Nonprofit Service Enterprises
- 130.2009 Personal Property Purchased Through Certain Fundraising Events for the Benefit of Certain Schools
- 130.2010 Persons Who Rent or Lease the Use of Tangible Personal Property to Others
- 130.2011 Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals
- 130.2012 Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies
- 130.2013 Persons in the Business of Both Renting and Selling Tangible Personal Property –

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	Tax Liabilities, Credit
130.2015	Persons Who Repair or Otherwise Service Tangible Personal Property
130.2020	Physicians and Surgeons
130.2025	Picture-Framers
130.2030	Public Amusement Places
130.2035	Registered Pharmacists and Druggists
130.2040	Retailers of Clothing
130.2045	Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like
130.2050	Sales and Gifts By Employers to Employees
130.2055	Sales by Governmental Bodies
130.2060	Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
130.2065	Sales of Automobiles for Use In Demonstration (Repealed)
130.2070	Sales of Containers, Wrapping and Packing Materials and Related Products
130.2075	Sales To Construction Contractors, Real Estate Developers and Speculative Builders
130.2076	Sales to Purchasers Performing Contracts with Governmental Bodies
130.2080	Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
130.2085	Sales to or by Banks, Savings and Loan Associations and Credit Unions
130.2090	Sales to Railroad Companies
130.2095	Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
130.2100	Sellers of Feeds and Breeding Livestock
130.2101	Sellers of Floor Coverings
130.2105	Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers; Transfer of Data Downloaded Electronically
130.2110	Sellers of Seeds and Fertilizer
130.2115	Sellers of Machinery, Tools and Special Order Items
130.2120	Suppliers of Persons Engaged in Service Occupations and Professions
130.2125	Trading Stamps and Discount Coupons
130.2130	Undertakers and Funeral Directors
130.2135	Vending Machines
130.2140	Vendors of Curtains, Slip Covers and Other Similar Items Made to Order
130.2145	Vendors of Meals
130.2150	Vendors of Memorial Stones and Monuments
130.2155	Tax Liability of Sign Vendors
130.2156	Vendors of Steam
130.2160	Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
130.2165	Veterinarians
130.2170	Warehousemen

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SUBPART T: DIRECT PAYMENT PROGRAM

Section

130.2500	Direct Payment Program
130.2505	Qualifying Transactions, Non-transferability of Permit
130.2510	Permit Holder's Payment of Tax
130.2515	Application for Permit
130.2520	Qualification Process and Requirements
130.2525	Application Review
130.2530	Recordkeeping Requirements
130.2535	Revocation and Withdrawal

130.ILLUSTRATION A Examples of Tax Exemption Card

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

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November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, 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,

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2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days.

SUBPART A: NATURE OF TAX

Section 130.101 Character and Rate of Tax**EMERGENCY**

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

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accordance with Section 130.430 of this Part at the rate which was in effect when the seller received such receipts, no additional tax will be due or credit allowed because of the delivery of the property occurring after the rate changes.

- 2) Furthermore, in the case of sales of building materials to real estate improvement construction contractors for use in performing construction contracts for third persons, if such property is delivered to the contractor after the effective date of a rate increase but will be used in performing a binding construction contract which was entered into before the effective date of the increase and under which the contractor is legally unable to shift the burden of the tax rate increase to his customer, the applicable tax rate will be the rate which was in effect before the effective date of the rate increase. Before a supplier may deliver materials to a construction contractor after the effective date of a tax rate increase at the rate which was in effect prior thereto, the purchasing 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]

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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]

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]

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 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]

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

A)1) Gasoline

B)2) Diesel fuel

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

D)4) Gasohol-

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

A)1) Avgas

B)2) Jet fuel

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- ~~C)3)~~ 1-K kerosene
- ~~D)4)~~ Combustible gases unless delivered directly into the fuel supply tanks of motor vehicles
- ~~E)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.

