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RULES
OF GOVERNMENTAL
AGENCIES



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INTRODUCTION

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

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

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

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

2008 REGISTER SCHEDULE VOLUME #32

| <u>Issue #</u> | <u>Rules Due Date</u> | <u>Date of Issue</u> |
|----------------|-----------------------|----------------------|
| 1 | December 21, 2007* | January 4, 2008 |
| 2 | December 31, 2007 | January 11, 2008 |
| 3 | January 7, 2008 | January 18, 2008 |
| 4 | January 14, 2008 | January 25, 2008 |
| 5 | January 22, 2008 | February 1, 2008 |
| 6 | January 28, 2008 | February 8, 2008 |
| 7 | February 4, 2008 | February 15, 2008 |
| 8 | February 11, 2008 | February 22, 2008 |
| 9 | February 19, 2008 | February 29, 2008 |
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| 24 | June 2, 2008 | June 13, 2008 |
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| 51 | December 8, 2008 | December 19, 2008 |
| 52 | December 15, 2008 | December 26, 2008 |
| 53 | December 22, 2008 | January 2, 2009 |

Editor's Note: The second filing period for submitting Regulatory Agendas will start October 14, 2008 with the last day to file being January 2, 2009.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Eligibility
- 2) Code Citation: 89 Ill. Adm. Code 682
- 3)

| | |
|-------------------------|-------------------------|
| <u>Section Numbers:</u> | <u>Proposed Action:</u> |
| 682.200 | Amendment |
| 682.500 | 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 revises the asset limitation amounts for the Home Services Program (HSP) customer. The asset limit for Home Services has not changed since the inception of the Program in 1979. By raising the asset limit, more individuals with disabilities may become eligible for the program and live independently in their community. Additionally, raising the limit to \$17,500 aligns the HSP with the asset limit of its sister program, the Department on Aging's Community Care Program.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days of the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected:
None
- B) Reporting, bookkeeping or other procedures required for compliance: Computer programming changes will be required to the Virtual Case Manager (VCM) system.
- C) Types of professional skills necessary for compliance: HSP Counselors require a master's degree, and contractual case management staff require and LPN license.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

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; emergency expired April 6, 2005; amended at 31 Ill. Reg. 428, effective December 29, 2006; amended at 33 Ill. Reg. _____, effective _____.

SUBPART C: FINANCIAL ELIGIBILITY CRITERIA

Section 682.200 Assets Limitation

- a) Adult customers, age 18 years or above, may have no more than ~~\$17,500~~10,000 in customer-only non-exempt assets, ~~and no more than \$35,000 in combined customer and spouse non-exempt assets~~ in order to receive services through HSP.
- b) Minor customers, those under 18 years, may have no more than ~~\$35,000~~30,000 in total family non-exempt assets. In order to determine total family assets, the customer and all other individuals ~~who contribute to~~ in the family unit (89 Ill. Adm. Code 676.30(h)), or who rely on the family unit for support (89 Ill. Adm. Code 50.210), shall be counted.
- e) ~~A married customer, whose spouse does not receive HSP services and is not institutionalized, shall not own interest in non-exempt assets having a total value in excess of \$10,000. Non-exempt assets having a value over this figure and up to the amount allowed by the Community Spouse Asset Allowance, as adopted by the Illinois Department of Public Aid at 89 Ill. Adm. Code 120.379(d), must be~~

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

~~transferred to, or for the sole benefit of, the community spouse. If the customer's assets exceed the asset disregard and prevention of spousal impoverishment amount, but the excess is less than \$10,000, the customer is eligible for HSP services. If the excess is greater than \$10,000, the individual is ineligible for services. Customers who may be qualified for the spousal impoverishment exception may receive Interim Services while the Department of Public Aid determines the eligibility factor.~~

(Source: Amended at 33 Ill. Reg. _____, effective _____)

SUBPART F: GRANDFATHERING PROVISIONS

Section 682.500 Exceptions to Eligibility Standards

A customer who was receiving planned services through HSP prior to July 17, 1983, and has remained in a continuous active status since that time, and meets the current minimum DON point requirements, may:

- a) have a planned service cost above the SCM established for that customer's DON score as established July 17, 1983; and
- b) have more than \$~~17,500~~10,000 in non-exempt, customer-only assets.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Standards and Limitations for Organic Material Emissions for Area Sources
- 2) Code Citation: 35 Ill. Adm Code 223
- 3)

| <u>Section Numbers:</u> | <u>Proposed Action:</u> |
|-------------------------|-------------------------|
| 223.100 | New |
| 223.105 | New |
| 223.120 | New |
| 223.200 | New |
| 223.201 | New |
| 223-203 | New |
| 223.205 | New |
| 223.206 | New |
| 223.207 | New |
| 223.208 | New |
| 223.209 | New |
| 223.210 | New |
| 223.220 | New |
| 223.230 | New |
| 223.240 | New |
| 223.245 | New |
| 223.250 | New |
| 223.255 | New |
| 223.260 | New |
| 223.265 | New |
| 223.270 | New |
| 223.275 | New |
| 223.280 | New |
| 223.285 | New |
| 223.300 | New |
| 223.305 | New |
| 223.307 | New |
| 223.310 | New |
| 223.320 | New |
| 223.330 | New |
| 223.340 | New |
| 223.350 | New |
| 223.360 | New |

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

223.370

New

- 4) Statutory Authority: Sections 27 and 28 of the Illinois Environmental Protection Act. [415 ILCS 5/27 and 28]
- 5) A Complete Description of the Subjects and Issues Involved: These regulations are proposed in order to attain the new USEPA ozone NAAQS by 2010 and to protect the health of Illinois citizens. The regulations seek to reduce volatile organic material emissions ("VOM") from various consumer products, architectural and industrial maintenance products. If adopted, the rule will take effect on January 1, 2009. These products represent significant, yet widely diffuse, sources of VOM and are comprised of the various forms of consumer products used by individual households and small businesses. Together, these items emit about 10% of the total anthropogenic VOM emissions from sources in Illinois.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: The regulatory proposal included the Illinois EPA's Technical Support Document that relied on several published studies and reports. Copies of the documents the Illinois EPA relied upon are available for review with the Pollution Control Board.
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b) (2002)].
- 12) 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 45 days after the date of publication in the *Illinois Register*. Comments should reference Docket R09-08 and be addressed to:

John Therriault, Chief Clerk
Clerk's Office

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, IL 60601

Interested persons may request copies of the Board's opinion and order by calling the Clerk's office at 312-814-3620, or download from the Board's Web site at www.ipcb.state.il.us.

For more information contact Tim Fox at 312/814-6085 or email at foxt@ipcb.state.il.us.

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: This proposed rulemaking will have a modest impact on small businesses throughout the State.
- B) Reporting, Bookkeeping or other procedures required for compliance: No new forms of recordkeeping are projected to be needed. Although a new topic for some companies, most calculations will be familiar. Standard bookkeeping and recordkeeping skills will suffice. Many larger companies are already performing the reporting, bookkeeping and compliance duties in other states.
- C) Types of professional skills necessary for compliance: Traditional accounting skills and recordkeeping skills will suffice. No new professional skills will be necessary.

14) Regulatory Agenda on which this rulemaking was summarized: July 2007

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE B: AIR POLLUTION

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS
FOR STATIONARY SOURCES

PART 223

STANDARDS AND LIMITATIONS FOR ORGANIC
MATERIAL EMISSIONS FOR AREA SOURCES

SUBPART A: GENERAL PROVISIONS

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|---------|-----------------------------|
| 223.100 | Severability |
| 223.105 | Abbreviations and Acronyms |
| 223.120 | Incorporations by Reference |

SUBPART B: CONSUMER AND COMMERCIAL PRODUCTS

Section

| | |
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| 223.200 | Purpose |
| 223.201 | Applicability |
| 223.203 | Definitions for Subpart B |
| 223.205 | Standards |
| 223.206 | Diluted Products |
| 223.207 | Products Registered under FIFRA |
| 223.208 | Requirements for Aerosol Adhesives |
| 223.209 | Requirements for Floor Wax Strippers |
| 223.210 | Products Containing Ozone-Depleting Compounds |
| 223.220 | Requirements for Charcoal Lighter Material |
| 223.230 | Exemptions |
| 223.240 | Innovative Product Exemption |
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| 223.250 | Product Dating |
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| 223.260 | Most Restrictive Limit |
| 223.265 | Additional Labeling Requirements for Aerosol Adhesives, Adhesive Removers, Electronic Cleaners, Electrical Cleaners, Energized Electrical Cleaners, and Contact Adhesives |
| 223.270 | Reporting Requirements |

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 223.275 Special Recordkeeping Requirements for Consumer Products that Contain
Perchloroethylene or Methylene Chloride
- 223.280 Calculating Illinois Sales
- 223.285 Test Methods

SUBPART C: ARCHITECTURAL AND INDUSTRIAL MAINTENANCE COATINGS

Section

- 223.300 Purpose
- 223.305 Applicability
- 223.307 Definitions for Subpart C
- 223.310 Standards
- 223.320 Container Labeling Requirements
- 223.330 Reporting Requirements
- 223.340 Compliance Provisions and Test Methods
- 223.350 Alternative Test Methods
- 223.360 Methacrylate Traffic Coating Markings
- 223.370 Test Methods

AUTHORITY: Implementing Section 10 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/10, 27 and 28].

SOURCE: Adopted in R08-17 at 33 Ill. Reg. ____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 223.100 Severability

If any Section, subsection, or clause of this Part is found invalid, such finding shall not affect the validity of this Part as a whole or any Section, subsection, or clause not found invalid.

Section 223.105 Abbreviations and Acronyms

Unless otherwise specified within this Part, the abbreviations used in this Part shall be the same as those found in 35 Ill. Adm. Code 211. The following abbreviations and acronyms are used in this Part:

| | |
|-----|---|
| ACP | Alternative Control Plan |
| Act | Environmental Protection Act [415 ILCS 5] |

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

| | |
|------------------|--|
| Agency | Illinois Environmental Protection Agency |
| ASTM | American Society for Testing and Materials |
| BAAQMD | Bay Area Air Quality Management District |
| CARB | California Air Resources Board |
| °C | Degrees Celsius |
| CFCs | Chlorofluorocarbons |
| CO ₂ | Carbon Dioxide |
| °F | Degrees Fahrenheit |
| FDA | United States Food and Drug Administration |
| FIFRA | Federal Insecticide, Fungicide, and Rodenticide Act (7 USC 136 through 136y) |
| FRP | Fiberglass reinforced plastic |
| HVOM | High Volatility Organic Material |
| HCFCs | Hydrochlorofluorocarbons |
| HFCs | Hydrofluorocarbons |
| LVP-VOM | Low Vapor Pressure-Volatile Organic Material |
| MVOM | Medium Volatility Organic Material |
| N ₂ | Nitrogen |
| N ₂ O | Nitrous Oxide |
| OER | Original Equipment Manufacturer |
| PCBTF | Parachlorobenzotrifluoride |
| ROC | Reactive Organic Compound |
| ROG | Reactive Organic Gas |
| SCAQMD | South Coast Air Quality Management District |
| USEPA | United States Environmental Protection Agency |
| VOM | Volatile Organic Material |

Section 223.120 Incorporations by Reference

The following materials are incorporated by reference. These incorporations do not include any later amendments or editions.

- a) 40 CFR 59, subpart D, appendix A, Determination of Volatile Matter Content of Methacrylate Multicomponent Coatings Used as Traffic Marking Coatings, 64 Fed. Reg. 35002 (June 30, 1999).
- b) 40 CFR 59, subpart C, National Volatile Organic Compound Emission Standards for Consumer Products, 69 Fed. Reg. 18803 (April 4, 2004).

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- c) 40 CFR 60, appendix A, Method 24, Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings, 36 Fed. Reg. 24877 (December 23, 1971).
- d) 40 CFR 82, subpart A, appendix A, Class I Controlled Substances, 68 Fed. Reg. 42892 (July 18, 2003) and appendix B, Class II Controlled Substances, 68 Fed. Reg. 2859 (January 21, 2003).
- e) 29 CFR 1910.1200(d)(4), Hazard Communication, 61 Fed. Reg. 9245 (March 7, 1996).
- f) ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken PA 19428-2959.
 - 1) ASTM E119-05a, Standard Test Methods for Fire Tests of Building Construction and Materials, approved November 1, 2005.
 - 2) ASTM D523-89 (1999), Standard Test Method for Specular Gloss, approved May 10, 1999.
 - 3) ASTM D1640-03, Standard Test Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature, approved December 1, 2003.
 - 4) ASTM D3912-95 (2001), Test Method for Chemical Resistance of Coating Used in Light-Water Nuclear Power Plants, reapproved 2001.
 - 5) ASTM D4082-02, Test Method for Effects of Radiation on Coatings Used in Light-Water Nuclear Power Plants, approved 2002.
 - 6) ASTM D4214-98, Standard Test Methods for Evaluating the Degree of Chalking of Exterior Paint Films, approved August 10, 1998.
 - 7) ASTM D1613-03, Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer, and Related Products, approved October 1, 2003.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 8) ASTM E84-07, Standard Test Method for Surface Burning Characteristics of Building Materials, approved 2007.
 - 9) ASTM D4359-90 (2006), Standard Test Method for Determining Whether a Material is a Liquid or a Solid, reapproved 2006.
 - 10) ASTM E260-96 (2006), Standard Practice for Packed Column Gas Chromatography, reapproved 2006.
 - 11) ASTM E2167-01, Standard Guide for Selection and Use of Stone Consolidants (see section 4, Stone Consolidant), approved 2001.
 - 12) ASTM C836-06, Specification for High Solids Content, Cold Liquid-Applied Elastomeric Waterproofing Membrane for Use with Separate Wearing Course, approved 2006.
 - 13) ASTM D86-07b, Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure, approved 2007.
- g) South Coast Air Quality Management District, 21865 Copley Dr., Diamond Bar CA 91765.
- 1) South Coast Air Quality Management District (SCAQMD) Method 304-91, Determination of Volatile Organic Compounds in Various Materials, revised February 1996.
 - 2) SCAQMD Method 303-91, Determination of Exempt Compounds, revised February 1993.
 - 3) SCAQMD Method 318-95, Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction, approved July 1996.
- h) Bay Area Air Quality Management District Office, 939 Ellis Street, San Francisco CA 94109.
- 1) Bay Area Air Quality Management District (BAAQMD) Method 43, Determination of Volatile Methylsiloxanes in Solvent-Based Coatings, Inks, and Related Materials, proposed amendment February 4, 2004.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 2) BAAQMD Method 41, Determination of Volatile Organic Compounds in Solvent-Based Coatings and Related Materials Containing Parachlorobenzotrifluoride, proposed amendment February 4, 2004.
- i) California Air Resources Board (CARB) Method 310, Determination of Volatile Organic Compounds in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products, amended May 5, 2005. California Air Resources Board, 1001 I Street, PO Box 2815, Sacramento CA 95812.
- j) SCAQMD Rule 1174, Ignition Method Compliance Certification Protocol (adopted October 5, 1990).
- k) California Code of Regulations (CCR), title 17 § 94509(h), Standards for Consumer Products (2005).
- l) California Code, Health and Safety Code, § 41712(h)(2) (2005).
- m) 17 CCR Article 4, Alternate Control Plan §§ 94540-94555 (1996).
- n) 17 CCR § 94511, Innovative Products (1997).
- o) 17 CCR § 94503.5, Innovative Products (1996).
- p) 7 USC 136 to 136y, FIFRA, Environmental Pesticide Control, published January 19, 2004, in Supplement III of the 2000 Edition of the United States Code.
- q) Federal Specification MMM-A-181D, Adhesives, Phenol, Resorcinol, or Melamine Base (1980).

SUBPART B: CONSUMER AND COMMERCIAL PRODUCTS

Section 223.200 Purpose

The purpose of this Subpart is to limit emissions of volatile organic materials (VOMs) by requiring reductions in the VOM content of consumer and commercial products.

Section 223.201 Applicability

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

Except as provided in Section 223.230, this Subpart shall apply to any person who sells, supplies, offers for sale, or manufactures consumer products on or after January 1, 2009, for use in Illinois.

Section 223.203 Definitions for Subpart B

The definitions contained in this Section apply only to the provisions of this Subpart. Unless otherwise defined in this Section, the definitions of terms used in this Subpart shall have the meanings specified for those terms in 35 Ill. Adm. Code 211.

"Adhesive" means, for purposes of this Subpart, any product that is used to bond one surface to another by attachment. This does not include products used on humans and animals, adhesive tape, contact paper, wallpaper, shelf liners, or any other product with an adhesive incorporated onto or in an inert substrate. For "Contact Adhesive", adhesive does not include units of product, less packaging, that consist of more than one gallon. For "Construction, Panel, and Floor Covering Adhesive", and "General Purpose Adhesive", "Adhesive" does not include units of product, less packaging, that weigh more than one pound and consist of more than 16 fluid ounces. This limitation does not apply to aerosol adhesives.

"Adhesive Remover" means a product designed to remove adhesive from either a specific substrate or a variety of substrates. "Adhesive Remover" does not include products that remove adhesives intended exclusively for use on humans or animals.

For the purpose of this definition and the "Adhesive Remover" subcategories listed in this definition, the term "Adhesive" shall mean a substance used to bond one or more materials. Adhesive includes, but is not limited to, caulks, sealants, glues, or similar substances used for the purpose of forming a bond.

"Floor and Wall Covering Adhesive Remover" means a product designed or labeled to remove floor or wall coverings and associated adhesive from the underlying substrate.

"Gasket or Thread Locking Adhesive Remover" means a product designed or labeled to remove gaskets or thread locking adhesives. Products labeled for dual use as a paint stripper and gasket remover and/or thread

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locking adhesive remover are considered "Gasket or Thread Locking Adhesive Remover".

"General Purpose Adhesive Remover" means a product designed or labeled to remove cyanoacrylate adhesives as well as non-reactive adhesives or residue from a variety of substrates. "General Purpose Adhesive Remover" includes, but is not limited to, the following: products that remove thermoplastic adhesives, pressure sensitive adhesives, dextrine or starchbased adhesives, casein glues, rubber or latex-based adhesives, and products that remove stickers, decals, stencils, or similar materials. "General Purpose Adhesive Remover" does not include "Floor or Wall Covering Adhesive Remover".

"Specialty Adhesive Remover" means a product designed to remove reactive adhesives from a variety of substrates. Reactive adhesives include adhesives that require a hardener or catalyst in order for the bond to occur. Examples of reactive adhesives include, but are not limited to epoxies, urethanes, and silicones. "Specialty Adhesive Remover" does not include "Gasket or Thread Locking Adhesive Remover."

"Aerosol Adhesive" means an aerosol product in which the spray mechanism is permanently housed in a nonrefillable can designed for hand-held application without the need for ancillary hoses or spray equipment. This does not include "special purpose spray adhesives", "mist spray adhesives" and "web spray adhesives".

"Aerosol Cooking Spray" means any aerosol product designed either to reduce sticking on cooking and baking surfaces or to be applied on food, or both.

"Aerosol Product" means a pressurized spray system that dispenses product ingredients by means of a propellant contained in a product or a product's container, or by means of a mechanically induced force. "Aerosol Product" does not include "Pump Spray".

"Agricultural Use" means the use of any pesticide or method or device for the control of pests in connection with the commercial production, storage, or processing of any animal or plant crop. This does not include the sale or use of pesticides in properly labeled packages or containers that are intended for home

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use, use in structural pest control, or industrial or institutional use. For the purposes of this definition only:

"Home Use" means use in a household or its immediate environment;

"Structural Pest Control" means a use requiring a license under the Structural Pest Control Act [225 ILCS 235];

"Industrial Use" means use for or in a manufacturing, mining, or chemical process or use in the operation of factories, processing plants, and similar sites;

"Institutional Use" means use within the lines of, or on property necessary for the operation of, buildings such as hospitals, schools, libraries, auditoriums, and office complexes.

"Air Freshener" means any consumer product including, but not limited to, sprays, wicks, powders, and crystals, designed for the purpose of masking odors, or freshening, cleaning, scenting, or deodorizing the air. "Air Freshener" does not include products that are used on the human body, products that function primarily as cleaning products as indicated on a product label, "Toilet/Urinal Care Products", disinfectant products claiming to deodorize by killing germs on surfaces, or institutional and industrial disinfectants when offered for sale solely through institutional and industrial channels of distribution. "Air Freshener" does include spray disinfectants and other products that are expressly represented for use as air fresheners, except institutional and industrial disinfectants when offered for sale through institutional and industrial channels of distribution. To determine whether a product is an air freshener, all verbal and visual representations regarding product use on the label or packaging and in the product's literature and advertising may be considered. The presence of, and representations about, a product's fragrance and ability to deodorize (resulting from surface application) shall not constitute a claim of air freshening.

"All Other Carbon-Containing Compounds" means all other compounds that contain at least one carbon atom and are not listed under Section 223.205(a) or are a "LVP-VOM".

"All Other Forms" means all consumer product forms for which no form-specific VOM standard is specified. Unless specified otherwise by the applicable VOM

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standard, "All Other Forms" include, but is not limited to, solids, liquids, wicks, powders, crystals, and cloth or paper wipes (towelettes).