- 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 by emergency rulemaking at 28 Ill. Reg. 15193, effective November 3, 2004)

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

EMERGENCY

- 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"

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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. All devices required to be licensed as "aircraft" by the Federal Aviation Administration (FAA) are "aircraft". [620 ILCS 5/3]
- 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 by emergency rulemaking at 28 Ill. Reg. 15193, effective November 3, 2004)

Section 130.120 Nontaxable Transactions**EMERGENCY**

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

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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);
- 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);

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- 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;
- 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*

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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)];*
- 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*

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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 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*

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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 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

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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, 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*

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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]);
 - 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;*

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- 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 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 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*

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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 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.)*

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(Source: Amended by emergency rulemaking at 28 Ill. Reg. 15193, effective November 3, 2004)

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

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

- 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% 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)

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- 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 by emergency rulemaking at 28 Ill. Reg. 15193, effective November 3, 2004)

Section 130.325 Graphic Arts Machinery and Equipment Exemption**EMERGENCY**

- 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*

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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 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

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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" (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.

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- 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.
- 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

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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 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; imposetters; 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

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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 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,

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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 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.

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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 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

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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 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.

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- 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 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

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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 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

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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.
 - 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

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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.

- 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.

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(Source: Amended by emergency rulemaking at 28 Ill. Reg. 15193, effective November 3, 2004)

Section 130.331 Manufacturer's Purchase Credit**EMERGENCY**

- a) Earning Manufacturer's Purchase Credit
 - 1) Effective January 1, 1995 through June 30, 2003, and beginning again on and after 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 on and after 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 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

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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 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

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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 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:

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- 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 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

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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 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

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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 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

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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,
 - 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).

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- 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 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).

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- 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);
 - 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

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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 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

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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. (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

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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.)
- 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

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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 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

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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 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

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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;
 - 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

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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 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

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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 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'

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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 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.

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- 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)
 - 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)

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- 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.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 15193, effective December 3, 2004)

Section 130.341 Commercial Distribution Fee Sales Tax Exemption
EMERGENCY

a) Qualifications for exemption.

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

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ILCS 5/3-815.1] and such fee is actually paid for any period in which the fee is in effect.

b) 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 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;

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- 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.
- 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) 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) 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.

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(Source: Added by emergency rulemaking at 28 Ill. Reg. 15193, effective November 3, 2004)

SUBPART E: RETURNS

Section 130.552 Alcoholic Liquor Reporting**EMERGENCY**

- 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 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*

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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 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

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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
- 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 by emergency rulemaking at 28 Ill. Reg. 15193, effective November 3, 2004)

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NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Service Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 140
- 3) Section Number: 140.124 Emergency Action: New Section
- 4) Statutory Authority: 20 ILCS 2505/2505-100; P.A. 93-840; P.A. 93-1033
- 5) Effective Date of Amendment: November 3, 2004
- 6) If this Emergency Amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: These amendments will not expire before the end of the 150-day period.
- 7) Date filed with the Index Department: November 3, 2004
- 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) Reason for Emergency: The changes made by this rulemaking result from legislation that was recently passed and signed into law. Because these statutory provisions are now effective, it is important that the Department provide guidance on these statutory changes to taxpayers as soon as possible through emergency rules.
- 10) A Complete Description of the Subjects and Issues Involved: This rulemaking makes a change to implement the provisions of PA 93-840, which reinstates the graphic arts machinery and equipment exemption, beginning September 1, 2004. 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.
- 11) Are there any proposed amendments to this Part pending? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.101	Amendment	28 Ill. Reg. 4528, 03/12/04
140.125	Amendment	28 Ill. Reg. 4528, 03/12/04

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- 12) Statement of Statewide Policy Objectives: This rulemaking neither imposes a State mandate, nor modifies an existing mandate.

- 14) Information and questions regarding this Emergency Amendment shall be directed to:

Terry D. Charlton
Associate Counsel
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-2844

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

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENT

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
EMERGENCY	
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

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- Section
- 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

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SUBPART O: DISCONTINUATION OF A BUSINESS

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.

[Section 140.124 Commercial Distribution Fee Sales Tax Exemption](#)
[EMERGENCY](#)

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a) Qualifications for exemption.