"Alternative Control Plan" or "ACP" means any emissions averaging program approved by the Agency pursuant to the provisions of this Subpart.

"Antimicrobial Hand or Body Cleaner or Soap" means a cleaner or soap that is designed to reduce the level of microorganisms on the skin through germicidal activity. This includes, but is not limited to, antimicrobial hand or body washes/cleaners, foodhandler hand washes, healthcare personnel hand washes, pre-operative skin preparations and surgical scrubs. "Antimicrobial Hand or Body Cleaner or Soap" does not include prescription drug products, antiperspirants, "Astringent/Toner", deodorant, "Facial Cleaner or Soap", "General-use Hand or Body Cleaner or Soap", "Hand Dishwashing Detergent" (including antimicrobial), "Heavy-duty Hand Cleaner or Soap", "Medicated Astringent/Medicated Toner", or "Rubbing Alcohol".

"Antiperspirant" means any product, including, but not limited to, aerosols, roll-ons, sticks, pumps, pads, creams, and squeeze-bottles, that is intended by the manufacturer to be used to reduce perspiration in the human axilla by at least 20 percent in at least 50 percent of a target population.

"Anti-Static Product" means a product that is labeled to eliminate, prevent, or inhibit the accumulation of static electricity. "Anti-Static Product" does not include "Electronic Cleaner", "Floor Polish or Wax", "Floor Coating", and products that meet the definition of "Aerosol Coating Product" or "Architectural Coating".

"Appurtenance" means any accessory to a stationary structure coated at the site of installation, whether installed or detached, including, but not limited to, bathroom and kitchen fixtures, cabinets, concrete forms, doors, elevators, fences, hand railings, heating equipment, air conditioning equipment, and other fixed mechanical equipment or stationary tools, lampposts, partitions, pipes and piping systems, rain gutters and downspouts, stairways, fixed ladders, catwalks and fire escapes, and window screens.

"Architectural Coating" means, for purposes of this Subpart, a coating to be applied to stationary structures or the appurtenances at the site of installation, to portable buildings at the site of installation, to pavements, or to curbs. Coatings

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applied in shop applications or to non-stationary structures such as airplanes, ships, boats, railcars, and automobiles, and adhesives are not considered "Architectural Coatings" for the purposes of this Subpart.

"Astringent/Toner" means any product not regulated as a drug by the United States Food and Drug Administration (FDA) that is applied to the skin for the purpose of cleaning or tightening pores. This category also includes clarifiers and substrate-impregnated products. This category does not include any hand, face, or body cleaner or soap product, "Medicated Astringent/Medicated Toner", cold cream, lotion, or antiperspirant.

"Automotive Brake Cleaner" means a cleaning product designed to remove oil, grease, brake fluid, brake pad material or dirt from motor vehicle brake mechanisms.

"Automotive Hard Paste Wax" means an automotive wax or polish that is designed to protect and improve the appearance of automotive paint surfaces, and is a solid at room temperature, and contains 0% water by formulation.

"Automotive Instant Detailer" means a product designed for use in a pump spray that is applied to the painted surface of automobiles and wiped off prior to the product being allowed to dry.

"Automotive Rubbing or Polishing Compound" means a product designed primarily to remove oxidation, old paint, scratches or swirl marks, and other defects from the painted surfaces of motor vehicles without leaving a protective barrier.

"Automotive Wax, Polish, Sealant, or Glaze" means a product designed to seal out moisture, increase gloss, or otherwise enhance a motor vehicle's painted surfaces. This includes, but is not limited to, products designed for use in autobody repair shops and drive-through car washes, as well as products designed for the general public. The term does not include "Automotive Rubbing or Polishing Compounds", automotive wash and wax products, surfactant-containing car wash products, and products designed for use on unpainted surfaces such as bare metal, chrome, glass, or plastic.

"Automotive Windshield Washer Fluid" means any liquid designed for use in a motor vehicle windshield washer system either as an antifreeze or for the purpose

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of cleaning, washing, or wetting the windshield. This does not include fluids placed by the manufacturer in a new vehicle.

"Bathroom and Tile Cleaner" means a product designed to clean tile or surfaces in bathrooms. The term does not include products designed primarily to clean toilet bowls, toilet tanks or urinals.

"Bug and Tar Remover" means a product labeled to remove either or both of the following from painted motor vehicle surfaces without causing damage to the finish: biological-type residues such as insect carcasses, tree sap and road grime such as road tar, roadway paint markings, and asphalt.

"Carburetor or Fuel-Injection Air Intake Cleaners" means a product designed to remove fuel deposits, dirt, or other contaminants from a carburetor, choke, throttle body of a fuel-injection system, or associated linkages, excluding products designed exclusively to be introduced directly into the fuel lines or fuel storage tank prior to introduction into the carburetor or fuel injectors.

"Carpet and Upholstery Cleaner" means a cleaning product designed for the purpose of eliminating dirt and stains on rugs, carpeting, and the interior of motor vehicles and/or on household furniture or objects upholstered or covered with fabrics such as wool, cotton, nylon or other synthetic fabrics. This includes, but is not limited to, products that make fabric protectant claims. The term does not include "General Purpose Cleaners", "Spot Removers", vinyl or leather cleaners, dry cleaning fluids, or products designed exclusively for use at industrial facilities engaged in furniture or carpet manufacturing.

"Charcoal Lighter Material" means any combustible material designed to be applied on, incorporated in, added to, or used with charcoal to enhance ignition. The term does not include any of the following: electrical starters and probes, metallic cylinders using paper tinder, natural gas, propane, and fat wood.

"Colorant" means, for purposes of this Subpart, any pigment or coloring material used in a consumer product for an aesthetic effect or to dramatize an ingredient.

"Construction, Panel, and Floor Covering Adhesive" means any one-component adhesive that is designed exclusively for the installation, remodeling, maintenance, or repair of structural and building components that include, but are not limited to, beams, trusses, studs, paneling (including, but not limited to,

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drywall or drywall laminates, fiberglass reinforced plastic (FRP), plywood, particle board, insulation board, pre-decorated hardboard or tileboard), ceiling and acoustical tile, molding, fixtures, countertops or countertop laminates, cove or wall bases, flooring or subflooring, or floor or wall coverings (including, but not limited to, wood or simulated wood covering, carpet, carpet pad or cushion, vinyl-backed carpet, flexible flooring material, nonresilient flooring material, mirror tiles and other types of tiles, and artificial grass). The term does not include "Floor Seam Sealer".

"Consumer" means any person who purchases or acquires any consumer product for personal, family, household, or institutional use. Persons acquiring a consumer product for resale are not "consumers" for that product.

"Consumer Product" means a chemically formulated product used by household and institutional consumers including, but not limited to, detergents, cleaning compounds, polishes, floor finishes, cosmetics, personal care products, home lawn and garden products, disinfectants, sanitizers, aerosol paints, and automotive specialty products. "Consumer Product" does not include other paint products, furniture coatings, or architectural coatings. As used in this Subpart, "Consumer Product" shall also refer to "Aerosol Adhesive", including an "Aerosol Adhesive" used for consumer, industrial or commercial uses.

"Contact Adhesive" means an adhesive that is designed for application to both surfaces to be bonded together, and is allowed to dry before the two surfaces are placed in contact with each other, and forms an immediate bond that is impossible, or difficult, to reposition after both adhesive-coated surfaces are placed in contact with each other, and does not need sustained pressure or clamping of surfaces after the adhesive-coated surfaces have been brought together using sufficient momentary pressure to establish full contact between both surfaces. The term does not include rubber cements that are primarily intended for use on paper substrates. "Contact Adhesive" also does not include vulcanizing fluids that are designed and labeled for tire repair only.

"Contact Adhesive – General Purpose" means any contact adhesive that is not a "Contact Adhesive – Special Purpose".

"Contact Adhesive – Special Purpose" means a contact adhesive that is used to bond melamine-covered board, unprimed metal, unsupported vinyl, Teflon, ultra-high molecular weight polyethylene, rubber, or high pressure laminate or wood

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vener 1/16 inch or less in thickness to any porous or nonporous surface, and is sold in units of product, less packaging, that contain more than eight fluid ounces, or is used in automotive applications that are either automotive under the hood applications requiring heat, oil or gasoline resistance or body-side molding, automotive weatherstrip or decorative trim.

"Container/Packaging" means the part or parts of the consumer or institutional product that serve only to contain, enclose, incorporate, deliver, dispense, wrap or store the chemically formulated substance or mixture of substances that is solely responsible for accomplishing the purposes for which the product was designed or intended. This includes any article onto or into which the principal display panel and other accompanying literature or graphics are incorporated, etched, printed or attached.

"Crawling Bug Insecticide" means any insecticide product that is designed for use against ants, cockroaches, or other household crawling arthropods, including, but not limited to, mites, silverfish or spiders, excluding products designed to be used exclusively on humans or animals, or any house dust mite product. For the purposes of this definition only:

"House dust mite product" means a product whose label, packaging, or accompanying literature states that the product is suitable for use against house dust mites, but does not indicate that the product is suitable for use against ants, cockroaches, or other household crawling arthropods.

"House dust mite" means mites that feed primarily on skin cells shed in the home by humans and pets and that belong to the phylum Arthropoda, the subphylum Chelicerata, the class Arachnida, the subclass Acari, the order Astigmata, and the family Pyroglyphidae.

"Date-Code" means the day, month and year on which the consumer product was manufactured, filled, or packaged, or a code indicating that date.

"Deodorant" means:

For products manufactured before January 1, 2009: any product including, but not limited to, aerosols, roll-ons, sticks, pumps, pads, creams, and squeeze-bottles that is intended by the manufacturer to be used to

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minimize odor in the human axilla by retarding the growth of bacteria that cause the decomposition of perspiration.

For products manufactured on or after January 1, 2009: any product including, but not limited to, aerosols, roll-ons, sticks, pumps, pads, creams, and squeeze-bottles that indicates or depicts on the container or packaging, or on any sticker or label affixed to the container or packaging, that the product can be used on or applied to the human axilla to provide a scent and/or minimize odor. A "Deodorant Body Spray" product that indicates or depicts on the container or packaging, or on any sticker or label affixed to the container or packaging, that it can be used on or applied to the human axilla is a "Deodorant"

"Deodorant Body Spray" means:

For products manufactured before January 1, 2009, a "Personal Fragrance Product" with 20 percent or less fragrance.

For products manufactured on or after January 1, 2009, a "Personal Fragrance Product" with 20 percent or less fragrance, that is designed for application all over the human body to provide a scent. A "Deodorant Body Spray" product that indicates or depicts on the container or packaging, or on any sticker or label affixed to the container or packaging, that it can be used on or applied to the human axilla, is a "Deodorant".

"Device" means any instrument or contrivance (other than a firearm) designed for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacterium, virus, or another microorganism on or in living man or other living animals), but not including equipment used for the application of pesticides when sold separately from the device.

"Disinfectant" means any product intended to destroy or irreversibly inactivate infectious or other undesirable bacteria, pathogenic fungi, or viruses on surfaces or inanimate objects and whose label is registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 USC 136 et seq.). "Disinfectant" does not include any of the following products designed solely for use on humans or animals, products designed for agricultural use, products designed solely for use in swimming pools, therapeutic tubs, or hot tubs, products that, as indicated on the

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principal display panel or label, are designed primarily for use as bathroom and tile cleaners, glass cleaners, general purpose cleaners, toilet bowl cleaners, or metal polishes.

"Double Phase Aerosol Air Freshener" means an aerosol air freshener with the liquid contents in two or more distinct phases that require the product container to be shaken before use to mix the phases, producing an emulsion.

"Dry Cleaning Fluid" means any non-aqueous liquid product designed and labeled exclusively for use on fabrics that are labeled "dry clean only", such as clothing or drapery or "S-coded" fabrics. This includes, but is not limited to, those products used by commercial dry cleaners and commercial businesses that clean fabrics such as draperies at the customer's residence or work place. The term does not include "Spot Remover" or "Carpet and Upholstery Cleaner". For the purposes of this definition, "S-coded fabric" means an upholstery fabric designed to be cleaned only with water-free spot cleaning products as specified by the Joint Industry Fabric Standards Committee.

"Dusting Aid" means a product designed to assist in removing dust and other soils from floors and other surfaces without leaving a wax or silicone based coating. The term does not include "Pressurized Gas Duster".

"Electrical Cleaner" means a product labeled to remove heavy soils such as grease, grime, or oil from electrical equipment, including, but not limited to, electric motors, armatures, relays, electric panels, or generators. The term does not include "General Purpose Cleaner", "General Purpose Degreaser", "Dusting Aid", "Electronic Cleaner", "Energized Electrical Cleaner", "Pressurized Gas Duster", "Engine Degreaser", "Anti-Static Product", or products designed to clean the casings or housings of electrical equipment.

"Electronic Cleaner" means a product labeled for the removal of dirt, moisture, dust, flux or oxides from the internal components of electronic or precision equipment such as circuit boards, and the internal components of electronic devices, including, but not limited to, radios, compact disc (CD) players, digital video disc (DVD) players, and computers. "Electronic Cleaner" does not include "General Purpose Cleaner", "General Purpose Degreaser", "Dusting Aid", "Pressurized Gas Duster", "Engine Degreaser", "Electrical Cleaner", "Energized Electrical Cleaner", "Anti-Static Product", or products designed to clean the casings or housings of electronic equipment.

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"Energized Electrical Cleaner" means a product that meets both of the following criteria:

The product is labeled to clean and/or degrease electrical equipment, where cleaning and/or degreasing is accomplished when electrical current exists, or when there is a residual electrical potential from a component, such as a capacitor.

The product label clearly displays the statements: "Energized equipment use only. Not to be used for motorized vehicle maintenance, or their parts."

This does not include "Electronic Cleaner".

"Engine Degreaser" means a cleaning product designed to remove grease, grime, oil and other contaminants from the external surfaces of engines and other mechanical parts.

"Existing Product" means any formulation of the same product category and form sold, supplied, manufactured, or offered for sale in Illinois prior to January 1, 2009 or any subsequently introduced identical formulation.

"Fabric Protectant" means a product designed to be applied to fabric substrates to protect the surface from soiling from dirt and other impurities or to reduce absorption of liquid into the fabric's fibers. The term does not include waterproofer, products designed for use solely on leather, or products designed for use solely on fabrics labeled "dry clean only" and sold in containers of 10 fluid ounces or less.

"Fabric Refresher" means a product labeled to neutralize or eliminate odors on non-laundered fabric including, but not limited to, soft household surfaces, rugs, carpeting, draperies, bedding, automotive interiors, footwear, athletic equipment, or clothing or on household furniture or objects upholstered or covered with fabrics such as, but not limited to, wool, cotton, or nylon. "Fabric Refresher" does not include "Anti-static Product", "Carpet and Upholstery Cleaner", "Soft Household Surface Sanitizers", "Footwear or Leather Care Product", "Spot Remover", or "Disinfectant", or products labeled for application to both fabric and human skin.

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For the purposes of this definition only, "Soft Household Surface Sanitizer" means a product labeled to neutralize or eliminate odors on the listed surfaces whose label is registered as a sanitizer under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 USC 136 et seq.).

"Facial Cleaner or Soap" means a cleaner or soap designed primarily to clean the face including, but not limited to, facial cleansing creams, semisolids, liquids, lotions, and substrate-impregnated forms. The term does not include prescription drug products, "Antimicrobial Hand or Body Cleaner or Soap", "Astringent/Toner", "General-use Hand or Body Cleaner or Soap", "Medicated Astringent/Medicated Toner", or "Rubbing Alcohol".

"Fat Wood" means pieces of wood kindling with high naturally-occurring levels of sap or resin that enhance ignition of the kindling, excluding any kindling with substances added to enhance flammability, such as wax-covered or wax-impregnated wood-based products.

"Faux Finishing Coating" means a coating labeled and formulated as a stain or a glaze to create artistic effects including, but not limited to, dirt, old age, smoke damage, and simulated marble and wood grain.

"Flea and Tick Insecticide" means any insecticide product that is designed for use against fleas, ticks, their larvae, or their eggs. The term does not include products that are designed to be used exclusively on humans or animals and their bedding.

"Flexible Flooring Material" means asphalt, cork, linoleum, no-wax, rubber, seamless vinyl and vinyl composite flooring.

"Floor Coating" means an opaque coating that is labeled and formulated for application to flooring, including, but not limited to, decks, porches, steps, and other horizontal surfaces that may be subjected to foot traffic.

"Floor Polish or Wax" means a wax, polish, or any other product designed to polish, protect, or enhance floor surfaces by leaving a protective coating that is designed to be periodically replenished. The term does not include "Spray Buff Products", products designed solely for the purpose of cleaning floors, floor finish strippers, products designed for unfinished wood floors, and coatings subject to architectural coatings regulations.

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"Floor Seam Sealer" means any product designed and labeled exclusively for bonding, fusing, or sealing (coating) seams between adjoining rolls of installed flexible sheet flooring.

"Floor Wax Stripper" means a product designed to remove natural or synthetic floor polishes or waxes through breakdown of the polish or wax polymers, or by dissolving or emulsifying the polish or wax. This does not include aerosol floor wax strippers or products designed to remove floor wax solely through abrasion.

"Flying Bug Insecticide" means any insecticide product that is designed for use against flying insects or other flying arthropods, including but not limited to flies, mosquitoes, moths, or gnats. The term does not include "Wasp and Hornet Insecticide", products that are designed to be used exclusively on humans or animals, or any moth-proofing product.

For purposes of this definition only, "Moth-Proofing Product" means a product whose label, packaging, or accompanying literature indicates that the product is designed to protect fabrics from damage by moths, but does not indicate that the product is suitable for use against flying insects or other flying arthropods.

"Footwear or Leather Care Product" means any product designed or labeled to be applied to footwear or to other leather articles/components to maintain, enhance, clean, protect, or modify the appearance, durability, fit, or flexibility of the footwear or leather article/component. Footwear includes both leather and non-leather foot apparel. "Footwear or Leather Care Product" does not include "Fabric Protectant", "General Purpose Adhesive", "Contact Adhesive", "Vinyl/Fabric/Leather/Polycarbonate Coating", "Rubber and Vinyl Protectant", "Fabric Refresher", products solely for deodorizing, or sealant products with adhesive properties used to create external protective layers greater than two millimeters thick.

"Fragrance" means a substance or complex mixture of aroma chemicals, natural essential oils, and other functional components with a combined vapor pressure not in excess of two mm of Hg at 20°C, the sole purpose of which is to impart an odor or scent, or to counteract a malodor.

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"Furniture Maintenance Product" means a wax, polish, conditioner, or any other product designed for the purpose of polishing, protecting or enhancing finished wood surfaces other than floors. The term does not include "Dusting Aids", "Wood Cleaners", products designed solely for the purpose of cleaning, and products designed to leave a permanent finish such as stains, sanding sealers and lacquers.

"Furniture Coating" means any paint designed for application to room furnishings including, but not limited to, cabinets (kitchen, bath and vanity), tables, chairs, beds, and sofas.

"Gel" means a colloid in which the disperse phase has combined with the continuous phase to produce a semisolid material, such as jelly.

"General Purpose Adhesive" means any non-aerosol adhesive designed for use on a variety of substrates. The term does not include contact adhesives, construction, panel, and floor covering adhesives, adhesives designed exclusively for application on one specific category of substrates (i.e., substrates that are composed of similar materials, such as different types of metals, paper products, ceramics, plastics, rubbers, or vinyls), or adhesives designed exclusively for use on one specific category of articles (i.e., articles that may be composed of different materials but perform a specific function, such as gaskets, automotive trim, weather-stripping, or carpets).

"General Purpose Cleaner" means a product designed for general all-purpose cleaning, in contrast to cleaning products designed to clean specific substrates in certain situations. This includes products designed for general floor cleaning, kitchen or countertop cleaning, and cleaners designed to be used on a variety of hard surfaces, and does not include "General Purpose Degreasers" and "Electronic Cleaners".

"General Purpose Degreaser" means any product labeled to remove or dissolve grease, grime, oil and other oil-based contaminants from a variety of substrates, including automotive or miscellaneous metallic parts. This does not include "Engine Degreaser", "General Purpose Cleaner", "Adhesive Remover", "Electronic Cleaner", "Electrical Cleaner", "Energized Electrical Cleaner", "Metal Polish/Cleanser", products used exclusively in "Solvent Cleaning Tanks or Related Equipment", or products that are sold exclusively to establishments that manufacture or construct goods or commodities, and labeled "not for retail sale".

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"Solvent Cleaning Tanks or Related Equipment" includes, but is not limited to, cold cleaners, vapor degreasers, conveyORIZED degreasers, film cleaning machines, or products designed to clean miscellaneous metallic parts by immersion in a container.

"General-Use Hand or Body Cleaner or Soap" means a cleaner or soap designed to be used routinely on the skin to clean or remove typical or common dirt and soils, including, but not limited to, hand or body washes, dual-purpose shampoo-body cleaners, shower or bath gels, and moisturizing cleaners or soaps. The term does not include prescription drug products, "Antimicrobial Hand or Body Cleaner or Soap", "Astringent/Toner", "Facial Cleaner or Soap", "Hand Dishwashing Detergent" (including antimicrobial), "Heavy-duty Hand Cleaner or Soap", "Medicated Astringent/Medicated Toner", or "Rubbing Alcohol".