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) 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) 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) 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 by emergency rulemaking at 28 Ill. Reg. 15257, effective November 3, 2004, for a maximum of 150 days)

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NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 150
- 3) Section Number: 150.311 Emergency Action:
New Section
- 4) Statutory Authority: P.A. 93-1033
- 5) Effective Date of Emergency Amendment: November 3, 2004
- 6) If this Emergency Amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: These amendments will not expire before the end of the 150-day period.
- 7) Date filed with the Index Department: November 3, 2004
- 8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The changes made by this rulemaking result from legislation that was recently passed and signed into law. Because these statutory provisions are now effective, it is important that the Department provide guidance on these statutory changes to taxpayers as soon as possible through emergency rules.
- 10) A Complete Description of the Subjects and Issues Involved: This rulemaking sets out the new tests 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.
- 11) Are there any proposed amendments to this Part pending? No
- 12) Statement of Statewide Policy Objective: This rulemaking neither imposes a State mandate, nor modifies an existing mandate.
- 15) Information and questions regarding this emergency amendment shall be directed to:

Terry D. Charlton

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENT

Associate Counsel
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-2844

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

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NOTICE OF EMERGENCY AMENDMENT

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

SUBPART A: NATURE OF THE TAX

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

SUBPART B: DEFINITIONS

Section	
150.201	General Definitions

SUBPART C: KINDS OF USES AND USERS NOT TAXED

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

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

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

- Section
- 150.401 Collection of the Tax by Retailers From Users
- 150.405 Tax Collection Brackets
- 150.410 Tax Collection Brackets for a 2 $\frac{1}{4}$ % Rate of Tax (Repealed)
- 150.415 Tax Collection Brackets for a 2 $\frac{1}{2}$ % Rate of Tax (Repealed)
- 150.420 Tax Collection Brackets for a 2 $\frac{3}{4}$ % Rate of Tax (Repealed)
- 150.425 Tax Collection Brackets for a 3% Rate of Tax (Repealed)
- 150.430 Tax Collection Brackets for a 3 $\frac{1}{8}$ % Rate of Tax (Repealed)
- 150.435 Tax Collection Brackets for a 3 $\frac{1}{4}$ % Rate of Tax (Repealed)
- 150.440 Tax Collection Brackets for a 3 $\frac{1}{2}$ % Rate of Tax (Repealed)
- 150.445 Tax Collection Brackets for a 3 $\frac{3}{4}$ % Rate of Tax (Repealed)
- 150.450 Tax Collection Brackets for a 4% Rate of Tax (Repealed)
- 150.455 Tax Collection Brackets for a 4 $\frac{1}{8}$ % Rate of Tax (Repealed)
- 150.460 Tax Collection Brackets for a 4 $\frac{1}{4}$ % Rate of Tax (Repealed)
- 150.465 Tax Collection Brackets for a 4 $\frac{1}{2}$ % Rate of Tax (Repealed)
- 150.470 Tax Collection Brackets for a 4 $\frac{3}{4}$ % Rate of Tax (Repealed)
- 150.475 Tax Collection Brackets for a 5% Rate of Tax (Repealed)
- 150.480 Tax Collection Brackets for a 5 $\frac{1}{8}$ % Rate of Tax (Repealed)
- 150.485 Tax Collection Brackets for a 5 $\frac{1}{4}$ % Rate of Tax (Repealed)
- 150.490 Tax Collection Brackets for a 5 $\frac{1}{2}$ % Rate of Tax (Repealed)
- 150.495 Tax Collection Brackets for a 5 $\frac{3}{4}$ % Rate of Tax (Repealed)
- 150.500 Tax Collection Brackets for a 6% Rate of Tax (Repealed)
- 150.505 Optional 1% Schedule (Repealed)
- 150.510 Exact Collection of Tax Required When Practicable
- 150.515 Prohibition Against Retailer's Representing That He Will Absorb The Tax
- 150.520 Display of Tax Collection Schedule (Repealed)
- 150.525 Methods for Calculating Tax on Sales of Items Subject to Differing Tax Rates

SUBPART E: RECEIPT FOR THE TAX

- Section
- 150.601 Requirements

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SUBPART F: SPECIAL INFORMATION FOR TAXABLE USERS

Section

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

SUBPART G: REGISTRATION OF OUT-OF-STATE RETAILERS

Section

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

SUBPART H: RETAILERS' RETURNS

Section

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

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

Section

- 150.1001 General Information

SUBPART J: TRADED-IN PROPERTY

Section

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150.1101 General Information