"Glass Cleaner" means a cleaning product designed primarily for cleaning surfaces made of glass. The term does not include products designed solely for the purpose of cleaning optical materials used in eyeglasses, photographic equipment, scientific equipment and photocopying machines.

"Graffiti Remover" means a product labeled to remove spray paint, ink, marker, crayon, lipstick, nail polish, or shoe polish from a variety of non-cloth or nonfabric substrates. The term does not include "Paint Remover or Stripper", "Nail Polish Remover", or "Spot Remover". Products labeled for dual use as both a paint stripper and graffiti remover are considered "Graffiti Removers".

"Hair Mousse" means a hairstyling foam designed to facilitate styling of a coiffure and provide limited holding power.

"Hair Shine" means any product designed for the primary purpose of creating a shine when applied to the hair. This includes, but is not limited to, dual-use products designed primarily to impart a sheen to the hair. The term does not include "Hair Spray", "Hair Mousse", "Hair Styling Product", "Hair Styling Gel", or products whose primary purpose is to condition or hold the hair.

"Hair Spray" means:

For products manufactured before January 1, 2009, a consumer product designed primarily for the purpose of dispensing droplets of a resin on and

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into a hair coiffure that will impart sufficient rigidity to the coiffure to establish or retain the style for a period of time.

For products manufactured on or after January 1, 2009, a consumer product that is applied to styled hair and is designed or labeled to provide sufficient rigidity to hold, retain and/or finish the style of the hair for a period of time. This includes aerosol hair sprays, pump hair sprays, spray waxes; color, glitter, or sparkle hairsprays that make finishing claims; and products that are both a styling and finishing product. This does not include spray products that are intended to aid in styling but do not provide finishing of a hairstyle. For the purposes of this Subpart, "finish" or "finishing" means the maintaining and/or holding of previously styled hair for a period of time. For the purposes of this Subpart, "styling" means forming, sculpting, or manipulating the hair to temporarily alter the hair's shape.

"Hair Styling Gel" means a consumer product manufactured before January 1, 2009 that is a high viscosity, often gelatinous, product that contains a resin and is designed for application to hair to aid in styling and sculpting of the hair coiffure.

"Hair Styling Product" means a consumer product manufactured on or after January 1, 2009 that is designed or labeled for application to wet, damp or dry hair to aid in defining, shaping, lifting, styling and/or sculpting of the hair. This includes, but is not limited to, hair balm, clay, cream, creme, curl straightener, gel, liquid, lotion, paste, pomade, putty, root lifter, serum, spray gel, stick, temporary hair straightener, wax, spray products that aid in styling but do not provide finishing of a hairstyle, and leave-in volumizers, detanglers and/or conditioners that make styling claims. This does not include "Hair Mousse" "Hair Shine", "Hair Spray", or shampoos and/or conditioners that are rinsed from the hair prior to styling. For the purposes of this Subpart, "finish" or "finishing" means the maintaining and/or holding of previously styled hair for a period of time. For the purposes of this Subpart, "styling" means forming, sculpting, or manipulating the hair to temporarily alter the hair's shape.

"Heavy-Duty Hand Cleaner or Soap" means a product designed to clean or remove difficult dirt and soils such as oil, grease, grime, tar, shellac, putty, printer's ink, paint, graphite, cement, carbon, asphalt, or adhesives from the hand with or without the use of water. The term does not include prescription drug products, "Antimicrobial Hand or Body Cleaner or Soap", "Astringent/Toner",

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"Facial Cleaner or Soap", "General-use Hand or Body Cleaner or Soap", "Medicated Astringent/Medicated Toner" or "Rubbing Alcohol".

"Herbicide" means a pesticide product designed to kill or retard a plant's growth, but excludes products that are for agricultural use, or restricted materials that require a permit for use and possession.

"High Volatility Organic Material" or "HVOM" or "High Volatility Organic Compound" means any volatile organic material or volatile organic compound that exerts a vapor pressure greater than 80 millimeters of Mercury (mm Hg) when measured at 20°C.

"Household Product" means any consumer product that is primarily designed to be used inside or outside of living quarters or residences that are occupied or intended for occupation by individuals, including the immediate surroundings.

"Illinois Sales" means the sales (net pounds of product, less packaging and container, per year) in Illinois for either the calendar year immediately prior to the year that the registration is due or, if that data is not available, any consecutive 12 month period commencing no earlier than two years prior to the due date of the registration. If direct sales data for Illinois is not available, sales may be estimated by prorating national or regional sales data by population.

"Industrial Use" means use for or in a manufacturing, mining, or chemical process or use in the operation of factories, processing plants, and similar sites.

"Insecticide" means a pesticide product that is designed for use against insects or other arthropods, but excluding products that are for agricultural use or for a use that requires a structural pest control license under the Structural Pest Control Act [225 ILCS 235], or restricted materials that require a permit for use and possession.

"Insecticide Fogger" means any insecticide product designed to release all or most of its content, as a fog or mist, into indoor areas during a single application.

"Institutional Product" or "Industrial and Institutional (I&I) Product" means a consumer product that is designed for use in the maintenance or operation of an establishment that manufactures, transports, or sells goods or commodities, or provides services for profit, or is engaged in the nonprofit promotion of a

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particular public, educational, or charitable cause. "Establishments" include, but are not limited to, government agencies, factories, schools, hospitals, sanitariums, prisons, restaurants, hotels, stores, automobile service and parts centers, health clubs, theaters, or transportation companies. This does not include household products and products that are incorporated into or used exclusively in the manufacture or construction of the goods or commodities at the site of the establishment.

"Label" means any written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed into, molded into, embossed on, or appearing upon any consumer product or consumer product package, for purposes of branding, identifying, or giving information with respect to the product or to the contents of the package.

"Lacquer" means, for purposes of this Subpart, a clear or opaque wood coating, including clear lacquer sanding sealers, formulated with cellulosic or synthetic resins to dry by evaporation without chemical reaction and to provide a solid, protective film.

"Laundry Prewash" means a product that is designed for application to a fabric prior to laundering and that supplements and contributes to the effectiveness of laundry detergents and/or provides specialized performance.

"Laundry Starch Product" means a product that is designed for application to a fabric, either during or after laundering, to impart and prolong a crisp, fresh look and may also act to help ease ironing of the fabric. This includes, but is not limited to, fabric finish, sizing, and starch.

"Lawn and Garden Insecticide" means an insecticide product labeled primarily to be used in household lawn and garden areas to protect plants from insects or other arthropods. Notwithstanding the requirements of Section 223.260, aerosol "Lawn and Garden Insecticides" may claim to kill insects or other arthropods.

"Liquid" means a substance or mixture of substances that is capable of a visually detectable flow as determined under ASTM D-4359-90, incorporated by reference in Section 223.120, or an equivalent method approved by the California Air Resources Board. This does not include powders or other materials that are composed entirely of solid particles.

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"Lubricant" means a product designed to reduce friction, heat, noise, or wear between moving parts, or to loosen rusted or immovable parts or mechanisms. This does not include automotive power steering fluids; products for use inside power generating motors, engines, and turbines, and their associated power-transfer gearboxes; two cycle oils or other products designed to be added to fuels; products for use on the human body or animals; or products that are sold exclusively to establishments that manufacture or construct goods or commodities, and labeled "not for retail sale".

"LVP Content" means the total weight, in pounds, of LVP compounds in an ACP product multiplied by 100 and divided by the product's total net weight (in pounds, excluding container and packaging), expressed to the nearest 0.1.

"LVP-VOM" or "LVP-VOC" means a chemical material or mixture or compound that contains at least one carbon atom and meets one of the following:

Has a vapor pressure less than 0.1 mm Hg at 20°C, as determined by CARB Method 310; or

Is a chemical material or compound with more than 12 carbon atoms, or a chemical mixture comprised solely of material or a compound with more than 12 carbon atoms as verified by formulation data, and the vapor pressure and boiling point are unknown; or

Is a chemical material or compound with a boiling point greater than 216°C, as determined by CARB Method 310; or

Is the weight percent of a chemical mixture that boils above 216°C, as determined by CARB Method 310.

For the purposes of this definition, chemical material or compound means a molecule of definite chemical formula and isomeric structure, and chemical mixture means a substrate comprised of two or more chemical materials or compounds.

"Medicated Astringent/Medicated Toner" means any product regulated as a drug by the FDA that is applied to the skin for the purpose of cleaning or tightening pores. This includes, but is not limited to, clarifiers and substrate-impregnated products. The term does not include hand, face, or body cleaner or soap products,

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"Astringent/Toner", cold cream, lotion, antiperspirants, or products that must be purchased with a doctor's prescription.

"Medium Volatility Organic Material" or "MVOM" or "Medium Volatility Organic Compound" or "MVOC" means any volatile organic material or volatile organic compound that exerts a vapor pressure greater than two mm Hg and less than or equal to 80 mm Hg when measured at 20°C.

"Metal Polish/Cleanser" means any product designed primarily to improve the appearance of finished metal or metallic or metallized surfaces by physical or chemical action. To "improve the appearance" means to remove or reduce stains, impurities, or oxidation from surfaces or to make surfaces smooth and shiny. This includes, but is not limited to, metal polishes used on brass, silver, chrome, copper, stainless steel and other ornamental metals. The term does not include "Automotive Wax, Polish, Sealant or Glaze", wheel cleaner, "Paint Remover or Stripper", products designed and labeled exclusively for automotive and marine detailing, or products designed for use in degreasing tanks.

"Mist Spray Adhesive" means any aerosol that is not a special purpose spray adhesive and that delivers a particle or mist spray, resulting in the formation of fine, discrete particles that yield a generally uniform and smooth application of adhesive to the substrate.

"Multi-Purpose Dry Lubricant" means any lubricant designed and labeled to provide lubricity by depositing a thin film of graphite, molybdenum disulfide (moly), or polytetrafluoroethylene or closely related fluoropolymer (Teflon) on surfaces, and designed for general purpose lubrication or for use in a wide variety of applications.

"Multi-Purpose Lubricant" means any lubricant designed for general purpose lubrication, or for use in a wide variety of applications. The term does not include "Multi-purpose Dry Lubricants", "Penetrants", or "Silicone-based Multi-purpose Lubricants".

"Multi-Purpose Solvent" means any organic liquid designed to be used for a variety of purposes, including cleaning or degreasing of a variety of substrates, or thinning, dispersing or dissolving other organic materials. This includes solvents used in institutional facilities, except for laboratory reagents used in analytical, educational, research, scientific or other laboratories. This does not include

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solvents used in cold cleaners, vapor degreasers, conveyORIZED degreasers or film cleaning machines, or solvents that are incorporated into, or used exclusively in the manufacture or construction of the goods or commodities at the site of the establishment.

"Nail Polish" means any clear or colored coating designed for application to the fingernails or toenails, including but not limited to lacquers, enamels, acrylics, base coats and top coats.

"Nail Polish Remover" means a product designed to remove nail polish and coatings from fingernails or toenails.

"Non-Aerosol Product" means any consumer product that is not dispensed by a pressurized spray system.

"Non-Carbon Containing Compound" means any compound that does not contain any carbon atoms.

"Nonresilient Flooring" means flooring of a mineral content that is not flexible. This includes terrazzo, marble, slate, granite, brick, stone, ceramic tile and concrete.

"Non-Selective Terrestrial Herbicide" means a terrestrial herbicide product that is toxic to plants without regard to species.

"Oven Cleaner" means any cleaning product designed to clean and to remove dried food deposits from oven walls.

"Paint" means any pigmented liquid or liquefiable or mastic composition designed for application to a substrate in a thin layer that is converted to an opaque solid film after application and is used for protection, decoration or identification, or to serve some functional purpose such as the filling or concealing of surface irregularities or the modification of light and heat radiation characteristics.

"Paint Remover or Stripper" means any product designed to strip or remove paints or other related coatings, by chemical action, from a substrate without markedly affecting the substrate. This does not include "Multi-purpose Solvents", paint brush cleaners, products designed and labeled exclusively as "Graffiti Removers",

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and hand cleaner products that claim to remove paints and other related coatings from skin.

"Penetrant" means a lubricant designed and labeled primarily to loosen metal parts that have bonded together due to rusting, oxidation, or other causes. The term does not include "Multi-purpose Lubricants" that claim to have penetrating qualities, but are not labeled primarily to loosen bonded parts.

"Personal Fragrance Product" means any product that is applied to the human body or clothing for the primary purpose of adding a scent or masking a malodor, including cologne, perfume, aftershave, and toilet water. This does not include "Deodorant", medicated products designed primarily to alleviate fungal or bacterial growth on feet or other areas of the body; mouthwashes and breath fresheners and deodorizers; lotions, moisturizers, powders or other skin care products used primarily to alleviate skin conditions such as dryness and irritations; products designed exclusively for use on human genitalia; soaps, shampoos, and products primarily used to clean the human body; and fragrance products designed to be used exclusively on non-human animals.

"Pesticide" means and includes any substance or mixture of substances labeled, designed, or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant, or plant regulator, provided that the term "Pesticide" will not include any substance, mixture of substances, or device the United States Environmental Protection Agency does not consider to be a pesticide.

"Photograph Coating" means a coating designed and labeled exclusively to be applied to finished photographs to allow corrective retouching, protection of the image or changes in gloss level, or to cover fingerprints.

"Pressurized Gas Duster" means a pressurized product labeled to remove dust from a surface solely by means of mass air or gas flow, including surfaces such as photographs, photographic film negatives, computer keyboards, and other types of surfaces that cannot be cleaned with solvents. This does not include "Dusting Aid".

"Principal Display Panel or Panels" means that part, or those parts, of a label that are so designed as to most likely be displayed, presented, shown or examined

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under normal and customary conditions of display or purchase. Whenever a principal display panel appears more than once, all requirements pertaining to the "Principal Display Panel" shall pertain to all such "Principal Display Panels".

"Product Brand Name" means the name of the product exactly as it appears on the principal display panel of the product.

"Product Category" means the applicable category, defined in this Section and limited in Section 223.205(a), that best describes the product.

"Product Form" for the purpose of complying with Section 223.270 only, means the applicable form that most accurately describes the product's dispensing form, as follows:

- A = Aerosol Product
- S = Solid
- P = Pump Spray
- L = Liquid
- SS = Semisolid
- O = Other

"Product Line" means a group of products of identical form and function belonging to the same product category or categories.

"Pump Spray" means a packaging system in which the product ingredients within the container are not under pressure and in which the product is expelled only while a pumping action is applied to a button, trigger or other actuator.

"Responsible ACP Party" means the company, firm or establishment listed on the ACP product's label. If the label lists two or more companies, firms, or establishments, the "Responsible ACP Party" is the party the ACP product was "manufactured for" or "distributed by", as noted on the label.

"Restricted Materials" means pesticides established as restricted materials under applicable Illinois statutes or regulations.

"Roll-On Product" means any antiperspirant or deodorant that dispenses active ingredients by rolling a wetted ball or wetted cylinder on the affected area.

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"Rubber and Vinyl Protectant" means any product designed to protect, preserve or renew vinyl, rubber, and plastic on vehicles, tires, luggage, furniture, and household products such as vinyl covers, clothing, and accessories. This does not include products primarily designed to clean the wheel rim, such as aluminum or magnesium wheel cleaners, and tire cleaners that do not leave an appearance-enhancing or protective substance on the tire.

"Rubbing Alcohol" means any product containing isopropyl alcohol (also called isopropanol) or denatured ethanol and labeled for topical use, usually to decrease germs in minor cuts and scrapes, to relieve minor muscle aches, as a rubefacient, and for massage.

"Rust Preventive Coating" means a coating formulated exclusively for nonindustrial use to prevent the corrosion of metal surfaces and labeled as specified in Section 223.320(f).

"Sanding Sealer" means, for purposes of this Subpart, a clear or semi-transparent wood coating labeled and formulated for application to bare wood to seal the wood and to provide a coat that can be abraded to create a smooth surface for subsequent applications of coatings. A "Sanding Sealer" that also meets the definition of a "Lacquer" is not included in this category, but it is included in the "Lacquer" category.

"Sealant and Caulking Compound" means any product with adhesive properties that is designed to fill, seal, waterproof, or weatherproof gaps or joints between two surfaces. This does not include roof cements and roof sealants, insulating foams, removable caulking compounds, clear/paintable/water resistant caulking compounds, floor seam sealers, products designed exclusively for automotive uses, or sealers that are applied as continuous coatings. The term also does not include units of product, less packaging, that weigh more than one pound and consist of more than 16 fluid ounces.

For the purposes of this definition only, "removable caulking compound" means a compound that temporarily seals windows or doors for three to six month time intervals. "Clear/paintable/water resistant caulking compound" means a compound that contains no appreciable level of opaque fillers or pigments; transmits most or all visible light through the caulk when cured; is paintable; and is immediately resistant to precipitation upon application.

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"Semisolid" means a product that, at room temperature, will not pour, but will spread or deform easily, including but not limited to gels, pastes, and greases.

"Shaving Cream" means an aerosol product that dispenses a foam lather intended to be used with a blade or cartridge razor, or other wet-shaving system, in the removal of facial or other body hair. The term does not include "Shaving Gel".

"Shaving Gel" means an aerosol product that dispenses a post-foaming semisolid designed to be used with a blade, cartridge razor, or other shaving system in the removal of facial or other body hair. This does not include "Shaving Cream".

"Silicone-Based Multi-Purpose Lubricant" means any lubricant designed and labeled to provide lubricity primarily through the use of silicone compounds including, but not limited to, polydimethylsiloxane, and designed and labeled for general purpose lubrication, or for use in a wide variety of applications. The term does not include products designed and labeled exclusively to release manufactured products from molds.

"Single Phase Aerosol Air Freshener" means an aerosol air freshener with the liquid contents in a single homogeneous phase and that does not require that the product container be shaken before use.

"Solid" means a substance or mixture of substances that, either whole or subdivided (such as the particles comprising a powder), is not capable of visually detectable flow as determined under ASTM D4359-90, incorporated by reference in Section 223.120, or an equivalent method approved by the California Air Resources Board.

"Special Purpose Spray Adhesive" means an aerosol adhesive that meets any of the following definitions:

"Mounting Adhesive" means an aerosol adhesive designed to permanently mount photographs, artwork, and any other drawn or printed media to a backing (paper, board, cloth, etc.) without causing discoloration to the artwork.

"Flexible Vinyl Adhesive" means an aerosol adhesive designed to bond flexible vinyl to substrates. Flexible vinyl means a nonrigid polyvinyl

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chloride plastic with at least five percent, by weight, of plasticizer content. A plasticizer is a material, such as a high boiling point organic solvent, that is incorporated into a plastic to increase its flexibility, workability, or distensibility, and may be determined using ASTM E260-96, incorporated by reference in Section 223.120, or from product formulation data or an equivalent method approved by the CARB.

"Polystyrene Foam Adhesive" means an aerosol adhesive designed to bond polystyrene foam to substrates.

"Automobile Headliner Adhesive" means an aerosol adhesive designed to bond together layers in motor vehicle headliners.

"Polyolefin Adhesive" means an aerosol adhesive designed to bond polyolefins to substrates.

"Laminate Repair/Edgebanding Adhesive" means an aerosol adhesive designed for:

The touch-up or repair of items laminated with high pressure laminates (e.g., lifted edges, delaminates, etc.); or

The touch-up, repair, or attachment of edgebanding materials, including but not limited to other laminates, synthetic marble, veneers, wood molding, and decorative metals.

For the purposes of this definition "high pressure laminate" means sheet materials that consist of paper, fabric, or other core material that have been laminated at temperatures exceeding 265°F, and at pressures between 1,000 and 1,400 psi.

"Automotive Engine Compartment Adhesive" means an aerosol adhesive designed for use in motor vehicle under-the-hood applications that require oil and plasticizer resistance, as well as high shear strength, at temperatures of 200 to 275°F.

"Spot Remover" means any product labeled to clean localized areas, or remove localized spots or stains on cloth or fabric such as drapes, carpets, upholstery, and clothing, that does not require subsequent laundering to achieve stain removal.

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This does not include "Dry Cleaning Fluid", "Laundry Prewash", or "Multi-purpose Solvent".

"Spray Buff Product" means a product designed to restore a worn floor finish in conjunction with a floor buffing machine and special pad.

"Stick Product" means any antiperspirant or deodorant that contains active ingredients in a solid matrix form and that dispenses the active ingredients by frictional action on the affected area.

"Structural Waterproof Adhesive" means an adhesive whose bond lines are resistant to conditions of continuous immersion in fresh or salt water and that conforms with Federal Specification MMM-A-181D (Type 1, Grade A) and MIL-A-4605 (Type A, Grade A and Grade C), per the Federal Consumer Products Regulation (40 CFR 59, subpart C).

"Terrestrial" means to live on or grow from land.

"Tire Sealant and Inflation" means any pressurized product that is designed to temporarily inflate and seal a leaking tire.

"Toilet/Urinal Care Product" means any product designed or labeled to clean and/or to deodorize toilet bowls, toilet tanks, or urinals. Toilet bowls, toilet tanks, or urinals include, but are not limited to, toilets or urinals connected to permanent plumbing in buildings and other structures, portable toilets or urinals placed at temporary or remote locations, and toilets or urinals in vehicles such as buses, recreational motor homes, boats, ships, and aircraft. This does not include "Bathroom and Tile Cleaner" or "General Purpose Cleaner".

"Type A Propellant" means a compressed gas, such as CO₂, N₂, N₂O, or compressed air, that is used as a propellant and is either incorporated with the product or contained in a separate chamber within the product's packaging.

"Type B Propellant" means any halocarbon that is used as a propellant, including chlorofluorocarbons (CFCs), hydrochlorofluorocarbons (HCFCs), and hydrofluorocarbons (HFCs).

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"Type C Propellant" means any propellant that is not a Type A or Type B propellant, including propane, isobutane, n-butane, and dimethyl ether (also known as dimethyl oxide).

"Undercoating" means any aerosol product designed to impart a protective, non-paint layer to the undercarriage, trunk interior, and/or firewall of motor vehicles to prevent the formation of rust or to deaden sound. This includes, but is not limited to, rubberized, mastic, or asphaltic products.

"Usage Directions" means the text or graphics on the product's principal display panel, label, or accompanying literature that describes to the end user how and in what quantity the product is to be used.

"VOM Content" means, for purposes of this Subpart, except for charcoal lighter products, the total weight of VOM in a product expressed as a percentage of the product weight (exclusive of the container or packaging), as determined pursuant to Section 223.285(a) and (b).

For charcoal lighter material products only,

$$VOC\ Content = \frac{(Certified\ Emissions\ x\ 100)}{Certified\ Use\ Rate}$$

Certified

Emissions = The emissions level for products approved by the Agency under Section 223.220, as determined pursuant to South Coast Air Quality Management District Rule 1174, Ignition Method Compliance Certification Protocol (February 27, 1991), expressed to the nearest 0.001 pound CH₂ per start.

Certified

Use Rate = The usage level for products approved by the Agency under Section 223.220, as determined pursuant to South Coast Air Quality Management District Rule 1174, Ignition Method Compliance Certification Protocol (February 27, 1991), expressed to the nearest 0.001 pound certified product used per start.

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For purposes of Subpart C of this Part, "VOM Content" means the weight of VOM per volume of coating, calculated according to the procedures specified in Section 223.340(a).

"Wasp and Hornet Insecticide" means any insecticide product that is designed for use against wasps, hornets, yellow jackets or bees by allowing the user to spray from a distance a directed stream or burst at the intended insects, or their hiding place.

"Waterproofer" means a product designed and labeled exclusively to repel water from fabric or leather substrates, excluding "Fabric Protectants".

"Wax" means a material or synthetic thermoplastic substance generally of high molecular weight hydrocarbons or high molecular weight esters of fatty acids or alcohols, except glycerol and high polymers (plastics). This includes, but is not limited to, substances derived from the secretions of plants and animals such as carnuba wax and beeswax, substances of a mineral origin such as ozocerite and paraffin, and synthetic polymers such as polyethylene.

"Web Spray Adhesive" means any aerosol adhesive that is not a mist spray or special purpose spray adhesive.

"Wood Cleaner" means a product labeled to clean wooden materials, including but not limited to decking, fences, flooring, logs, cabinetry, and furniture. The term does not include "Dusting Aid", "General Purpose Cleaner", "Furniture Maintenance Product", "Floor Wax Stripper", "Floor Polish or Wax", or products designed and labeled exclusively to preserve or color wood.

"Wood Floor Wax" means wax-based products for use solely on wood floors.

Section 223.205 Standards

- a) Except as provided in Section 223.207, 223.230, 223.240, or 223.245, no person shall sell, supply, offer for sale, or manufacture for sale in Illinois any consumer product manufactured on or after January 1, 2009 that contains VOMs in excess of the limits specified in this subsection:

Affected Product

% VOM by Weight

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- 1) Adhesives – Spray
 - A) Mist Spray 65
 - B) Web Spray 55
 - C) Special Purpose Spray Adhesives
 - i) Mounting, Automotive Engine Compartment, and Flexible Vinyl 70
 - ii) Polystyrene Foam and Automotive Headliner 65
 - iii) Polyolefin and Laminate Repair/Edgebanding 60
- 2) Adhesives – Construction, Panel, and Floor Contact 15
- 3) Adhesives – General Purpose 10
- 4) Adhesives – Structural Waterproof 15
- 5) Air Fresheners
 - A) Single Phase Aerosol 30
 - B) Double Phase Aerosol 25
 - C) Liquids/Pump Sprays 18
 - D) Solids/Gel 3
- 6) Antiperspirants
 - A) Aerosol 40 HVOM
10 HVOM

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| | | |
|-----|--|---------------------|
| | B) Non-Aerosol | 0 MVOM 0 MVOM |
| 7) | Automotive Brake Cleaners | 45 |
| 8) | Automotive Rubbing or Polishing Compound | 17 |
| 9) | Automotive Wax, Polish, Sealant, or Glaze | |
| | A) Hard Paste Waxes | 45 |
| | B) Instant Detailers | 3 |
| | C) All Other Forms | 15 |
| 10) | Automotive Windshield Washer Fluids | 35 |
| 11) | Bathroom and Tile Cleaners | |
| | A) Aerosol | 7 |
| | B) All Other Forms | 5 |
| 12) | Bug and Tar Remover | 40 |
| 13) | Carburetor or Fuel-Injection Air Intake Cleaners | 45 |
| 14) | Carpet and Upholstery Cleaners | |
| | A) Aerosol | 7 |
| | B) Non-Aerosol (Dilutables) | 0.1 |
| | C) Non-Aerosol (Ready-to-Use) | 3.0 |
| 15) | Charcoal Lighter Material | see Section 223.220 |
| 16) | Cooking Spray – Aerosol | 18 |

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|-----|---|---------------------|
| 17) | Deodorants | |
| | A) Aerosol | 0 HVOM 10 HVOM |
| | B) Non-Aerosol | 0 MVOM 0 MVOM |
| 18) | Dusting Aids | |
| | A) Aerosol | 25 |
| | B) All Other Forms | 7 |
| 19) | Engine Degreasers | |
| | A) Aerosol | 35 |
| | B) Non-Aerosol | 5 |
| 20) | Fabric Protectants | 60 |
| 21) | Floor Polishes/Waxes | |
| | A) Products for Flexible Flooring Materials | 7 |
| | B) Products for Nonresilient Flooring | 10 |
| | C) Wood Floor Wax | 90 |
| 22) | Floor Wax Strippers | see Section 223.209 |
| 23) | Furniture Maintenance Products | |
| | A) Aerosol | 17 |
| | B) All Other Forms Except Solid or Paste | 7 |
| 24) | General Purpose Cleaners | |

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| | | |
|-----|---------------------------------|----|
| A) | Aerosol | 10 |
| B) | Non-Aerosol | 4 |
| 25) | General Purpose Degreasers | |
| A) | Aerosol | 50 |
| B) | Non-Aerosol | 4 |
| 26) | Glass Cleaners | |
| A) | Aerosol | 12 |
| B) | Non-Aerosol | 4 |
| 27) | Hair Mousses | 6 |
| 28) | Hairshines | 55 |
| 29) | Hairsprays | 55 |
| 30) | Hair Styling Gels | 6 |
| 31) | Heavy Duty Hand Cleaner or Soap | 8 |
| 32) | Insecticides | |
| A) | Crawling Bug (Aerosol) | 15 |
| B) | Crawling Bug (All Other Forms) | 20 |
| C) | Flea and Tick | 25 |
| D) | Flying Bug (Aerosol) | 25 |

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| | | |
|-----|---|----|
| E) | Flying Bug (All Other Forms) | 35 |
| F) | Foggers | 45 |
| G) | Lawn and Garden (Aerosol) | 20 |
| H) | Lawn and Garden (All Other Forms) | 3 |
| I) | Wasp and Hornet | 40 |
| 33) | Laundry Prewash | |
| | A) Aerosols/Solids | 22 |
| | B) All Other Forms | 5 |
| 34) | Laundry Starch Products | 5 |
| 35) | Metal Polishes/Cleansers | 30 |
| 36) | Multi-Purpose Lubricant | |
| | (Excluding Solid or Semi-Solid Products) | 50 |
| 37) | Nail Polish Removers | 75 |
| 38) | Non-Selective Terrestrial Herbicide – Non-Aerosol | 3 |
| 39) | Oven Cleaners | |
| | A) Aerosols/Pump Sprays | 8 |
| | B) Liquids | 5 |
| 40) | Paint Removers or Strippers | 50 |
| 41) | Penetrants | 50 |

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| | | |
|-----|--|----|
| 42) | Rubber and Vinyl Protectants | |
| | A) Aerosol | 10 |
| | B) Non-Aerosol | 3 |
| 43) | Sealants and Caulking Compounds | 4 |
| 44) | Shaving Creams | 5 |
| 45) | Silicone-Based Multi-Purpose Lubricants (Excluding Solid or Semi-Solid Products) | 60 |
| 46) | Spot Removers | |
| | A) Aerosol | 23 |
| | B) Non-Aerosol | 8 |
| 47) | Tire Sealants and Inflators | 20 |
| 48) | Undercoatings – Aerosols | 40 |
| b) | No person shall sell, supply, offer for sale, or manufacture for sale in Illinois, on or after January 1, 2009, any antiperspirant or deodorant that contains any compound listed below: | |
| | Benzene | |
| | Ethylene Dibromide | |
| | Ethylene Dichloride | |
| | Hexavalent Chromium | |
| | Asbestos | |

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Cadmium (metallic cadmium and cadmium compounds)

Carbon Tetrachloride

Trichloroethylene

Chloroform

Vinyl Chloride

Inorganic Arsenic

Nickel (metallic nickel and inorganic nickel compounds)

Perchloroethylene

Formaldehyde

1,3-Butadiene

Inorganic Lead

Dibenzo-p-dioxins and dibenzofurans chlorinated in the 2,3,7 and 8 positions and containing 4,5,6 or 7 chlorine atoms

Section 223.206 Diluted Products

- a) For consumer products for which the label, packaging, or accompanying literature specifically states that the product should be diluted with water or non-VOM solvent prior to use, the limits specified in Section 223.205(a) must apply to the product only after the minimum recommended dilution has taken place.
- b) For purposes of subsection (a) of this Section, the minimum recommended dilution shall not include recommendations for incidental use of a concentrated product to deal with limited special applications such as hard-to-remove soils or stains.
- c) For consumer products for which the label, packaging, or accompanying literature states that the product should be diluted with any VOM solvent prior to use, the

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limits specified in Section 223.205(a) shall apply to the product only after the maximum recommended dilution has taken place.

Section 223.207 Products Registered under FIFRA

For those consumer products that are registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 USC 136 through 136y), incorporated by reference in Section 223.120, the effective date of the VOM standards will be January 1, 2010.

Section 223.208 Requirements for Aerosol Adhesives

- a) As specified in California Code § 41712(h)(2), incorporated by reference in Section 223.120, the standards for aerosol adhesives apply to all uses of aerosol adhesives, including consumer, industrial, and commercial uses. Except as otherwise provided in Sections 223.207, 223.230, 223.240, and 223.245, no person shall sell, supply, offer for sale, use or manufacture for sale in Illinois any aerosol adhesive that, at the time of sale, use, or manufacture, contains VOMs in excess of the specified standard.
- b) Special Purpose Spray Adhesive.
 - 1) In order to qualify as a Special Purpose Spray Adhesive the product must meet one or more of the definitions for Special Purpose Spray Adhesive specified in Section 223.203, but if the product label indicates that the product is suitable for use on any substrate or application not listed in one of the definitions for Special Purpose Spray Adhesive, then the product shall be classified as either a Web Spray Adhesive or a Mist Spray Adhesive.
 - 2) If a product meets more than one of the definitions specified in Section 223.203 for Special Purpose Spray Adhesive and is not classified as a Web Spray Adhesive or Mist Spray Adhesive under Section 223.203, then the VOC limit for the product shall be the lowest applicable VOM limit specified in Section 223.205(a).
- c) Effective January 1, 2009, no person shall sell, supply, offer for sale, or manufacture for use in Illinois any aerosol adhesive that contains any of the following compounds: methylene chloride, perchloroethylene, or trichloroethylene.

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- d) All aerosol adhesives must comply with the labeling requirements specified in Section 223.265.

Section 223.209 Requirements for Floor Wax Strippers

On or after January 1, 2009, no person shall sell, supply, offer for sale, or manufacture for use in Illinois any floor wax stripper unless the following requirements are met:

- a) The label of each non-aerosol floor wax stripper must specify a dilution ratio for light or medium build-up of polish that results in an as-used VOM concentration of three percent by weight or less;
- b) If a non-aerosol floor wax stripper is also intended to be used for removal of heavy build-up of polish, the label of that floor wax stripper must specify a dilution ratio for heavy build-up of polish that results in an as-used VOM concentration of 12% by weight or less; and
- c) The term "light build-up", "medium build-up", or "heavy build-up" is not specifically required, as long as comparable terminology is used.

Section 223.210 Products Containing Ozone-Depleting Compounds

- a) For any consumer product for which standards are specified under Section 223.205(a), no person shall sell, supply, offer for sale, or manufacture for sale in Illinois any consumer product that contains any of the following ozone-depleting compounds:
 - 1) Trichlorofluoromethane (CFC-11);
 - 2) Dichlorodifluoromethane (CFC-12);
 - 3) 1,1,1-trichloro-2,2,2-trifluoroethane (CFC-113);
 - 4) 1-chloro-1,1-difluoro-2-chloro-2,2-difluoroethane (CFC-114);
 - 5) Chloropentafluoroethane (CFC-115);
 - 6) Bromochlorodifluoromethane (Halon 1211);

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- 7) Bromotrifluoromethane (Halon 1301);
 - 8) Dibromotetrafluoroethane (Halon 2402);
 - 9) Chlorodifluoromethane (HCFC-22);
 - 10) 2,2-dichloro-1,1,1-trifluoroethane (HCFC-123);
 - 11) 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
 - 12) 1,1-dichloro-1-fluoroethane (HCFC-141b);
 - 13) 1-chloro-1,1-difluoroethane (HCFC-142b);
 - 14) 1,1,1-trichloroethane; and
 - 15) Carbon tetrachloride.
- b) The requirements in subsection (a) of this Section shall not apply to any product formulation existing as of January 1, 2009 that complies with Section 223.205(a) or is reformulated to meet Section 223.205(a), provided the ozone-depleting compound content of the reformulated product does not increase.
- c) The requirements in subsection (a) of this Section shall not apply to any ozone depleting compounds that may be present as impurities in a consumer product in an amount equal to or less than 0.01% by weight of the product.

Section 223.220 Requirements for Charcoal Lighter Material

- a) No person shall sell, supply, or offer for sale on or after January 1, 2009 any charcoal lighter material product unless, at the time of the transaction, the manufacturer can demonstrate that it has been issued an effective certification by the CARB under the Consumer Products provisions under 17 California Code of Regulations § 94509(h), incorporated by reference in Section 223.120. This certification remains in effect for Illinois for as long as the CARB certification remains in effect.

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- b) Alternatively, the person may demonstrate that, at the time of the transaction, the manufacturer had been issued a certification by an air pollution agency of another state and USEPA that was current at the time of the transaction.
- c) Upon request by the Agency, a manufacturer claiming to have a certification as specified in subsection (a) of this Section must submit to the Agency a copy of the certification decision, including all conditions applicable to the certification established by CARB or the air pollution agency of another state and USEPA.

Section 223.230 Exemptions

- a) This Subpart shall not apply to any consumer product manufactured in Illinois for shipment and use outside of Illinois, as long as the manufacturer or distributor can demonstrate both that the consumer product is intended for shipment and use outside of Illinois, and that the manufacturer or distributor has taken reasonable, prudent precautions to assure that the consumer product is not distributed to Illinois. This exemption shall not apply to consumer products that are sold, supplied, or offered for sale by any person to retail outlets in Illinois.
- b) For antiperspirants or deodorants, ethanol shall not be considered a medium volatility organic material (MVOM) for purposes of the content standards specified in Section 223.205(a).
- c) The VOM limits specified in Section 223.205(a) shall not apply to fragrances up to a combined level of two percent by weight contained in any consumer product and shall not apply to colorants up to a combined level of two percent by weight contained in any antiperspirant or deodorant.
- d) The requirements of Section 223.205(a) for antiperspirants or deodorants shall not apply to those volatile organic materials that contain more than 10 carbon atoms per molecule and for which the vapor pressure is unknown, or that have a vapor pressure of two mm Hg or less at 20°C.
- e) The VOM limits specified in Section 223.205(a) shall not apply to any LVP-VOM.
- f) The requirements of Section 223.250 shall not apply to consumer products registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 USC 136 through 136y).

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- g) The VOM limits specified in Section 223.205(a) shall not apply to air fresheners that are comprised entirely of fragrance, less compounds not defined as VOMs under Section 211.7150 or exempted under subsection (f).
- h) The VOM limits specified in Section 223.205(a) shall not apply to air fresheners and insecticides containing at least 98% para-dichlorobenzene.
- i) The VOM limits specified in Section 223.205(a) shall not apply to adhesives sold in containers of one fluid ounce or less.
- j) The VOM limits specified in Section 223.205(a) shall not apply to bait station insecticides. For the purpose of this Section, bait station insecticides are containers enclosing an insecticidal bait that is not more than 0.5 ounce by weight, when the bait is designed to be ingested by insects and is composed of solid material feeding stimulants with less than five percent active ingredients.

Section 223.240 Innovative Product Exemption

- a) Any manufacturer of consumer products that have been granted an Innovative Product exemption by the CARB under the Innovative Products provisions in 17 California Code of Regulations § 94511 or 94503.5, both incorporated by reference in Section 223.120, shall be exempt from the limits in Section 223.205(a) for the period of time that the CARB Innovative Products exemption remains in effect, provided that all consumer products within the CARB Innovative Products exemption are contained in the limits in Section 223.205(a). Any manufacturer claiming such an exemption on this basis must submit to the Agency a copy of the CARB Innovative Product exemption decision (i.e., the Executive Order), including all conditions established by the CARB applicable to the exemption.
- b) Recordkeeping and Availability of Requested Information.
 - 1) All information specified in the Innovative Product exemption approving an Innovative Product application shall be maintained by the responsible party for a minimum of three years after the expiration of the exemption. The records shall be clearly legible and maintained in good condition during this period.

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- 2) The records specified in subsection (b)(1) shall be made available to the Agency, or its authorized representative, upon request.

Section 223.245 Alternative Compliance Plans

- a) The purpose of this Section is to provide an alternative method to comply with the limits in Section 223.205(a). This alternative is provided by allowing responsible ACP parties the option of voluntarily entering into separate ACPs for consumer products, as specified in this Subpart. Only responsible ACP parties for consumer products may enter into an ACP.
- b) Any manufacturer of consumer products that has been granted an ACP Agreement by the CARB under the provisions in 17 CCR §§ 94540-94555, incorporated by reference in Section 223.120, shall be exempt from the limits in Section 223.205(a) for the period of time that the CARB ACP Agreement remains in effect, provided that all ACP products used for emissions credits within the CARB ACP Agreement are contained in Section 223.205(a). Any manufacturer claiming such an ACP Agreement on this basis must submit to the Agency a copy of the CARB ACP decision (i.e., the Executive Order), including all conditions established by the CARB applicable to the exemption.
- c) Recordkeeping and Availability of Requested Information.
 - 1) All information specified in the ACP Agreement approving an ACP shall be maintained by the responsible ACP party for a minimum of three years after the expiration of the ACP. The records shall be clearly legible and maintained in good condition during this period.
 - 2) The records specified in subsection (c)(1) shall be made available to the Agency or its authorized representative upon request.

Section 223.250 Product Dating

- a) Each manufacturer of a consumer product subject to Section 223.205(a) shall clearly display on each consumer product container or package the day, month, and year on which the product was manufactured, or a code indicating such date.
- b) A manufacturer who uses the following code to indicate the date of manufacture shall not be subject to the requirements of Section 223.255(a), if the code is

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represented separately from other codes on the product container so that it is easily recognizable:

YY DDD = year year day day day

Where:

YY = Two digits representing the year in which the product was manufactured

DDD = Three digits representing the day of the year on which the product was manufactured, with "001" representing the first day of the year, "002" representing the second day of the year, and so forth (i.e., the "Julian date")

- c) This date or code shall be displayed on each consumer product container or package no later than the effective date of the applicable standard specified in Section 223.205(a).
- d) The date or date-code information shall be located on the container or inside the cover/cap so that it is readily observable or obtainable by simply removing the cap/cover without irreversibly disassembling any part of the container or packaging. For the purposes of this subsection, information may be displayed on the bottom of a container as long as it is clearly legible without removing any product packaging.
- e) The requirements of this Section shall not apply to products containing no VOMs (as defined in Section 223.203), or containing VOMs at 0.10% by weight or less.

Section 223.255 Additional Product Dating Requirements

- a) No person shall erase, alter, deface, or otherwise remove or make illegible any date or code indicating the date of manufacture from any regulated product container without the express authorization of the manufacturer. No manufacturer shall affix a date-code that is not true for the date the item was manufactured.
- b) Date-code explanations for codes indicating the date of manufacture are public information and may not be claimed as confidential.