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

Section

150.1201 General Information

SUBPART L: BOOKS AND RECORDS

Section

150.1301 Users' Records

150.1305 Retailers' Records

150.1310 Use of Signs to Prove Collection of Tax as a Separate Item

150.1315 Consequence of Not Complying with Requirement of Collecting Use Tax
Separately From the Selling Price

150.1320 Incorporation by Reference

SUBPART M: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section

150.1401 Claims for Credit – Limitations – Procedure

150.1405 Disposition of Credit Memoranda by Holders Thereof

150.1410 Refunds

150.1415 Interest

150.TABLE A Tax Collection Brackets

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

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

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at 20 Ill. Reg. 16224, effective December 16, 1996; amended at 22 Ill. Reg. 21670, effective November 25, 1998; amended at 24 Ill. Reg. 10728, effective July 7, 2000; amended at 25 Ill. Reg. 953, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1821, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 5059, effective March 23, 2001; amended at 25 Ill. Reg. 6540, effective May 3, 2001; amended at 25 Ill. Reg. 10937, effective August 13, 2001; amended at 26 Ill. Reg. 971, effective January 15, 2002; amended at 26 Ill. Reg. 9902, effective June 24, 2002; amended at 27 Ill. Reg. 1607, effective January 15, 2003; emergency amendment at 27 Ill. Reg. 11209, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; emergency amendment at 28 Ill. Reg. 15266, effective November 3, 2004, for a maximum of 150 days.

SUBPART C: KINDS OF USES AND USERS NOT TAXED

Section 150.311 Commercial Distribution Fee Sales Tax Exemption
EMERGENCY

- a) Qualifications for exemption. Beginning on and after March 1, 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 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 in excess of 8,000 pounds. Motor vehicles with Gross Vehicle Weight Ratings of 8,000 pounds or less do not qualify for the exemption provided in this Section. 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 used primarily for commercial purposes and will be registered and remain 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 [625 ILCS 5/3-815.1] and such fee is paid. For purposes of this Section, a motor vehicle used for commercial purposes means any motor

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vehicle used to transport persons or property in the furtherance of any commercial or industrial enterprise, whether for-hire or not-for-hire.

EXAMPLE: A motor vehicle that is used for transportation to work, school, or recreational activities would not be used for commercial purposes. For motor vehicles with a curb weight in excess of 8,000 pounds, the Department will conclusively presume that vehicle is used primarily for commercial purposes. For purposes of this subsection (a)(3), the term "curb weight" means the total weight of an empty vehicle, without cargo, driver, and passengers, but includes the maximum amount of fuel, oil, coolants, and standard equipment, including the spare tire and tools.

- 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 and address 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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- 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 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 does not apply to any repair part, replacement part, or other item attached to or incorporated into the motor vehicle after the purchase of the motor vehicle. However, such items may qualify for the rolling stock exemption provided in 86 Ill. Adm. Code 130.340(g).
- 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). The term "trailer" includes a trailer as defined in Section 1-209 of the Illinois Vehicle Code, a semi-trailer 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 by emergency rulemaking at 28 Ill. Reg. 15266, effective November 3, 2004, for a maximum of 150 days)

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Service Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 160
- 3) Section Number: 160.111 Emergency Action:
New Section
- 4) Statutory Authority: P.A. 93-1033
- 5) Effective Date of Emergency Amendment: November 3, 2004
- 6) If this Emergency Amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: These amendments will not expire before the end of the 150-day period.
- 7) Date filed with the Index Department: November 3, 2004
- 8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The changes made by this rulemaking result from legislation that was recently passed and signed into law. Because these statutory provisions are now effective, it is important that the Department provide guidance on these statutory changes to taxpayers as soon as possible through emergency rules.
- 10) A Complete Description of the Subjects and Issues Involved: This rulemaking sets out the new tests 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.
- 11) Are there any proposed amendments to this Part pending? No
- 12) Statement of Statewide Policy Objectives: This rulemaking neither imposes a State mandate, nor modifies an existing mandate.
- 13) Information and questions regarding this Emergency Amendment shall be directed to:

Terry D. Charlton
Associate Counsel

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENT

Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-2844

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

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENT

TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 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>
<u>EMERGENCY</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.

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENT

Section 160.111 Commercial Distribution Fee Sales Tax Exemption
EMERGENCYa) Qualifications for exemption.