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Section 223.260 Most Restrictive Limit

- a) Products manufactured before January 1, 2009, and FIFRA-registered insecticides manufactured before January 1, 2010.
Notwithstanding the definition of product category in Section 223.203, if, anywhere on the principal display panel of any consumer product manufactured before January 1, 2009 or any FIFRA-registered insecticide manufactured before January 1, 2010, any representation is made that the product may be used as, or is suitable for use as, a consumer product for which a lower VOC limit is specified in Section 223.205(a), then the lowest VOC limit shall apply. This requirement does not apply to general purpose cleaners, antiperspirant/deodorant products and insecticide foggers.
- b) Products manufactured on or after January 1, 2009 and FIFRA-registered insecticides manufactured on or after January 1, 2010.
Notwithstanding the definition of product category in Section 223.203, if, anywhere on the container or packaging of any consumer product manufactured on or after January 1, 2009 or any FIFRA-registered insecticide manufactured on or after January 1, 2010 or on any sticker or label affixed to the container or packaging, any representation is made that the product may be used as, or is suitable for use as, a consumer product for which a lower VOC limit is specified in Section 223.205(a), then the lowest VOM limit shall apply. This requirement does not apply to general purpose cleaners, antiperspirant/deodorant products and insecticide foggers.

Section 223.265 Additional Labeling Requirements for Aerosol Adhesives, Adhesive Removers, Electronic Cleaners, Electrical Cleaners, Energized Electrical Cleaners, and Contact Adhesives

- a) In addition to the requirements specified in Sections 223.250, 223.260, and 223.270, both the manufacturer and responsible party for each aerosol adhesive, adhesive remover, electronic cleaner, electrical cleaner, energized electrical cleaner, and contact adhesive product subject to this Subpart shall ensure that all products clearly display the following information on each product container manufactured on or after January 1, 2009.
 - 1) The product category as specified in Section 223.205(a) or an abbreviation of the category shall be displayed.

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- 2) The applicable VOM standard for the product that is specified in Section 223.205(a) except for energized electrical cleaner, expressed as a percentage by weight, shall be displayed unless the product is included in an alternative control plan approved by the Agency, as provided in Sections 223.240 and 223.245, and the product exceeds the applicable VOM standard.
 - 3) If the product is included in an alternative control plan approved by the Agency, and the product exceeds the applicable VOM standard specified in Section 223.205(a), the product shall be labeled with the term "ACP" or "ACP product".
 - 4) If the product is classified as a special purpose spray adhesive, the applicable substrate and/or application or an abbreviation of the substrate and/or application that qualifies the product as special purpose shall be displayed.
 - 5) If the manufacturer or responsible party uses an abbreviation as allowed by this Section, an explanation of the abbreviation must be filed with the Agency before the abbreviation is used.
- b) The information required in Section 223.250(a) shall be displayed on the product container such that it is readily observable without removing or disassembling any portion of the product container or packaging. For the purposes of this subsection, information may be displayed on the bottom of a container as long as it is clearly legible without removing any product packaging.
 - c) No person shall remove, alter, conceal, or deface the information required in subsection (a) prior to final sale of the product.

Section 223.270 Reporting Requirements

- a) Within 90 days after written request by the agency, a responsible party must submit to the Agency any of the following information:
 - 1) The name, address, and telephone number of the responsible party and the name and telephone number of the party's designated contact person;
 - 2) For each product subject to Section 223.205(a):

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- A) The product brand name;
 - B) The product label;
 - C) The product category to which the consumer product belongs;
 - D) The applicable product forms listed separately; and
 - E) An identification of the product as a household product, institutional product, or both;
- 3) Separate Illinois sales in pounds per year, to the nearest pound, and the method used to calculate Illinois sales for each product form;
- 4) For information submitted by multiple companies, an identification of each company that is submitting relevant data separate from that submitted by the responsible party. All information from each company shall be submitted by the date requested by the Agency;
- 5) For each product brand name and form, the net percent by weight of the total product, less container and packaging, comprised of the following, rounded to the nearest 0.1%:
- A) Total Section 223.205(a) compounds;
 - B) Total LVP-VOMs that are not fragrances;
 - C) Total all other carbon-containing compounds that are not fragrances;
 - D) Total all non-carbon-containing compounds;
 - E) Total fragrance;
 - F) For products containing greater than 2% by weight fragrance:
 - i) The percent of fragrance that is LVP-VOMs; and

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- ii) The percent of fragrance that is all other carbon-containing compounds; and
- G) Total paradichlorobenzene;
- 6) For each product brand name and form, the identity, including the specific chemical name and associated Chemical Abstract Services (CAS) number, of the following:
 - A) Each Section 223.205(a) compound; and
 - B) Each LVP-VOM that is not a fragrance; and
- 7) If the product includes a propellant, the following:
 - A) The weight percent comprised of propellant for each product; and
 - B) An identification of the type of propellant, such as Type A, Type B, Type C, or a blend of the different types.
- b) In addition to the requirements of subsection (a)(6), the responsible party shall report or shall arrange to have reported to the Agency, upon request, the net percent by weight of each ozone-depleting compound that is:
 - 1) Listed in Section 223.210(a); and
 - 2) Contained in a product subject to reporting under subsection (a) in any amount greater than 0.1% by weight.
- c) In addition, all manufacturers must submit to the Agency, upon request, the information requested in subsections (a) and (b) upon commencement of the selling of each such product in Illinois.

Section 223.275 Special Recordkeeping Requirements for Consumer Products that Contain Perchloroethylene or Methylene Chloride

- a) The requirements of this Section shall apply to all responsible parties for consumer products that are subject to Section 223.205(a) and contain perchloroethylene or methylene chloride and energized electrical cleaners as

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defined in Section 223.203 that contain perchloroethylene or methylene chloride. For the purposes of this Section, a product "contains perchloroethylene or methylene chloride" if the product contains 1.0% or more by weight (exclusive of the container or packaging) of either perchloroethylene or methylene chloride.

- b) For each consumer product that contains perchloroethylene or methylene chloride, within 90 days after written request by the agency, the responsible party shall report the following information for products sold in Illinois:
- 1) The product brand name and a copy of the product label with legible usage instructions;
 - 2) The product category to which the consumer product belongs;
 - 3) The applicable product forms (listed separately);
 - 4) For each product form listed in subsection (b)(3), the total sales in Illinois during the calendar year to the nearest pound (exclusive of the container or packaging), and the method used for calculating the Illinois sales; and
 - 5) The weight percent, to the nearest 0.1%, of perchloroethylene and methylene chloride in the consumer product.

Section 223.280 Calculating Illinois Sales

If direct sales data for Illinois are not available, sales may be estimated by prorating national or regional sales data by population.

Section 223.285 Test Methods

- a) Testing to determine compliance with the requirements of this Subpart shall be performed using CARB Method 310, Determination of Volatile Organic Materials (VOM) in Consumer Products, which is incorporated by reference in Section 223.120.
- b) Compliance with the requirements of this Subpart may also be demonstrated through calculation of the VOM content from records of the amounts of constituents used to make the product pursuant to the following criteria:

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- 1) Accurate manufacturing records shall be kept for each day of production of the amount and chemical composition of the individual product constituents;
- 2) Records required by subsection (b)(1) shall be kept for at least three years;
- 3) For subsection (b)(4), the following shall apply:
 - A) "A" means the total net weight of unit excluding container and packaging;
 - B) "B" means the total weight of all VOMs per unit; and
 - C) "C" means the total weight of all exempted VOMs per unit;
- 4) For the purposes of this Section, the VOM content shall be calculated by subtracting the total weight of VOMs exempted under Section 223.230 per unit from the total weight of all VOMs per unit, divided by the total net weight of unit excluding container and packaging and the product, multiplied by 100 as in the formula below:

$$VOMContent = \frac{B - C}{A} \times 100$$

- 5) If product records appear to demonstrate compliance with the VOM limits, but these records are contradicted by product testing performed using CARB Method 310, the results of CARB Method 310 shall take precedence over the product records and may be used to establish a violation of the requirements of this Subpart.
- c) Testing to determine whether a product is a liquid or solid shall be performed using ASTM D4359-90, which is incorporated by reference in Section 223.120, or an equivalent method approved by the CARB.
 - d) Testing to determine compliance with the certification requirements for charcoal lighter material shall be performed using the procedures specified in the SCAQMD Test Protocol Rule 1174, Ignition Method Compliance Certification

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Protocol, dated February 28, 1991, which is incorporated by reference in Section 223.120.

- e) Testing to determine distillation points of petroleum distillate-based charcoal lighter materials shall be performed using ASTM D86-07b, which is incorporated by reference in Section 223.120, or an equivalent method approved by the CARB.
- f) No person shall create, alter, falsify, or otherwise modify records in such a way that the records do not accurately reflect the constituents used to manufacture a product, the chemical composition of the individual product, and any other test, processes, or records used in connection with product manufacture.

SUBPART C: ARCHITECTURAL AND INDUSTRIAL MAINTENANCE COATINGS

Section 223.300 Purpose

The purpose of this Subpart is to limit emissions of VOMs by requiring reductions in the VOM content of architectural and industrial maintenance coatings and required work practices to minimize VOM emissions in the application of architectural and industrial maintenance coatings to surfaces.

Section 223.305 Applicability

This Subpart is applicable to any person who supplies, sells, offers for sale, or manufactures any architectural coating for use within the State of Illinois, as well as any person who applies or solicits the application of any architectural coating within Illinois. This Subpart does not apply to:

- a) Any architectural coating that is sold or manufactured for use outside of the State of Illinois or for shipment to other manufacturers for reformulation or repackaging.
- b) Any aerosol coating product.
- c) Any architectural coating that is sold in a container with a volume of one liter (1.057 quart) or less.

Section 223.307 Definitions for Subpart C

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The definitions contained in this Section apply only to the provisions of this Subpart. Unless otherwise defined in this Section, the definitions of terms used in this Subpart shall have the meanings specified for those terms in 35 Ill. Adm. Code 211.

"Adhesive" means any chemical substance that is applied for the purpose of bonding two surfaces together other than by mechanical means.

"Aerosol Coating Product" means a pressurized coating product containing pigments or resins that dispenses product ingredients by means of a propellant, and is packaged in a disposable can for hand-held application or for use in specialized equipment for ground traffic/marketing applications.

"Antenna Coating" means a coating labeled and formulated exclusively for application to equipment and associated structural appurtenances that are used to receive or transmit electromagnetic signals.

"Antifouling Coating" means a coating labeled and formulated for application to submerged stationary structures and their appurtenances to prevent or reduce the attachment of marine or freshwater biological organisms. To qualify as an "Antifouling Coating", the coating must be registered with USEPA under the Federal Insecticide, Fungicide and Rodenticide Act (7 USC 136 et seq.)

"Appurtenance" means any accessory to a stationary structure coated at the site of installation, whether installed or detached, including, but not limited to, bathroom and kitchen fixtures, cabinets, concrete forms, doors, elevators, fences, hand railings, heating equipment, air conditioning equipment, and other fixed mechanical equipment or stationary tools, lampposts, partitions, pipes and piping systems, rain gutters and downspouts, stairways, fixed ladders, catwalks and fire escapes, and window screens.

"Architectural Coating" means a coating to be applied to stationary structures or the appurtenances at the site of installation, to portable buildings at the site of installation, to pavements, or to curbs. Coatings applied in shop applications or to non-stationary structures, such as airplanes, ships, boats, railcars, and automobiles, and adhesives are not considered architectural coatings for the purposes of this Subpart.

"Bitumens" means black or brown materials including, but not limited to, asphalt, tar, pitch, and asphaltite that are soluble in carbon disulfide, consist mainly of

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hydrocarbons, and are obtained from natural deposits or as residues from the distillation of crude petroleum or coal.

"Bituminous Roof Coating" means a coating that incorporates "Bitumens" that is labeled and formulated exclusively for roofing.

"Bituminous Roof Primer" means a primer that incorporates "Bitumens" that is labeled and formulated exclusively for roofing.

"Bond Breaker" means a coating labeled and formulated for application between layers of concrete to prevent a freshly poured top layer of concrete from bonding to the layer over which it is poured.

"Calcamine Recoaters" means flat solvent borne coatings formulated and recommended specifically for recoating calcamine-painted ceilings and other calcamine-painted substrates.

"Clear Brushing Lacquers" means clear wood finishes, excluding clear lacquer sanding sealers, formulated with nitrocellulose or synthetic resins to dry by solvent evaporation without chemical reaction and to provide a solid, protective film, which are intended exclusively for application by brush and which are labeled as specified in Section 223.320(e).

"Clear Wood Coatings" means clear and semi-transparent coatings, including lacquers and varnishes, applied to wood substrates to provide a transparent or translucent solid film.

"Coating" means, for purposes of this Subpart, a material applied onto or impregnated into a substrate for protective, decorative, or functional purposes. Such materials include, but are not limited to, paints, varnishes, sealers, and stains.

"Colorant" means, for purposes of this Subpart, a concentrated pigment dispersion in water, solvent, and/or binder that is added to an architectural coating after packaging in sale units to produce the desired color.

"Concrete Curing Compound" means, for purposes of this Subpart, a coating labeled and formulated for application to freshly poured concrete to retard the evaporation of water.

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"Concrete Surface Retarder" means a mixture of retarding ingredients such as extender pigments, primary pigments, resin, and solvent that interact chemically with the cement to prevent hardening on the surface where the retarder is applied, allowing the retarded mix of cement and sand at the surface to be washed away to create an exposed aggregate finish.

"Conversion Varnish" means a clear acid-curing coating with an alkyd or other resin blended with amino resins and supplied as a single component or two-component product. Conversion varnishes produce a hard, durable, clear finish designed for professional application to wood flooring. Film formation is the result of an acid-catalyzed condensation reaction, affecting a transesterification at the reactive ethers of the amino resins.

"Dry Fog Coating" means a coating labeled and formulated only for spray application such that overspray droplets dry before subsequent contact with incidental surfaces in the vicinity of the surface coating activity.

"Exempt Compound" means a compound identified as exempt under the definition of Volatile Organic Material (VOM) in Part 211.7150. The exempt compound content of a coating shall be determined by USEPA Method 24 or South Coast Air Quality Management District (SCAQMD) Method 303-91 (Revised February 1993), incorporated by reference in Section 223.120.

"Faux Finishing Coating" means a coating labeled and formulated as a stain or a glaze to create artistic effects including, but not limited to, dirt, old age, smoke damage, and simulated marble and wood grain.

"Fire-Resistive Coating" means an opaque coating labeled and formulated to protect the structural integrity by increasing the fire endurance of interior or exterior steel and other structural materials that has been fire tested and rated by a testing agency and approved by building code officials for use in bringing assemblies of structural materials into compliance with federal, State, and local building code requirements. The fire-resistive coating and the testing agency must be approved by building code officials. The fire-resistive coating shall be tested in accordance with ASTM E119-98, incorporated by reference in Section 223.120.

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"Fire-Retardant Coating" means a coating labeled and formulated to retard ignition and flame spread that has been fire tested and rated by a testing agency approved by building code officials for use in bringing building and construction materials into compliance with federal, State, and local building code requirements. The fire-retardant coating and the testing agency must be approved by building code officials. The fire-retardant coating shall be tested in accordance with ASTM E84-07, incorporated by reference in Section 223.120.

"Flat Coating" means a coating that is not defined under any other definition in this Section and that registers gloss less than 15 on an 85-degree meter or less than five on a 60-degree meter according to ASTM D523-89 (1999), incorporated by reference in Section 223.120.

"Floor Coating" means an opaque coating that is labeled and formulated for application to flooring, including, but not limited to, decks, porches, steps, and other horizontal surfaces that may be subjected to foot traffic.

"Flow Coating" means a coating labeled and formulated exclusively for use by electric power companies or their subcontractors to maintain the protective coating systems present on utility transformer units.

"Form-Release Compound" means a coating labeled and formulated for application to a concrete form to prevent the freshly poured concrete from bonding to the form. The form may consist of wood, metal, or some material other than concrete.

"Graphic Arts Coating or Sign Paint" means a coating labeled and formulated for hand-application by artists using brush or roller techniques to indoor and outdoor signs (excluding structural components) and murals, including letter enamels, poster colors, copy blockers, and bulletin enamels.

"High-Temperature Coating" means a high performance coating, excluding engine paint, labeled and formulated for application to substrates exposed continuously or intermittently to temperatures above 204°C (400°F).

"Impacted Immersion Coating" means a high performance maintenance coating formulated and recommended for application to steel structures subject to immersion in turbulent, debris-laden water. These coatings are specifically resistant to high-energy impact damage by floating ice or debris.

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"Industrial Maintenance Coating" means a high performance architectural coating, including primers, sealers, undercoaters, intermediate coats, and topcoats, formulated for application to substrates exposed to one or more of the following extreme environmental conditions and labeled as specified in Section 223.320(d):

Immersion in water, wastewater, or chemical solutions (aqueous and non-aqueous solutions), or chronic exposures of interior surfaces to moisture condensation;

Acute or chronic exposure to corrosive, caustic, or acidic agents, or to chemicals, chemical fumes, or chemical mixtures or solutions;

Repeated exposure to temperatures above 121°C (250°F);

Repeated (frequent) heavy abrasion, including mechanical wear and repeated (frequent) scrubbing with industrial solvents, cleansers, or scouring agents; or

Exterior exposure of metal structures and structural components.

"Lacquer" means, for purposes of this Subpart, a clear or opaque wood coating, including clear lacquer sanding sealers, formulated with cellulosic or synthetic resins to dry by evaporation without chemical reaction and to provide a solid, protective film.

"Low-Solids Coating" means a coating containing 0.12 kilogram or less of solids per liter (1 pound or less of solids per gallon) of coating material.

"Magnesite Cement Coating" means a coating labeled and formulated for application to magnesite cement decking to protect the magnesite cement substrate from erosion by water.

"Mastic Texture Coating" means a coating labeled and formulated to cover holes and minor cracks and to conceal surface irregularities, and is applied in a single coat of at least 10 mils (0.010 inch) dry film thickness.

"Metallic Pigmented Coating" means a coating containing at least 48 grams of elemental metallic pigment per liter of coating as applied (0.4 pounds per gallon),

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when tested in accordance with SCAQMD Method 318-95, incorporated by reference in Section 223.120.

"Multi-Color Coating" means a coating that is packaged in a single container and that exhibits more than one color when applied in a single coat.

"Non-Flat Coating" means a coating that is not defined under any other definition in this Section and that registers a gloss of 15 or greater on an 85-degree meter and five or greater on a 60-degree meter according to ASTM D523-89, incorporated by reference in Section 223.120, or an equivalent method approved by the CARB.

"Non-Flat High-Gloss Coating" means a non-flat coating that registers a gloss of 70 or above on a 60-degree meter according to ASTM D523-89, incorporated by reference into Section 223.120, or an equivalent method approved by the CARB.

"Nonindustrial Use" means any use of architectural coatings except in the construction or maintenance of any of the following: facilities used in the manufacturing of goods and commodities; transportation infrastructure, including highways, bridges, airports and railroads; facilities used in mining activities, including petroleum extraction; utilities infrastructure, including power generation and distribution; and water treatment and distribution systems.

"Nuclear Coating" means a protective coating formulated and recommended to seal porous surfaces such as steel (or concrete) that otherwise would be subject to intrusions by radioactive materials. These coatings must be resistant to long-term (service life) cumulative radiation exposure (ASTM D4082-02), incorporated by reference in Section 223.120, relatively easy to decontaminate, and resistant to various chemicals to which the coatings are likely to be exposed (ASTM D3912-95, incorporated by reference in Section 223.120).

"Post-Consumer Coating" means a finished coating that would have been disposed of in a landfill, having completed its usefulness to a consumer, and does not include manufacturing wastes.

"Pre-Treatment Wash Primer" means a primer that contains a minimum of 0.5 acid, by weight, when tested in accordance with ASTM D1613-03, incorporated by reference into Section 223.120, or an equivalent method approved by the CARB that is labeled and formulated for application directly to bare metal

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surfaces to provide corrosion resistance and to promote adhesion of subsequent topcoats.

"Primer" means, for purposes of this Subpart, a coating labeled and formulated for application to a substrate to provide a firm bind between the substrate and subsequent coats.

"Quick-Dry Enamel" means a non-flat coating that is labeled as specified in Section 223.320(h) and that is formulated to have the following characteristics:

Is capable of being applied directly from the container under normal conditions with ambient temperatures between 16 and 27°C (60 and 80°F); and

When tested in accordance with ASTM D1640-03, incorporated by reference in Section 223.120, or an equivalent method approved by the CARB, sets to touch in two hours or less, is tack free in four hours or less, and dries hard in eight hours or less by the mechanical test method; and

Has a dried film gloss of 70 or above on a 60-degree meter.

"Quick-Dry Primer Sealer and Undercoater" means a "Primer", "Sealer", or "Undercoater" that is dry to the touch in 30 minutes and can be recoated in two hours when tested in accordance with ASTM D1640-03, incorporated by reference in Section 223.120, or an equivalent method approved by the CARB.

"Recycled Coating" means an architectural coating formulated such that not less than 50 percent of the total weight consists of secondary and post-consumer coating, with not less than 10 percent of the total weight consisting of post-consumer coating.

"Residence" means areas where people reside or lodge, including, but not limited to, single and multiple family dwellings, condominiums, mobile homes, apartment complexes, motels, and hotels.

"Roof Coating" means a nonbituminous coating labeled and formulated exclusively for application to roofs for the primary purpose of preventing penetration of the substrate by water or reflecting heat and ultraviolet radiation. Metallic pigmented roof coatings that qualify as metallic pigmented coatings shall not be considered in this category, but shall be considered to be in the metallic pigmented coatings category.

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"Rust Preventive Coating" means a coating formulated exclusively for nonindustrial use to prevent the corrosion of metal surfaces and labeled as specified in Section 223.320(f).

"Sanding Sealer" means, for purposes of this Subpart, a clear or semi-transparent wood coating labeled and formulated for application to bare wood to seal the wood and to provide a coat that can be abraded to create a smooth surface for subsequent applications of coatings. A "Sanding Sealer" that also meets the definition of a "Lacquer" is not included in this category, but it is included in the "Lacquer" category.

"Sealer" means, for purposes of this Subpart, a coating labeled and formulated for application to a substrate for one or more of the following purposes: to prevent subsequent coatings from being absorbed by the substrate, or to prevent harm to subsequent coatings by materials in the substrate.

"Secondary Coating (Rework)" means a fragment of a finished coating or a finished coating from a manufacturing process that has converted resources into a commodity of real economic value, but does not include excess virgin resources of the manufacturing process.

"Shellac" means a clear or opaque coating formulated solely with the resinous secretions of the lac beetle (*Lacifer lacca*), thinned with alcohol, and formulated to dry by evaporation without a chemical reaction.

"Shop Application" means the application of a coating to a product or a component of a product in or on the premises of a factory or a shop as part of a manufacturing, production or repairing process (e.g., original equipment manufacturing coatings).

"Solicit" means to require for use or to specify by written or oral contract.

"Specialty Primer, Sealer, and Undercoater" means a coating labeled as specified in Section 223.320(g) and that is formulated for application to a substrate to seal fire, smoke, or water damage; to condition excessively chalky surfaces; to seal in efflorescence; or to block stains. An excessively chalky surface is one that is defined as having a chalk rating of four or less as determined by ASTM D4214-98, incorporated by reference in Section 223.120, or an equivalent method approved by the CARB.

"Stain" means a clear, semitransparent, or opaque coating labeled and formulated to change the color of a surface, but not conceal the grain pattern or texture.

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"Stone Consolidant" means a coating that is labeled and formulated for application to stone substrates to repair historical structures that have been damaged by weathering or other decay mechanisms. "Stone Consolidants" must penetrate into stone substrates to create bonds between particles and consolidate deteriorated material. "Stone Consolidants" must be specified and used in accordance with ASTM E2167-01, incorporated by reference in Section 223.120. "Stone Consolidants" are for professional use only and must be labeled as such, in accordance with the labeling requirements in Section 223.320.

"Swimming Pool Coating" means a coating labeled and formulated to coat the interior of swimming pools and to resist swimming pool chemicals.

"Swimming Pool Repair and Maintenance Coating" means a rubber-based coating labeled and formulated to be used over existing rubber-based coatings for the repair and maintenance of swimming pools.

"Temperature-Indicator Safety Coating" means a coating labeled and formulated as a color-changing indicator coating for the purpose of monitoring the temperature and safety of the substrate, underlying piping, or underlying equipment, and for application to substrates exposed continuously or intermittently to temperatures above 204°C (400°F).

"Thermoplastic Rubber Coating and Mastics" means a coating or mastic formulated and recommended for application to roofing or other structural surfaces and that incorporates no less than 40 percent by weight of thermoplastic rubbers in the total resin solids and may also contain other ingredients, including, but not limited to, fillers, pigments and modifying resins.

"Tint Base" means an architectural coating to which colorant is added after packaging in sale units to produce a desired color.

"Traffic Marking Coating" means a coating labeled and formulated for marking and striping streets, highways, or other traffic surfaces, including, but not limited to, curbs, berets, driveways, parking lots, sidewalks, and airport runways.

"Undercoater" means a coating labeled and formulated to provide a smooth surface for subsequent coatings.

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"Varnish" means a clear or semitransparent wood coating, excluding lacquers and shellacs, formulated to dry by chemical reaction on exposure to air. Varnishes may contain small amounts of pigment to color a surface, or to control the final sheen or gloss of the finish.

"VOC Content" shall have the same meaning as "VOM Content."

"VOM Content" means the weight of VOM per volume of coating, calculated according to the procedures specified in Section 223.340(a).

"Waterproofing Concrete/Masonry Sealers" means clear or pigmented sealers that are formulated for sealing concrete and masonry to provide resistance against water, alkalis, acids, ultraviolet light, or staining.

"Waterproofing Sealer" means a coating labeled and formulated for application to a porous substrate for the primary purpose of preventing the penetration of water.

"Wood Preservative" means a coating labeled and formulated to protect exposed wood from decay or insect attack that is registered with USEPA under the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC 136 et seq.).

Section 223.310 Standards

- a) VOM Content Limits: Except as provided in subsection (c), no person shall manufacture, blend, or repackage for sale within Illinois, supply, sell, or offer for sale within Illinois, or solicit for application or apply within Illinois, any architectural coating manufactured on or after January 1, 2009 that contains a VOM content in excess of the corresponding limit specified below:

| Coating Category | VOM Content Limit | |
|---------------------------------|--------------------------|-------|
| | Grams/Liter | |
| | (Pounds/Gallon) | |
| 1) Flat Coatings | 100 | (0.8) |
| 2) Non-Flat Coatings | 150 | (1.3) |
| 3) Non-Flat High-Gloss Coatings | 250 | (2.1) |

Specialty Coatings

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| | | | |
|-----|--|-----|-------|
| 4) | Antenna Coatings | 530 | (4.4) |
| 5) | Antifouling Coatings | 400 | (3.3) |
| 6) | Bituminous Roof Coatings | 300 | (2.5) |
| 7) | Bituminous Roof Primers | 350 | (2.9) |
| 8) | Bond Breakers | 350 | (2.9) |
| 9) | Calcamine Recoaters | 475 | (4.0) |
| 10) | Clear Wood Coatings | | |
| | A) Clear Brushing Lacquers | 680 | (5.7) |
| | B) Lacquers (including lacquer sanding sealers) | 550 | (4.6) |
| | C) Sanding Sealers (other than lacquer sanding sealers) | 350 | (2.9) |
| | D) Varnishes | 350 | (2.9) |
| 11) | Concrete Curing Compounds | 350 | (2.9) |
| | Concrete Surface Retarder | 780 | (6.5) |
| 12) | Conversion Varnish | 725 | (6.0) |
| 13) | Dry Fog Coatings | 400 | (3.3) |
| 14) | Faux Finishing Coatings | 350 | (2.9) |
| 15) | Fire-Resistive Coatings | 350 | (2.9) |
| 16) | Fire-Retardant Coatings | | |

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| | | | |
|-----|---|-----|-------|
| A) | Clear | 650 | (5.4) |
| B) | Opaque | 350 | (2.9) |
| 17) | Floor Coatings | 250 | (2.1) |
| 18) | Flow Coatings | 420 | (3.5) |
| 19) | Form-Release Compounds | 250 | (2.1) |
| 20) | Graphic Arts Coatings (Sign Paints) | 500 | (4.2) |
| 21) | High-Temperature Coatings | 420 | (3.5) |
| 22) | Impacted Immersion Coating | 780 | (6.5) |
| 23) | Industrial Maintenance Coatings | 340 | (2.8) |
| 24) | Low-Solids Coatings | 120 | (1.0) |
| 25) | Magnesite Cement Coatings | 450 | (3.8) |
| 26) | Mastic Texture Coatings | 300 | (2.5) |
| 27) | Metallic Pigmented Coatings | 500 | (4.2) |
| 28) | Multi-Color Coatings | 250 | (2.1) |
| 29) | Nuclear Coating | 450 | (3.8) |
| 30) | Pre-Treatment Wash Primers | 420 | (3.5) |
| 31) | Primers, Sealers, and Undercoaters | 200 | (1.7) |
| 32) | Quick-Dry Enamels | 250 | (2.1) |
| 33) | Quick-Dry Primers, Sealers and Undercoaters | 200 | (1.7) |
| 34) | Recycled Coatings | 250 | (2.1) |

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| | | | |
|-----|---|-----|-------|
| 35) | Roof Coatings | 250 | (2.1) |
| 36) | Rust Preventive Coatings | 400 | (3.3) |
| 37) | Shellacs | | |
| | A) Clear | 730 | (6.1) |
| | B) Opaque | 550 | (4.6) |
| 38) | Specialty Primers, Sealers, and Undercoaters | 350 | (2.9) |
| 39) | Stains | 250 | (2.1) |
| 40) | Stone Consolidants | 450 | (3.8) |
| 41) | Swimming Pool Coatings | 340 | (2.8) |
| 42) | Swimming Pool Repair and Maintenance Coatings | 340 | (2.8) |
| 43) | Temperature-Indicator Safety Coatings | 550 | (4.6) |
| 44) | Thermoplastic Rubber Coatings and Mastics | 550 | (4.6) |
| 45) | Traffic Marking Coatings | 150 | (1.3) |
| 46) | Waterproofing Concrete/Masonry Sealers | 400 | (3.3) |
| 47) | Waterproofing Sealers | 250 | (2.1) |
| 48) | Wood Preservatives | 350 | (2.9) |

BOARD NOTE: Conversion factor: one pound VOM per gallon (U.S.) = 119.95 grams per liter.

- b) Limits are expressed in grams of VOM per liter of coating thinned to the manufacturer's maximum recommendation, excluding the volume of any water, exempt compounds, or colorant added to tint bases. "Manufacturers maximum

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recommendation" means the maximum recommendation for thinning that is indicated on the label or lid of the coating container.

- c) Most Restrictive VOM Limit. If anywhere on the container of any architectural coating, or any label or sticker affixed to the container, or in any sales, advertising, or technical literature supplied by a manufacturer or anyone acting on the manufacturer's behalf, any representation is made that indicates that the coating meets the definition of or is recommended for use for more than one of the coating categories listed in subsection (a), then the most restrictive VOM content limit shall apply. This provision does not apply to the coating categories specified in subsections (c)(1) through (c)(21):
- 1) Lacquer coatings (including lacquer sanding sealers);
 - 2) Metallic pigmented coatings;
 - 3) Shellacs;
 - 4) Fire-retardant coatings;
 - 5) Pretreatment wash primers;
 - 6) Industrial maintenance coatings;
 - 7) Low-solids coatings;
 - 8) Wood preservatives;
 - 9) High-temperature coatings;
 - 10) Temperature-indicator safety coatings;
 - 11) Antenna coatings;
 - 12) Antifouling coatings;
 - 13) Flow coatings;
 - 14) Bituminous roof primers;

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- 15) Specialty primers, sealers, and undercoaters;
 - 16) Conversion varnish;
 - 17) Calcimine recoaters;
 - 18) Impacted immersion coatings;
 - 19) Nuclear coatings;
 - 20) Thermoplastic rubber coating and mastics;
 - 21) Concrete surface retarder.
- d) **Painting Practices.** All architectural coating containers used to apply their contents to a surface directly from the container by pouring, siphoning, brushing, rolling, padding, ragging, or other means shall be closed when not in use. These architectural coatings containers include, but are not limited to, drums, buckets, cans, pails, trays, or other application containers. Containers of any VOM-containing materials used for thinning and cleanup shall also be closed when not in use.
- e) **Thinning.** No person who applies or solicits the application of any architectural coating shall apply a coating that is thinned to exceed the applicable VOM limit specified in subsection (a).
- f) **Rust Preventive Coatings.** No person shall apply or solicit the application of any rust preventive coating for industrial use unless the rust preventive coating complies with the industrial maintenance coating VOM limit specified in subsection (a). If the coating is also regulated under another Part, the more restrictive limit shall apply.
- g) **Coatings Not Listed in Subsection (a).** For any coating that does not meet any of the definitions for the specialty coatings categories listed in subsection (a), the VOM content limit shall be determined by classifying the coating as a flat coating, a non-flat coating, or a non-flat high-gloss coating, based on its gloss, as defined in Section 223.307, and the corresponding flat or non-flat coating limit shall apply.

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Section 223.320 Container Labeling Requirements

Each manufacturer of any architectural coatings subject to this Subpart shall display the information listed in subsections (a) through (j) on the coating container in which the coating is sold or distributed (or on its label).

- a) **Date-code.** The date the coating was manufactured, or a date-code representing the date, shall be indicated on the label, lid or bottom of the container. If the manufacturer uses a date-code for any coating, the manufacturer shall file an explanation of each code with the Agency upon request.
- b) **Thinning Recommendations.** A statement of the manufacturer's recommendation regarding thinning of the coating shall be indicated on the label or lid of the container. This requirement does not apply to the thinning of architectural coatings with water. If thinning of the coating prior to use is not necessary, the recommendation must specify that the coating is to be applied without thinning.
- c) **VOM or VOC Content.** Each container of any coating subject to this Subpart shall display either the maximum or the actual VOM content of the coating, as supplied, or the actual VOM content including the maximum thinning as recommended by the manufacturer. VOM content shall be displayed in grams of VOM per liter of coating. VOM content displayed shall be calculated using product formulation data, or shall be determined using the test methods in Section 223.340(b). The equations in Section 223.340(a) shall be used to calculate VOM content. In each of the above cases, the term "VOC content" shall have the same meaning as "VOM content".
- d) **Industrial Maintenance Coatings.** In addition to the information specified in subsections (a), (b), and (c), each manufacturer of any industrial maintenance coating subject to this Subpart shall display on the label or the lid of the container in which the coating is sold or distributed one or more of the following descriptions:
 - 1) "For industrial use only";
 - 2) "For professional use only";
 - 3) "Not for residential use" or "Not intended for residential use".

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- e) Clear Brushing Lacquers. The labels of all clear brushing lacquers shall prominently display the statements "For brush application only" and "This product must not be thinned or sprayed".
- f) Rust Preventive Coatings. The labels of all rust preventive coatings shall prominently display the statement "For Metal Substrates Only".
- g) Specialty Primers, Sealers, and Undercoaters. The labels of all specialty primers, sealers, and undercoaters shall prominently display one or more of the following descriptions:
 - 1) "For blocking stains";
 - 2) "For fire-damaged substrates";
 - 3) "For smoke-damaged substrates";
 - 4) "For water-damaged substrates";
 - 5) "For excessively chalky substrates".
- h) Quick-Dry Enamels. The labels of all quick dry enamels shall prominently display the words "Quick Dry" and the dry hard time.
- i) Non-Flat High-Gloss Coatings. The labels of all non-flat high-gloss coatings shall prominently display the words "High Gloss."
- j) Stone Consolidants. Effective January 1, 2010, the labels of all stone consolidants shall prominently display the statement "Stone Consolidant – For Professional Use Only".

Section 223.330 Reporting Requirements

- a) Clear Brushing Lacquers. Within 90 days after written request by the Agency, each manufacturer of clear brushing lacquers shall report the following information for products sold in Illinois:

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- 1) The number of gallons of clear brushing lacquers sold in the State during the preceding calendar year; and
 - 2) The method used by the manufacturer to calculate State sales.
- b) Rust Preventive Coatings. Within 90 days after written request by the agency, each manufacturer of rust preventive coatings shall report the following information for products sold in Illinois:
- 1) The number of gallons of rust preventive coatings sold in the State during the preceding calendar year; and
 - 2) The method used by the manufacturer to calculate State sales.
- c) Specialty Primers, Sealers, and Undercoaters. With 90 days after written request by the Agency, each manufacturer of specialty primers, sealers, and undercoaters shall report the following information for products sold in Illinois:
- 1) The number of gallons of specialty primers, sealers, and undercoaters sold in the State during the preceding calendar year; and
 - 2) The method used by the manufacturer to calculate State sales.
- d) Toxic Exempt Compounds. For each architectural coating that contains perchloroethylene or methylene chloride, within 90 days after written request by the Agency, the manufacturer shall report the following information for products sold in Illinois:
- 1) The product brand name and a copy of the product label with legible usage instructions;
 - 2) The product category listed in Section 223.310(a) to which the coating belongs;
 - 3) The total sales in Illinois, during the calendar year, to the nearest gallon; and
 - 4) The volume percent, to the nearest 0.10 percent, of perchloroethylene and methylene chloride in the coating.

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- e) Recycled Coatings.
- 1) Within 90 days after written request by the Agency, manufacturers of recycled coatings must submit a letter to the Agency self-certifying their status as a Recycled Paint Manufacturer.
 - 2) Within 90 days after written request by the Agency, each recycled coatings manufacturer shall report the following information for products sold in Illinois:
 - A) The number of gallons of recycled coatings sold in the State during the preceding calendar year; and
 - B) The method used by the manufacturer to calculate State sales.
- f) Bituminous Coatings. Within 90 days after written request by the Agency, each manufacturer of bituminous roof coatings or bituminous roof primers shall report the following information for products sold in Illinois:
- 1) The number of gallons of bituminous roof coatings or bituminous roof primers sold in the State during the preceding calendar year; and
 - 2) The method used by the manufacturer to calculate State sales.

Section 223.340 Compliance Provisions and Test Methods

- a) Calculation of VOM Content. For the purpose of determining compliance with the VOM content limits in Section 223.310(a), the VOM content of a coating shall be determined by using the procedures described in subsection (a)(1) or (a)(2), as appropriate. The VOM content of a tint base shall be determined without colorant that is added after the tint base is manufactured.
- 1) With the exception of low solids coatings, determine the VOM content in grams of VOM per liter of coating thinned to the manufacturer's maximum recommendation, excluding the volume of any water and exempt compounds. Determine the VOM content as follows:

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$$VOM_{contents} = \frac{(W_s - W_w - W_{em})}{(V_m - V_w - V_{em})}$$

Where:

| | | |
|-------------|---|---------------------------------------|
| VOM content | = | grams of VOM per liter of coating |
| W_s | = | weight of volatiles, in grams |
| W_w | = | weight of water, in grams |
| W_{em} | = | weight of exempt materials, in grams |
| V_m | = | volume of coating, in liters |
| V_w | = | volume of water, in liters |
| V_{em} | = | volume of exempt materials, in liters |

- 2) For low solids coatings, determine the VOM content in units of grams of VOM per liter of coating thinned to the manufacturer's maximum recommendation, including the volume of any water and exempt compounds. Determine the VOM content as follows:

$$VOM_{content}(1s) = \frac{(W_s - W_w - W_{em})}{(V_m)}$$

Where:

| | | |
|-------------|---|---|
| VOM content | = | the VOM content of a low solids coating in grams per liter of coating |
| W_s | = | weight of volatiles, in grams |
| W_w | = | weight of water, in grams |
| W_{em} | = | weight of exempt materials, in grams |
| V_m | = | volume of coating, in liters |

- b) VOM Content of Coatings. To determine the physical properties of a coating in order to perform the calculations in subsection (a), the reference method for VOM content is USEPA Method 24, incorporated by reference in Section 223.120, except as provided in Sections 223.350 and 223.360. An alternative method to determine the VOM content of coatings is SCAQMD Method 304-91, incorporated by reference in Section 223.120. The exempt compounds content shall be determined by SCAQMD Method 303-91, incorporated by reference in Section 223.120. To determine the VOM content of a coating, the manufacturer may use USEPA Method 24, or an equivalent alternative method as provided in Section 223.350, formulation data, or any other reasonable means for predicting

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that the coating has been formulated as intended (e.g., quality assurance checks, recordkeeping). However, if there are any inconsistencies between the results of a Method 24 test and any other means for determining VOM content, the Method 24 results will govern, except when an equivalent alternative method is approved as specified in Section 223.350. The Agency may require the manufacturer to conduct a Method 24 analysis.

Section 223.350 Alternative Test Methods

Other test methods demonstrated to provide results that are acceptable for purposes of determining compliance with Section 223.340(b), after review and approval in writing by the Agency and USEPA, may also be used.

Section 223.360 Methacrylate Traffic Coating Markings

Analysis of methacrylate multi-component coatings used as traffic marking coatings shall be conducted according to a modification of USEPA Method 24, incorporated by reference in Section 223.120, or an equivalent method approved by the CARB. This method has not been approved for methacrylate multi-component coatings used for purposes other than as traffic marking coatings or for other classes of multi-component coatings.

Section 223.370 Test Methods

The following test methods are incorporated by reference in Section 223.120 and shall be used to test coatings subject to the provisions of this Subpart:

- a) **Flame Spread Index.** The flame spread index of a fire-retardant coating shall be determined by ASTM E84-07, Standard Test Method for Surface Burning Characteristics of Building Materials (see Section 223.307, Fire-Retardant Coating), or an equivalent method approved by the CARB.
- b) **Fire-Resistance Rating.** The fire-resistance rating of a fire-resistive coating shall be determined by ASTM E119-98, Standard Test Methods for Fire Tests of Building Construction Materials (see Section 223.307, Fire-Resistive Coating), or an equivalent method approved by the CARB.
- c) **Gloss Determination.** The gloss of a coating shall be determined by ASTM D523-89, Standard Test Method for Specular Gloss (see Section 223.307, Flat

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

Coating, Non-Flat Coating, Non-Flat High-Gloss Coating, and Quick-Dry Enamel), or an equivalent method approved by the CARB.