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) 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.);

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENT

- 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; 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;

DEPARTMENT OF REVENUE

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- 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.
- 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) 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) 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 by emergency rulemaking at 28 Ill. Reg. 15275, effective November 3, 2004, for a maximum of 150 days)

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 November 2, 2004 through November 8, 2004 and have been scheduled for review by the Committee at its December 14, 2004 meeting in Chicago. 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>
12/18/04	<u>Department of Commerce and Economic Opportunity</u> , Economic Development for a Growing Economy Program (EDGE) (14 Ill. Adm. Code 527)	9/3/04 28 Ill. Reg. 12259	12/14/04
12/19/04	<u>Department of Commerce and Economic Opportunity</u> , Administration of the Coal Grant Provisions of the Illinois Resource Development and Energy Security Act (32 Ill. Adm. Code 120)	9/10/04 28 Ill. Reg. 12516	12/14/04

DEPARTMENT OF REVENUE

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENT

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

<u>Section Number:</u>	<u>Proposed Action:</u>
130.41	New Section
- 4) Date Notice of Proposed Amendment Published in the Register: 3/05/04; 28 Ill. Reg. 4106
- 5) Reason for Withdrawal: Public Act 93-1033 recently became law and changed the requirements necessary to claim the Commercial Distribution Fee Sales Tax Exemption. The Department intends to file new proposed amendments setting out the current and prior requirements.

DEPARTMENT OF REVENUE

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENT

- 1) Heading of the Part: Service Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 140
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
140.124	New Section
- 4) Date Notice of Proposed Amendment Published in the Register: 3/05/04; 28 Ill. Reg. 4119
- 5) Reason for Withdrawal: Public Act 93-1033 recently became law and changed the requirements necessary to claim the Commercial Distribution Fee Sales Tax Exemption. The Department intends to file new proposed amendments setting out the current and prior requirements.

DEPARTMENT OF REVENUE

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENT

- 1) Heading of the Part: Service Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 160
- 3) Section Number: 160.11 Proposed Action:
New Section
- 4) Date Notice of Proposed Amendment Published in the Register: 3/05/04; 28 Ill. Reg. 4137
- 5) Reason for Withdrawal: Public Act 93-1033 recently became law and changed the requirements necessary to claim the Commercial Distribution Fee Sales Tax Exemption. The Department intends to file new proposed amendments setting out the current and prior requirements.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF CORRECTION TO NOTICE ONLY

- 1) Heading of the Part: Employer Training Investment Program
- 2) Code Citation: 56 Ill. Adm. Code 2650
- 3) The Notice of Proposed Amendments being corrected appeared at 28 Ill. Reg. 14309, dated November 5, 2004.
- 4) The information being corrected is as follows: The Heading of the Part should be Industrial Training Program. The proposed rulemaking will change the Heading from Industrial Training Program to Employer Training Investment Program.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PENALTY FEE RESCINDED UNDER

THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5 (h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate of the State of Illinois has rescinded the penalty fee of \$2,250 against 21st Mortgage Corporation, MB.0006098 of Knoxville, TN, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective October 29, 2004. For further reference link to:

<http://www.obre.state.il.us/>

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PENALTY FEE RESCINDED UNDER

THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5 (h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has suspended the license of 5 Star Financial, Inc., MB.0006255 of New Lenox, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective October 29, 2004. For further reference link to: <http://www.obre.state.il.us/>

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PENALTY FEE RESCINDED UNDER

THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5 (h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate of the State of Illinois has rescinded the fine of \$500 against MDR Mortgage Corp., MB.0003154 of Palatine, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective October 29, 2004. For further reference link to: <http://www.obre.state.il.us/>

PROCLAMATIONS

2004-320**ILLINOIS HOMECARE AND HOSPICE MONTH**

WHEREAS, in the United States, home health care has grown in scope over the past several decades, and now encompasses a wide-array of services including: skilled nursing, hospice care, physical therapy, speech therapy, occupational therapy, infusion services, private duty, as well as general care; and

WHEREAS, aside from its obvious advantages to patients, home health care also provides tremendous savings to states, keeping patients out of state-funded hospitals and institutions; and

WHEREAS, since its inception, the Illinois HomeCare Council, founded in 1960, has played an integral role in the growth and change of home health care in this state, and across the country; and

WHEREAS, the Illinois HomeCare Council is dedicated to shaping and supporting the entire spectrum of home health care providers and related services. Currently, they represent the needs of nearly 200 providers and vendors of home health in Illinois; and

WHEREAS, the diligent work of the Illinois HomeCare Council, as well as several other related organizations across the United States, helps to ensure that patients have access to quality home health care services; and

WHEREAS, the month of November is universally recognized as National Home Care Month, National Hospice Month, and National Family Caregivers Month. These three awareness campaigns serve to recognize the important role that home health care plays in the American healthcare system, the tremendous contributions of those who care for the terminally ill, and the selflessness and compassion displayed by all those who care for sick family members;

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim the month of November 2004 as ILLINOIS HOMECARE AND HOSPICE MONTH in Illinois, and encourage all citizens to remain cognizant of home health care as a viable option for themselves and their family members, and to recognize the dedicated efforts of organizations such as the Illinois HomeCare Council.