- d) Metal Content of Coatings. The metallic content of a coating shall be determined by SCAQMD Method 318-95, Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction, SCAQMD Laboratory Methods of Analysis for Enforcement Samples (see Section 223.307, Metallic Pigmented Coating).
- e) Acid Content of Coatings. The acid content of a coating shall be determined by ASTM D1613-03, Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer and Related Products (see Section 223.307, Pre-Treatment Wash Primer), or an equivalent method approved by the CARB.
- f) Drying Times. The set-to-touch, dry-hard, dry-to-touch and dry-to-recoat times of a coating shall be determined by ASTM D1640-03, Standard Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature (see Section 223.307, Quick-Dry Enamel and Quick-Dry Primer, Sealer, and Undercoater). The tack free time of a quick-dry enamel coating shall be determined by the Mechanical Test Method of ASTM D1640-03, or an equivalent method approved by the CARB.
- g) Surface Chalkiness. The chalkiness of a surface shall be determined using ASTM D4214-98, Standard Test Methods for Evaluating the Degree of Chalking of Exterior Paint Films (see Section 223.307, Specialty Primer, Sealer, and Undercoater), or an equivalent method approved by the CARB.
- h) Exempt Compounds – Siloxanes. Exempt compounds that are cyclic, branched, or linear, completely methylated siloxanes shall be analyzed as exempt compounds for compliance with Section 223.340 by BAAQMD Method 43, Determination of Volatile Methylsiloxanes in Solvent-Based Coatings, Inks, and Related Materials, BAAQMD Manual of Procedures, Volume III (see Section 223.307, VOM Content, and Section 223.340(b)).
- i) Exempt Compounds – Parachlorobenzotrifluoride (PCBTF). The exempt compound parachlorobenzotrifluoride shall be analyzed as an exempt compound for compliance with Section 223.340 by BAAQMD Method 41, Determination of Volatile Organic Compounds in Solvent-Based Coatings and Related Materials

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Containing Parachlorobenzotrifluoride, BAAQMD Manual of Procedures, Volume III (see Section 223.307, VOM Content, and Section 223.340(b)).

- j) Exempt Compounds. The content of compounds exempt under USEPA Method 24 shall be analyzed by SCAQMD Method 303-91, Determination of Exempt Compounds, SCAQMD Laboratory Methods of Analysis for Enforcement Samples (see Section 223.307, VOM Content, and Section 223.340(b)).
- k) VOM Content of Coatings. The VOM content of a coating shall be determined by USEPA Method 24 as it exists in Appendix A of 40 CFR 60, Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings (see Section 223.340(b)), or an equivalent method approved by the CARB.
- l) Alternative VOM Content of Coatings. The VOM content of coatings may be analyzed by either USEPA Method 24 or SCAQMD Method 304-91, Determination of Volatile Organic Compounds (VOC) in Various Materials, SCAQMD Laboratory Methods of Analysis for Enforcement Samples (see Section 223.340(b)).
- m) Methacrylate Traffic Marking Coatings. The VOM content of methacrylate multicomponent coatings used as traffic marking coatings shall be analyzed by the procedures in 40 CFR 59, subpart D, appendix A, Determination of Volatile Matter Content of Methacrylate Multicomponent Coatings Used as Traffic Marking Coatings (see Section 223.360), or an equivalent method approved by the CARB.

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Substance Abuse
- 2) Code Citation: 11 Ill. Adm. Code 508
- 3)

| | |
|-------------------------|--------------------------|
| <u>Section Numbers:</u> | <u>Proposed Actions:</u> |
| 508.50 | Amend |
| 508.60 | Amend |
- 4) Statutory Authority: Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)]
- 5) A Complete Description of the Subjects and Issues Involved: Part 508 in its current form permits random urine testing and individualized suspicion testing for jockeys, drivers, starters, assistant starters and outriders. The constitutionality of Part 508 was upheld by the Seventh Circuit Court in Dimeo v. Griffin, 943 F.2d 679 (7th Cir 1991). This amendment extends individualized suspicion testing to all other licensees on the backstretch of a race track enclosure when there is just cause to suspect the licensee has purchased, sold or used illegal substances on the backstretch of the racetrack: these categories include grooms, exercise persons, hotwalkers, owners and trainers. The licensee categories eligible for random testing under Section 508.80 remain unchanged.

The Illinois Racing Board is concerned with evidence of increased illegal drug sales and use on the backstretch and other areas of the racetrack enclosure. The Seventh Circuit recognized the dual concerns of the Illinois Racing Board regarding the use of illegal substances by participants in racing: 1) the safety of the participants and 2) the integrity of the sport that derives income from pari-mutuel betting. Dimeo, 943 F. 2d at 682-684. The safety of all persons on the backstretch of a racetrack is at risk when persons impaired by the influence of illegal drugs are working around racehorses. Moreover, the presence of drug dealers and drug users on the backstretch poses clear integrity problems.

Finally, these amendments update the Part to bring it in compliance with current federal drug testing procedures and policies.

- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending in this Part? No
- 11) Statement of Statewide Policy Objective: No local governmental units will be required to increase expenditures.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this notice, to:
- Mickey Ezzo
Illinois Racing Board
100 West Randolph
Suite 7-701
Chicago, Illinois 60601
- 312/814-5017
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: the Board did not anticipate the changes.

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
 SUBTITLE B: HORSE RACING
 CHAPTER I: ILLINOIS RACING BOARD
 SUBCHAPTER c: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

PART 508
 SUBSTANCE ABUSE

| | |
|---------|---|
| Section | |
| 508.10 | Purpose |
| 508.20 | Definitions |
| 508.30 | Breathalyzer Test |
| 508.35 | Hearings |
| 508.40 | Penalties for Alcohol Abuse |
| 508.50 | Licensee Subject to TestingUrine Test |
| 508.60 | Penalties for Substance Abuse |
| 508.70 | Confidential Test Results |
| 508.80 | Random Testing |
| 508.90 | Severability |

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Adopted at 10 Ill. Reg. 5840, effective March 28, 1986; Part repealed, new Part adopted at 11 Ill. Reg. 11137, effective June 3, 1987; amended at 12 Ill. Reg. 1910, effective January 1, 1988; amended at 29 Ill. Reg. 14033, effective September 1, 2005; amended at 33 Ill. Reg. _____, effective _____.

Section 508.50 [Licensee Subject to TestingUrine Test](#)

- a) No ~~licenseeJockey, Driver, Starter, Assistant Starter or Outrider~~ shall [have present in his or her body, or possess or use on the grounds of any race track, any controlled substanceControlled Substance](#) or any prescription drug unless ~~thesuch~~ substance was obtained directly, or pursuant to a valid prescription or order, from a licensed physician, while acting in the course of his or her professional practice. ~~It shall be the responsibility of the Jockey, Driver, Starter, Assistant Starter, or Outrider to give prior written notice to the Stewards that he is using a Controlled Substance or prescription drug pursuant to a valid prescription or order from a licensed physician.~~

ILLINOIS RACING BOARD

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- b) Each licensee at a race track or other facility under the jurisdiction of the Board may be subject to a drug test at any time while within the enclosure of any race track or other facility, at the direction of the Stewards or Executive Director or designee, if there is individualized suspicion that a licensee is possessing or using any controlled substance or any drug in violation of any federal or State law. This provision notwithstanding, specific categories of occupation licenses are subject to random drug testing pursuant to Section 508.80. Failure to submit to or complete a drug test at the time, location and manner directed by Board personnel shall constitute a refusal to be tested. Any licensee who fails to submit to or complete a drug test shall be immediately suspended for no more than 30 days and shall not be allowed to participate at any race track under the jurisdiction of the Board until a negative test result is achieved. A licensee's refusal to test shall subject the licensee to the penalties in Section 508.60.
- ~~b) The stewards shall direct any Jockey, Driver, Starter, Assistant Starter, or Outrider at a licensed race meeting to submit to a urine test for drugs if the stewards have either reasonable information or an individualized suspicion that the urine test may produce evidence that said Jockey, Driver, Starter, Assistant Starter, or Outrider is using either a Controlled Substance or prescription drug without a prescription. Any Jockey, Driver, Starter, Assistant Starter, or Outrider who fails to submit to a urine test when requested to do so by the stewards shall be suspended.~~
- e) ~~Any Jockey, Driver, Starter, Assistant Starter or Outrider subject to this rule who is requested to submit to a urine test shall provide the urine sample to the stewards or their designee. The sample so taken shall be immediately sealed and tagged on the form provided by the Board. The signature of the tested licensee shall constitute evidence of such sealing. The portion of the sample which is provided to the laboratory for analysis shall not identify the Jockey, Driver, Starter, Assistant Starter or Outrider by name. It shall be the obligation of the Jockey, Driver, Starter, Assistant Starter or Outrider to cooperate fully with the Stewards or their designee in obtaining any sample which may be required and to witness the sealing of such sample.~~
- c)d) Each specimen received from a licensee~~Jockey, Driver, Starter, Assistant Starter, or Outrider~~ shall be divided into two separate parts. One portion designated as the "referee" sample, shall be available for testing upon the request of the individual who provided the specimen. The "referee" sample may also be tested by the

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

laboratory with the consent of the individual who provided the specimen. The other portion of the sample shall be known as the "laboratory" sample and shall be tested by the laboratory. ~~The Board shall bear the cost of preparing the "referee" sample for shipment but~~ The cost of ~~such shipment and of such~~ testing the referee portion shall be borne by the person requesting the additional test.

d)e) After the ~~specimen~~urine sample has been taken from a ~~licensee~~Jockey, Driver, Starter, Assistant Starter, or Outrider and analyzed by ~~an accredited~~a laboratory ~~approved~~contracted by the Board, the laboratory shall make a positive test finding. ~~The Board shall consider if the urine sample exceeds~~ both the initial test level and confirmatory test level for controlled substances or prescription drugs, ~~pursuant~~Pursuant to the Mandatory Guidelines for Federal Workplace Drug Testing (Substance Abuse and Mental Health Services Administration available at <http://www.workplace.samhsa.gov>~~dwp.samhsa.gov/FedPgms/Pages/HMS_Mand_Guid_Effective_Nov_04.aspx~~) when determining a positive for a controlled substance that is included in the federal guidelines.

1) ~~The following initial test cutoff levels shall be used when screening specimens to determine whether they are negative. Specimens that test negative on the initial test shall be reported negative.~~

| | |
|-----------------------|---------------------------------|
| Marijuana metabolites | 50 nanograms/milliliter (ng/ml) |
| Cocaine metabolites | 300 ng/ml |
| Opiate metabolites | 300 ng/ml |
| Amphetamines | 1,000 ng/ml |

2) ~~All specimens identified as positive on the initial test shall be confirmed at the following cutoff levels:~~

| | |
|-----------------------|---------------------------------|
| Marijuana metabolites | 15 nanograms/milliliter (ng/ml) |
| Cocaine metabolites | 150 ng/ml |
| Opiate metabolites | 300 ng/ml |
| Amphetamines | 500 ng/ml |

e)f) A confirmed positive for an illegal drug, controlled substance or prescription drug result shall be reported, in writing, to the ~~Stewards~~Executive Director of the Board or his designee. On receiving written notice from the laboratory that a sample has been found positive for an illegal drug, a controlled substance or prescription drug, the

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~~Stewards~~~~Executive Director or his designee~~ shall notify the individual ~~and the stewards~~ of the test results.

- (g) Upon receipt of a notice of positive test finding, the stewards shall conduct an inquiry at which the individual with notice of a positive test finding shall have the opportunity to be heard. Further, any individual with notice of a positive test finding may challenge his ~~or her~~ particular test or test result by having a portion of the sample tested at the laboratory of his ~~or her~~ choice. Any individual contesting the tests or test results may request a hearing before the Board as set forth in 11 Ill. Adm. Code 204.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 508.60 Penalties for Substance Abuse

- a) For a ~~licensee's Jockey, Driver, Starter, Assistant Starter, or Outrider's~~ first violation of ~~Section subsection~~ 508.50(a) ~~or (b)~~, the Board or the ~~Stewards stewards~~ shall suspend the offender or assess a civil penalty not to exceed \$1,000. In determining the appropriate penalty, the Board or stewards shall consider the offender's history of rule violations, age and experience, and the potential of the offender's conduct to result in physical harm to the human and equine participants at the race meeting.
- b) For a second violation of Section 508.50(a) ~~or (b)~~, the Board or the ~~Stewards stewards~~ shall suspend the ~~licensee Jockey, Driver, Starter, Assistant Starter, or Outrider~~ pending his ~~or her~~ completion of a substance abuse treatment program licensed by the Illinois Department of ~~Human Services Alcoholism and Substance Abuse~~ under 77 Ill. Adm. Code 2055 or a state licensed treatment program in another state. If any individual is suspended for a second violation of Section 508.50(a) ~~or (b)~~, he ~~or she~~ shall be entitled to a hearing as provided in 11 Ill. Adm. Code 204.
- 1) It shall be the responsibility of the ~~licensee Jockey, Driver, Starter, Assistant Starter, or Outrider~~ to provide the Board with written notice (on forms provided by the Board) of ~~his~~ enrollment, weekly status reports, and a written notice that he ~~or she~~ has successfully completed the program and has been discharged.
- 2) After a ~~licensee Jockey, Driver, Starter, Assistant Starter, or Outrider~~ has

ILLINOIS RACING BOARD

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been discharged from a treatment program, the Board shall require, as a condition of ~~his~~ re-licensure, periodic follow-up ~~drugurine~~ testing within one year from the date of the treatment program discharge, but not to exceed ~~four~~(4) tests per year.

- c) For a ~~licensee's Jockey, Driver, Starter, Assistant Starter, or Outrider's~~ third violation of Section 508.50(a) ~~or (b)~~, his ~~or her~~ license shall be revoked. If any individual's license is revoked for the third violation of Section 508.50(a) ~~or (b)~~, he ~~or she~~ shall be entitled to a hearing as provided in 11 Ill. Adm. Code 204.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Starting
- 2) Code Citation: 11 Ill. Adm. Code 1415
- 3) Section Numbers: 1415.290 Proposed Action:
New Section
- 4) Statutory Authority: Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking adopts the Association of Racing Commissioners International model rule prohibiting toe grabs on the front shoes of thoroughbred horses with a height greater than 2 millimeters and other traction devices. The scientific evidence and studies suggest that there is a direct link between toe grabs and equine injuries. Research has demonstrated that high toe grabs make a thoroughbred racehorse 16 times more likely to suffer a catastrophic injury while racing.

The Thoroughbred Owners and Breeders Association now requires toe grab restrictions as a condition for grade eligibility for stakes races beginning in 2009. State or racetracks will have to adopt a provision restricting toe grabs in order to retain grade eligibility (i.e. the Grade I Arlington Million).
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: The Jockey Club Thoroughbred Safety Committee Report, June 17, 2008.
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending in this Part? No
- 11) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this Notice, to:

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NOTICE OF PROPOSED AMENDMENT

Mickey Ezzo
Illinois Racing Board
100 West Randolph
Suite 7-701
Chicago, Illinois 60601

312/814-5017

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: the Board did not anticipate the need for this rulemaking at the time the agendas were published.

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER g: RULES AND REGULATIONS OF HORSE RACING
(THOROUGHBRED)

PART 1415
STARTING

| Section | |
|----------|--------------------------------------|
| 1415.10 | Identification of Horses |
| 1415.15 | Lip Tattoo |
| 1415.20 | Authority of Starter |
| 1415.30 | Jockeys to Dismount |
| 1415.40 | All Horses Parade |
| 1415.50 | Horses Led to Post |
| 1415.60 | Starter's Orders |
| 1415.70 | Starter's Assistants |
| 1415.80 | Causes of Delay |
| 1415.90 | Report Presence on Grounds |
| 1415.100 | Jockey Fees Paid |
| 1415.110 | Licensed Trainer |
| 1415.120 | Veterinarians' List |
| 1415.130 | Scratches and Refunds |
| 1415.140 | Number of Starters |
| 1415.150 | Horse Must Run the Course |
| 1415.160 | Starting Gate |
| 1415.170 | Post Positions |
| 1415.180 | Horse, When a Starter |
| 1415.190 | Failure of Starting Gate |
| 1415.200 | Start Without Gate |
| 1415.210 | Horse, When a Starter Without a Gate |
| 1415.220 | Schooling |
| 1415.230 | Twitches and War Bridles (Repealed) |
| 1415.240 | Starter (Repealed) |
| 1415.250 | Starter Reports Fines (Repealed) |
| 1415.260 | Inspection of Plating |
| 1415.270 | Change in Course |
| 1415.280 | Equipment Changes |

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

[1415.290](#) [Prohibited Equipment](#)

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Published in Rules and Regulations of Horse Racing, (original date not cited in publication); amended at 5 Ill. Reg. 8911, effective August 25, 1981; codified at 5 Ill. Reg. 10985; amended at 6 Ill. Reg. 10013, effective August 3, 1982; amended at 7 Ill. Reg. 2170, effective February 4, 1983; amended at 14 Ill. Reg. 20056, effective December 4, 1990; amended at 18 Ill. Reg. 11620, effective July 7, 1994; amended at 27 Ill. Reg. 538, effective January 1, 2003; amended at 33 Ill. Reg. _____, effective _____.

[Section 1415.290 Prohibited Equipment](#)

[Shoes \(racing plates\) that have toe grabs with a height greater than 2 millimeters \(0.15748 inches\) and bends, jar caulks, stickers and any other traction devices shall be prohibited on the front shoes of thoroughbred horses while racing or training on all racing surfaces.](#)

(Source: Added at 33 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Number: 100.7120 Proposed Action: Amendment
- 4) Statutory Authority: 35 ILCS 5/701(d) and 5/1401
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends the regulation that provides guidance for employees claiming exemption from withholding from wages because they are residents of a state with whom Illinois has entered a reciprocal agreement, under which neither state will tax wages earned by residents of the other state. The current regulation uses an obsolete designation for the Form IL-W-5-NR used by the employee to claim the exemption, and does not allow employers to use electronic versions of the form. The proposed amendment fixes both of these problems.
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

| <u>Section Numbers:</u> | <u>Proposed Action:</u> | <u>Illinois Register Citation:</u> |
|-------------------------|-------------------------|---------------------------------------|
| 100.2406 | New Section | 31 Ill. Reg. 15240; November 16, 2007 |
| 100.7040 | Amendment | 32 Ill. Reg. 12164; August 1, 2008 |
| 100.7300 | Amendment | 32 Ill. Reg. 12164; August 1, 2008 |
| 100.7310 | Amendment | 32 Ill. Reg. 12164; August 1, 2008 |
| 100.7320 | Amendment | 32 Ill. Reg. 12164; August 1, 2008 |
| 100.7325 | New Section | 32 Ill. Reg. 12164; August 1, 2008 |
| 100.7330 | Amendment | 32 Ill. Reg. 12164; August 1, 2008 |
| 100.7350 | New Section | 32 Ill. Reg. 12164; August 1, 2008 |
| 100.7360 | New Section | 32 Ill. Reg. 12164; August 1, 2008 |

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

| | | |
|----------|-------------|--------------------------------------|
| 100.7370 | New Section | 32 Ill. Reg. 12164; August 1, 2008 |
| 100.3371 | New Section | 32 Ill. Reg. 16037, October 3, 2008 |
| 100.2310 | Amendment | 32 Ill. Reg. 16309, October 10, 2008 |
| 100.5070 | Amendment | 32 Ill. Reg. 16682, October 17, 2008 |
| 100.5080 | Amendment | 32 Ill. Reg. 16682, October 17, 2008 |
| 100.2430 | Amendment | 32 Ill. Reg. 16951, October 24, 2008 |
| 100.5100 | Amendment | 32 Ill. Reg. 17105; October 31, 2008 |
| 100.5140 | Amendment | 32 Ill. Reg. 17105; October 31, 2008 |
| 100.5160 | Amendment | 32 Ill. Reg. 17105; October 31, 2008 |
| 100.5180 | New Section | 32 Ill. Reg. 17105; October 31, 2008 |
| 100.7035 | New Section | 32 Ill. Reg. 17105; October 31, 2008 |

- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking: Persons who wish to submit comments on this rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

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

217/524-3951

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Any small business, municipality or not-for-profit corporation with an employee who is a resident of a state with a reciprocal agreement will benefit from being allowed to use electronic versions of the Form IL-W-5-NR rather than paper, if the employer wishes to do so.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

14) Regulatory Agenda on which this rulemaking was summarized: July 2008

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

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

SUBPART A: TAX IMPOSED

Section

- 100.2000 Introduction
100.2050 Net Income (IITA Section 202)

SUBPART B: CREDITS

Section

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

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

Section

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

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

Section

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

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After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

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

Section

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

SUBPART F: BASE INCOME OF INDIVIDUALS

Section

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

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

Section

- 100.2655 Subtraction Modification for Enterprise Zone and River Edge Redevelopment Zone Interest (IITA Section 203(b)(2)(M))
- 100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