Issued by the Governor November 4, 2004.

Filed by the Secretary of State November 4, 2004.

2004-321**ASVAB CAREER EXPLORATION PROGRAM YEAR**

WHEREAS, the educational growth and development of students is of the utmost importance here in Illinois, and across the nation; and

WHEREAS, as a concerned society, we must do everything in our power to provide young people with the tools necessary to accomplish their educational and vocational goals; and

WHEREAS, the Armed Services Vocational Aptitude Battery (ASVAB), sponsored by the United States Department of Defense, is the selection and classification test used by all branches of the United States military. The test evaluates students' knowledge in a variety of

PROCLAMATIONS

subjects, and the results are often used by school counselors and career development coordinators to help students make informed decisions about their futures; and

WHEREAS while the main goal of ASVAB is to encourage students to consider careers in the armed forces, the test is offered to students at no cost, and with no obligation to join the military; and

WHEREAS, American schools are not currently required to administer the ASVAB test to students, but military professionals here in Illinois, and across the country, are actively promoting its use by informing educators of its great benefits:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim the 2004-2005 school years as ASVAB CAREER EXPLORATION PROGRAM YEAR in Illinois, and encourage school districts in this state to consider using ASVAB as a method of measuring students' vocational and academic capabilities.

Issued by the Governor November 4, 2004.

Filed by the Secretary of State November 4, 2004.

2004-322**AMERICAN LUNG ASSOCIATION DAY**

WHEREAS, lung disease is a term that refers to a variety of disorders, including: asthma, tuberculosis, lung cancer, emphysema, chronic obstructive pulmonary disorder and chronic bronchitis. Sadly, lung disease remains a growing problem in our society, killing close to 335,000 Americans annually; and

WHEREAS, smoking, with the related lung and heart diseases that it can cause, kills in excess of 430,000 Americans each year, more than 18,400 of which are from Illinois.

Additionally, among non-smokers in the United States, secondhand smoke causes an estimated 3,000 lung cancer deaths and up to 50,000 heart disease deaths; and

WHEREAS, since 1904, the American Lung Association (ALA) has displayed an outstanding commitment to the elimination of lung diseases. Through their efforts, we are breathing cleaner air and finding new and better ways to treat respiratory illnesses; and

WHEREAS, the ALA has helped reduce infant mortality through contributions in research which have led to discoveries of surfactant and subsequent treatment for respiratory distress syndrome; and

WHEREAS, clinical understanding and treatment of asthma has been enhanced by the ALA through programs such as the family asthma education program for children and adults, summer camps for children with asthma, and support groups and rehabilitation programs for adults suffering from chronic lung disease; and

WHEREAS, this year marks the America Lung Association's 100th Anniversary, and it is important that we, as a state, join in expressing our appreciation for their century of terrific work on behalf of the all Americans:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim November 6, 2004 as AMERICAN LUNG ASSOCIATION DAY in Illinois, and join the citizens

PROCLAMATIONS

of this state in commending the work of the America Lung Association for their 100 years of dedicated service.

Issued by the Governor November 4, 2004.

Filed by the Secretary of State November 4, 2004.

2004-323**GIRLS ON THE RUN DAY**

WHEREAS, ensuring the health and well-being of young people is of critical importance, and is a top priority of my administration. With that in mind, eating right and exercising regularly are the best ways for all people to stay healthy and physically fit; and

WHEREAS, almost one in three children in this country are now overweight or at risk of becoming overweight, which is three times the 1980 statistics. In Illinois, children now exceed that national average; and

WHEREAS, Girls on the Run (GOTR) is a national organization dedicated to promoting health and wellness through a program that combines training for a 3.1 mile run/walk event, with self-esteem enhancing lessons that encourage healthy habits and an active lifestyle among 8-12 year old girls; and

WHEREAS, Girls on the Run – Chicago, one of the largest GOTR chapters in the country, has programs in Cook, Lake and DuPage counties, encompassing the city of Chicago and many of its surrounding communities. Each program site allows up to twenty girls to participate in a running inspired curriculum twice a week, over an eight-week period; and

WHEREAS, in addition to training the girls to run and encouraging an active lifestyle, Girls on the Run – Chicago uses a lesson plan designed to positively affect self esteem, body image and healthy eating attitudes and behaviors. The curriculum highlights three important areas: individual values, team building and community; and

WHEREAS, on Friday, November 19, 2004, Girls on the Run – Chicago will hold their 5th Annual Go Girl Gala. This event will serve to promote the expansion of their excellent programs, which in turn will help a greater number of young girls become more physically and mentally fit:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim November 19, 2004 as GIRLS ON THE RUN DAY in Illinois, and join in support of their contributions to the health and well being of this state.

Issued by the Governor November 5, 2004.

Filed by the Secretary of State November 5, 2004.

2004-324**SCHOOL PSYCHOLOGY AWARENESS WEEK**

WHEREAS, throughout the country, school psychologists work diligently in our schools and school district offices to improve learning and behavior strategies among students, and to enhance classroom management and parenting skills; and

PROCLAMATIONS

WHEREAS, school psychologists have specialized training in both psychology and education, and team with educators, parents and other mental health professionals to ensure that every child learns in a safe, healthy and supportive environment; and

WHEREAS, school psychologists demonstrate their ability to meet the varying needs of students through a wide-range of approaches such as consultation, assessment, intervention, prevention and education; and

WHEREAS, in addition to assisting students on a day-to-day basis, school psychologists also facilitate research to generate new knowledge about learning and behavior. Furthermore, they evaluate the effectiveness of current academic programs in order to contribute needed planning for school-wide reform and restructuring; and

WHEREAS, the Illinois School Psychologists Association, an affiliate of the National Association of School Psychologists, is a not-for-profit professional association representing school psychologists in the state of Illinois. This year, they are using the second week in November as an opportunity to honor school psychologists for their valuable service to this state:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim November 8 – November 12, 2004 as SCHOOL PSYCHOLOGY AWARENESS WEEK in Illinois, and encourage all citizens to join in recognizing school psychologists for their outstanding dedication to furthering the education and emotional well-being of our children.

Issued by the Governor November 5, 2004.

Filed by the Secretary of State November 5, 2004.

2004-325**SENIOR INDEPENDENCE DAY**

WHEREAS, our nation's Baby Boomers are beginning to approach their senior years, a trend that is set to crest after 2030 when the oldest members of that generation will turn 85; and

WHEREAS, today, seniors across the country are living longer and functioning more independently into their older years; and

WHEREAS, there are currently over 1.4 million people in Illinois over the age of 65. In addition, citizens age 85 and older are one of the fastest growing segments of our population; and

WHEREAS, seniors in Illinois have identified the high cost of prescription drugs as their major roadblock to remaining financially independent; and

WHEREAS, the State of Illinois offers seniors a variety of prescription assistance programs, including the new I-Save prescription drug importation program, which was established by my administration and recently expanded to also include citizens from Missouri and Wisconsin; and

WHEREAS, this year, the Illinois General Assembly passed Senate Bill 2880, which will transform the state's comprehensive system of older adult services from a facility-based service delivery system to a home-based and community-based system; and

WHEREAS, this restructuring includes changes in housing, health, financial, and supportive older adult services regardless of where the services are provided. It also reprioritizes funding of long-term care services, placing a high priority on home-based and

PROCLAMATIONS

community-based services. Ultimately, the signing of Senate Bill 2880 into law will give Illinois seniors the real option of remaining independent in their own homes by providing the funding and services they need and demand; and

WHEREAS, on Tuesday, November 16, 2004, the American Association of Retired Persons (AARP) is hosting a thousand seniors at their Celebrate Senior Independence Day 2004 event in recognition of the passage and enactment of this historic legislation; and

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, proclaim November 16, 2004 as SENIOR INDEPENDENCE DAY 2004 in Illinois, and encourage all citizens to join in recognizing the dedicated efforts that the AARP puts forth each day to ensure the health and well-being of seniors in Illinois, and across the country.

Issued by the Governor November 8, 2004.

Filed by the Secretary of State November 8, 2004.

ILLINOIS ADMINISTRATIVE CODE

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