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

Section

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| 100.3000 | Terms Used in Article 3 (IITA Section 301) |
| 100.3010 | Business and Nonbusiness Income (IITA Section 301) |
| 100.3015 | Business Income Election (IITA Section 1501) |
| 100.3020 | Resident (IITA Section 301) |

SUBPART J: COMPENSATION

Section

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| 100.3100 | Compensation (IITA Section 302) |
| 100.3110 | State (IITA Section 302) |
| 100.3120 | Allocation of Compensation Paid to Nonresidents (IITA Section 302) |

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

Section

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| 100.3200 | Taxability in Other State (IITA Section 303) |
| 100.3210 | Commercial Domicile (IITA Section 303) |
| 100.3220 | Allocation of Certain Items of Nonbusiness Income by Persons Other Than Residents (IITA Section 303) |

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

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| 100.3300 | Allocation and Apportionment of Base Income (IITA Section 304) |
| 100.3310 | Business Income of Persons Other Than Residents (IITA Section 304) – In General |
| 100.3320 | Business Income of Persons Other Than Residents (IITA Section 304) – Apportionment (Repealed) |
| 100.3330 | Business Income of Persons Other Than Residents (IITA Section 304) – Allocation |
| 100.3340 | Business Income of Persons Other Than Residents (IITA Section 304) |
| 100.3350 | Property Factor (IITA Section 304) |
| 100.3360 | Payroll Factor (IITA Section 304) |
| 100.3370 | Sales Factor (IITA Section 304) |

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- 100.3380 Special Rules (IITA Section 304)
- 100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
- 100.3400 Apportionment of Business Income of Financial Organizations (IITA Section 304(c))
- 100.3420 Apportionment of Business Income of Insurance Companies (IITA Section 304(b))
- 100.3500 Allocation and Apportionment of Base Income by Nonresident Partners

SUBPART M: ACCOUNTING

Section

- 100.4500 Carryovers of Tax Attributes (IITA Section 405)

SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section

- 100.5000 Time for Filing Returns: Individuals (IITA Section 505)
- 100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)
- 100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
- 100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
- 100.5040 Innocent Spouses
- 100.5050 Frivolous Returns
- 100.5060 Reportable Transactions
- 100.5070 List of Investors in Potentially Abusive Tax Shelters
- 100.5080 Registration of Tax Shelters (IITA Section 1405.5)

SUBPART O: COMPOSITE RETURNS

Section

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

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SUBPART P: COMBINED RETURNS

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

SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

| Section | |
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| 100.7000 | Requirement of Withholding (IITA Section 701) |
| 100.7010 | Compensation Paid in this State (IITA Section 701) |
| 100.7020 | Transacting Business Within this State (IITA Section 701) |
| 100.7030 | Payments to Residents (IITA Section 701) |
| 100.7040 | Employer Registration (IITA Section 701) |
| 100.7050 | Computation of Amount Withheld (IITA Section 702) |
| 100.7060 | Additional Withholding (IITA Section 701) |
| 100.7070 | Voluntary Withholding (IITA Section 701) |
| 100.7080 | Correction of Underwithholding or Overwithholding (IITA Section 701) |
| 100.7090 | Reciprocal Agreement (IITA Section 701) |
| 100.7095 | Cross References |

SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

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

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SUBPART S: INFORMATION STATEMENT

Section
100.7200 Reports for Employee (IITA Section 703)

SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section
100.7300 Returns of Income Tax Withheld from Wages (IITA Section 704)
100.7310 Quarterly Returns Filed on Annual Basis (IITA Section 704)
100.7320 Time for Filing Returns (IITA Section 704)
100.7330 Payment of Tax Deducted and Withheld (IITA Section 704)
100.7340 Correction of Underwithholding or Overwithholding (IITA Section 704)

SUBPART U: COLLECTION AUTHORITY

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

SUBPART V: NOTICE AND DEMAND

Section
100.9100 Notice and Demand (IITA Section 902)

SUBPART W: ASSESSMENT

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

SUBPART X: DEFICIENCIES AND OVERPAYMENTS

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

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100.9330 Further Notices of Deficiency Restricted (IITA Section 906)

SUBPART Y: CREDITS AND REFUNDS

Section

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

SUBPART Z: INVESTIGATIONS AND HEARINGS

Section

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

SUBPART AA: JUDICIAL REVIEW

Section

100.9600 Administrative Review Law (IITA Section 1201)

SUBPART BB: DEFINITIONS

Section

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

SUBPART CC: LETTER RULING PROCEDURES

Section

100.9800 Letter Ruling Procedures

SUBPART DD: MISCELLANEOUS

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Section

100.9900 Tax Shelter Voluntary Compliance Program

100.APPENDIX A Business Income Of Persons Other Than Residents

100.TABLE A Example of Unitary Business Apportionment

100.TABLE B Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

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

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839,

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effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 17, 2008; amended at 32 Ill. Reg. 3400, effective February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. 10170, effective June 30, 2008; amended at 32 Ill. Reg. 13223, effective July 24, 2008; amended at 32 Ill. Reg. 17492, effective October 24, 2008; amended at 33 Ill. Reg. _____, effective _____.

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SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

Section 100.7120 Exempt Withholding Under Reciprocal Agreements (ITA Section 702)

- a) In general. Employees who are residents of a state with which a reciprocal agreement is in effect exempting residents of that state from withholding of Illinois tax on compensation paid in Illinois must file a signed certificate of their residency in order to receive the benefit of ~~thesuch~~ exemption.
- b) Form of residency certificate. Form IL-W-5-NR, Employee's Statement of Non-Residence in Illinois, is the form prescribed for the certificate required to be filed under this ~~Sectionsection~~. ~~TheSuch~~ certificate shall be prepared in accordance with the instructions ~~applicable thereto~~, and shall set forth fully and clearly the ~~required~~ data ~~therein called for~~. Form IL-W-5-NR will be supplied ~~to~~ employers upon request to the Department. In lieu of the prescribed form of certificate, employers may prepare and use a form that contains the same information required in the provisions of which are identical to those of the prescribed form and, if not maintained in hardcopy, that meets the requirements of 86 Ill. Adm. Code 100.9530(d).
- c) Change in residency. An employee must notify his ~~or her~~ employer and file a new residency certificate or Illinois withholding exemption certificate, whichever is applicable, within ten days after his ~~or her~~ state of residency changes from the one named on ~~thehis~~ certificate.
- d) Annual determination: effective date; ~~and~~ duration of residency certificate. A certificate described under this ~~Sectionsection~~ shall be subject to the same rules applicable to a withholding exemption certificate under ~~Section86 Ill. Adm. Code~~ 100.7110(e), (f) and (g).

(Source: Amended at 33 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Reading Improvement Program
- 2) Code Citation: 23 Ill. Adm. Code 260
- 3)

| <u>Section Numbers:</u> | <u>Proposed Action:</u> |
|-------------------------|-------------------------|
| 260.100 | New Section |
| 260.110 | New Section |
| 260.120 | New Section |
| 260.130 | New Section |
| 260.140 | New Section |
- 4) Statutory Authority: 105 ILCS 5/ 2-3.51
- 5) A Complete Description of the Subjects and Issues Involved: Section 2-3.51 of the School Code establishes the Reading Improvement Block Grant (RIBG) Program, a formula-based grant that is provided to school districts with schools serving kindergarten through grade 6 and is designed to help improve reading achievement and instruction. Under the law, the State Board of Education is authorized to reserve up to 2 percent of the money allocated for the RIBG program for "teacher training and re-training in the teaching of reading". Part 260 currently sets forth only the requirements for the formula-based programs.

Proposed Subpart B will identify the applicants eligible to apply for professional development grants on a competitive basis, establish the procedures and requirements for both initial and continuation applications, and provide the criteria for review and awarding of grants. The proposed amendments contemplate two pools of applicants: school districts, charter schools and approved public university laboratory schools, which would apply on behalf of their teachers who would participate in the professional development activities, and these applicants and other entities, which would apply to establish the training programs.

Additionally, the proposed amendments allow sufficient flexibility for the State Superintendent to identify in each RFP the training approaches that would best meet the needs of school staff or support statewide priorities for improvement of teaching and learning. This flexibility will enable the agency to target limited resources toward programs with the greatest likelihood of success, without first having to conduct a lengthy process to amend the rules.

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Each RFP also would communicate the amount of the 2 percent set-aside to be awarded and the length that grants will be in effect (i.e., one, two or three years). The decision to renew a grant in any subsequent year of a funding cycle would be made based on the amount of the RIBG appropriation, the activities the grantee proposes for the grant period, and the grantee's adherence to the terms and conditions of the grant received in the immediately preceding grant period.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this Notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield, Illinois 62777-0001

217/782-5270

Comments may also be submitted electronically, addressed to:

rules@isbe.net

- 13) Initial Regulatory Flexibility Analysis:

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- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Charter schools and other not-for-profit corporations that may be eligible to apply for a grant in a given year.
 - B) Reporting, bookkeeping or other procedures required for compliance: Grantees will be required to submit annual program and financial reports pertinent to the use of the funds awarded.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2008

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER g: SPECIAL COURSES OF STUDY

PART 260

READING IMPROVEMENT PROGRAM

[SUBPART A: READING IMPROVEMENT BLOCK GRANT](#)

Section

| | |
|--------|---|
| 260.10 | Definitions (Repealed) |
| 260.20 | Purpose |
| 260.30 | Eligible Applicants |
| 260.40 | Allowable Expenditures |
| 260.50 | Procedure and Criteria for Approval of Applications |
| 260.55 | Eligibility for Continued Funding |
| 260.60 | Allocation of Funds (Repealed) |
| 260.70 | Distribution of Grant Awards |
| 260.80 | Year-End Reporting |

[SUBPART B: READING IMPROVEMENT
PROFESSIONAL DEVELOPMENT GRANTS](#)[Section](#)

| | |
|--------------------------------|---|
| <u>260.100</u> | <u>Purpose and Implementation</u> |
| <u>260.110</u> | <u>Eligible Applicants</u> |
| <u>260.120</u> | <u>Application Procedures and Content</u> |
| <u>260.130</u> | <u>Proposal Review, Approval and Grant Award</u> |
| <u>260.140</u> | <u>Application Content and Approval for Continuation Programs</u> |

AUTHORITY: Implementing and authorized by Section 2-3.51 of the School Code [105 ILCS 5/2-3.51].

SOURCE: Emergency rules adopted at 9 Ill. Reg. 15967, effective October 2, 1985, for a maximum of 150 days; adopted at 10 Ill. Reg. 7757, effective April 29, 1986; amended at 14 Ill. Reg. 20714, effective December 14, 1990; amended at 16 Ill. Reg. 14196, effective September 8, 1992; amended at 22 Ill. Reg. 19763, effective October 30, 1998; amended at 23 Ill. Reg. 7083, effective June 2, 1999; amended at 26 Ill. Reg. 8104, effective May 20, 2002; emergency

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amendment at 29 Ill. Reg. 9508, effective June 20, 2005, for a maximum of 150 days; emergency expired November 16, 2005; amended at 29 Ill. Reg. 20417, effective November 29, 2005; amended at 33 Ill. Reg. _____, effective _____.

SUBPART A: READING IMPROVEMENT BLOCK GRANTSUBPART B: READING IMPROVEMENT
PROFESSIONAL DEVELOPMENT GRANTSSection 260.100 Purpose and Implementation

- a) This Subpart B establishes the application procedure and criteria for selection by the State Board of Education of eligible applicants to receive funding for *teacher training and re-training in the teaching of reading* pursuant to Section 2-3.51(a) of the School Code [105 ILCS 5/2-3.51(a)]. For the purposes of this Subpart B, "professional development" shall be understood to mean any combination of training, re-training or other professional development activities.
- b) The State Superintendent of Education annually may allocate up to 2 percent of funds appropriated to the Reading Improvement Block Grant Program for professional development grants, as defined in subsection (a) of this Section.

(Source: Added at 33 Ill. Reg. _____, effective _____)

Section 260.110 Eligible Applicants

- a) An applicant's eligibility for a grant shall be determined by the purpose of the program being funded, i.e., receipt of professional development by the applicant's staff, as defined in Section 2-3.51(a-5)(6) of the School Code [105 ILCS 5/2-3.51(a-5)(6)], and employed in any of kindergarten through grade 6, or provision of professional development by the applicant.
 - 1) A public school district, charter school, or public university laboratory school approved by the Illinois State Board of Education providing instruction in kindergarten through grade 6 may apply for funding to pay the costs associated with its staff's receipt of professional development services and activities.

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- 2) In addition to the eligible applicants identified in subsection (a)(1) of this Section, a regional office of education, postsecondary institution, and other not-for-profit entity may apply for funding to conduct specific professional development programs, as may be identified in a given Request for Proposals (RFP) issued in accordance with Section 260.120 of this Part, designed to improve reading instruction and student achievement in reading (e.g., Reading Recovery, response to intervention).
- b) Each RFP shall state whether joint applications for funds may be submitted by any combination of eligible applicants, as described in subsection (a) of this Section, subject to the conditions stated in subsections (b)(1), (b)(2) and (b)(3) of this Section.
 - 1) If a joint application is submitted, then an administrative agent shall be designated.
 - 2) The superintendent from each of the participating school districts and the official authorized to submit a proposal on behalf of any other eligible entity as defined in subsection (a) of this Section shall sign the joint application.
 - 3) An eligible applicant shall only participate in one proposal for a specific program.

(Source: Added at 33 Ill. Reg. _____, effective _____)

Section 260.120 Application Procedures and Content

- a) When an allocation for professional development grants is made available pursuant to Section 260.100(a) of this Part, the State Superintendent of Education shall issue a Request for Proposals (RFP) specifying the information that applicants shall include in their proposals, informing applicants of any bidders' conferences, and requiring that proposals be submitted no later than the date specified in the RFP. The RFP shall provide at least 45 calendar days in which to submit proposals.
- b) It is the intention of the State Board of Education to approve Reading Improvement Professional Development Grants for no more than a three-year period. Each RFP will indicate whether the grant will be funded for one, two or

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three years. Funding in each subsequent year is subject to a sufficient appropriation for the program and satisfactory progress of the grantee in the previous grant period. (See Section 260.140 of this Part.)

- c) Each RFP shall indicate the descriptive information that initial applicants will be required to provide about their proposed programs. For the purposes of this Subpart B, initial applicants are those that did not receive funding under this Subpart in the year previous to an application or that are completing the last year in a funding cycle. The proposal description shall include:
- 1) evidence of the applicant's need for the professional development (e.g., reading achievement data, rationale for targeting specific grade levels or schools, current availability of and access to other professional development opportunities);
 - 2) the criteria for identifying participants to receive the professional development;
 - 3) a list of the activities and services to be provided and how those will improve reading instruction;
 - 4) evidence of commitment of the school staff in implementing or continuing the reading program that was the focus of the professional development;
 - 5) a description of the strategies to be employed for participating staff to share their knowledge with other staff in the school; and
 - 6) the data to be collected and methods to be used to determine the success of the professional development program on improving reading instruction and student achievement in reading.
- d) The RFP shall require completion of a budget summary and payment schedule as well as a budget breakdown, i.e., a detailed explanation of each line item of expenditure.
- e) Each RFP shall identify any area or areas of high priority for the funding cycle.

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- f) Each RFP shall include certifications, assurances and program-specific terms of the grant, as the State Board of Education may require, to be signed by the applicant that is a party to the application and submitted with the proposal.
- g) Applicants may be requested to clarify various aspects of their proposals. The contents of the approved proposal shall be incorporated into a grant agreement to be signed by the State Superintendent or designee and the superintendent of the school district or, in the case of other eligible applicants, by the authorized official.

(Source: Added at 33 Ill. Reg. _____, effective _____)

Section 260.130 Proposal Review, Approval and Grant Award

- a) Proposals submitted for funding to establish a professional development program shall be evaluated in accordance with the following criteria.
 - 1) The proposal presents a convincing rationale about the need for the professional development based upon the students' reading progress and the school's continuing need for improvements, as indicated by testing data or other relevant information. The number of staff estimated to participate in the professional development and the grade levels to be served are appropriate based on this need and will strengthen the ability of the school to improve reading achievement in measurable ways. (25 points)
 - 2) The proposal sets forth a clear understanding of why current reading instruction is not successful with all students and knowledgeably articulates how intensive, ongoing professional development will lead to improvements in reading achievement for those students. (25 points)
 - 3) The content, sequence and duration of the initial and any follow-up professional development appears to be of sufficient quality and length to have a positive effect on instructional practices. (15 points)
 - 4) Sufficient evidence is presented of the commitment of the school's administrators and teachers to implement or continue the targeted reading improvement strategies and methods after the conclusion of the professional development. Identified sources of funding for the planning

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and implementation are sufficient to successfully sustain the approach to reading instruction that was the focus of the professional development. (15 points)

- 5) Appropriate strategies are proposed for participants to share the knowledge gained and lessons learned in the professional development with others in the school, and these strategies will allow for successful implementation of the reading program throughout the school. (10 points)
- 6) The proposed budget is cost-effective based on the number of teachers to be trained and the activities proposed. (10 points)
- b) The selection of proposals for funding may be based in part on geographic distribution and/or the need to provide resources to school districts and communities with varying demographic characteristics.
- c) Priority consideration may be given to proposals with specific areas of emphasis, as identified by the State Superintendent of Education in a particular RFP.
- d) The State Superintendent of Education shall determine the amount of individual grant awards. The final award amounts shall be based upon:
 - 1) the total amount of funds available for Reading Improvement Professional Development Grants; and
 - 2) the resources requested in the top-ranked proposals, as identified pursuant to subsections (a), (b) and (c) of this Section.

(Source: Added at 33 Ill. Reg. _____, effective _____)

Section 260.140 Application Content and Approval for Continuation Programs

The requirements of this Section shall apply to those applicants seeking funding to continue professional development programs beyond the initial grant period.

- a) In order to continue to operate a Reading Improvement Professional Development program, a grantee each year shall submit an application for continuation. The application shall include at least the following:

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- 1) an overview of the program to date (e.g., training provided, number of participants, topics addressed);
 - 2) a description of the activities and services proposed for the renewal period;
 - 3) budget information for the year in which the application is being made; and
 - 4) the certifications, assurances and program-specific terms of the grant referred to in Section 260.120(f) of this Part that are applicable to the renewal period.
- b) A professional development program shall be approved for continuation provided that:
- 1) a need continues to exist for the program, as evidenced by reading achievement data and the proposed numbers of teachers to be served;
 - 2) the activities and services proposed will be effective in improving instruction and student achievement in reading;
 - 3) the proposed budget is cost-effective, as evidenced by the cost of proposed services in relation to the numbers to be served and the services to be provided; and
 - 4) in the year previous to the continuation application, the applicant complied with the terms and conditions of any grant it received pursuant to this Subpart B.

(Source: Added at 33 Ill. Reg. _____, effective _____)

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NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Riverboat Gambling
- 2) Code Citation: 86 Ill. Adm. Code 3000
- 3) Section Number: 3000.600 Adopted Action:
Amendment
- 4) Statutory Authority: Authorized by the Riverboat Gambling Act [230 ILCS 10], specifically Sections 5(c)(2), (3), and (13) of this Act [230 ILCS 10/5(c)(2), (3), and (13)]
- 5) Effective Date of Amendment: October 23, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 32 Ill. Reg. 9776; July 11, 2008
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? None
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

| <u>Section Numbers:</u> | <u>Proposed Action:</u> | <u>Illinois Register Citation:</u> |
|-------------------------|-------------------------|------------------------------------|
| 3000.636 | Amendment | 32 Ill. Reg. 10773; July 18, 2008 |
| 3000.100 | Amendment | 32 Ill. Reg. 11285; July 25, 2008 |
| 3000.660 | Amendment | 32 Ill. Reg. 11285; July 25, 2008 |
| 3000.661 | Amendment | 32 Ill. Reg. 11285; July 25, 2008 |
| 3000.670 | Amendment | 32 Ill. Reg. 11285; July 25, 2008 |

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- 15) Summary and Purpose of Amendment: The adopted amendment amends Section 3000.600 by authorizing wagers made with electronic credits downloaded from an owner licensee's computer management system.

Previously, Section 3000.600 required electronic credits to be acquired through the insertion of a voucher issued by an electronic gaming device. The downloading of electronic credits is a technology widely used in the gaming industry but was not previously allowed under Illinois rule.

- 16) Information and questions regarding this adopted amendment may be addressed to:

Michael Fries
Chief Counsel
Illinois Gaming Board
160 North LaSalle Street
Chicago, Illinois 60601

312/814-4640
Fax 312/814-4143
mfries@revenue.state.il.us

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

ILLINOIS GAMING BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER IV: ILLINOIS GAMING BOARDPART 3000
RIVERBOAT GAMBLING

SUBPART A: GENERAL PROVISIONS

| Section | |
|----------|--|
| 3000.100 | Definitions |
| 3000.101 | Invalidity |
| 3000.102 | Public Inquiries |
| 3000.103 | Organization of the Illinois Gaming Board |
| 3000.104 | Rulemaking Procedures |
| 3000.105 | Board Meetings |
| 3000.110 | Disciplinary Actions |
| 3000.115 | Records Retention |
| 3000.120 | Place to Submit Materials |
| 3000.130 | No Opinion or Approval of the Board |
| 3000.140 | Duty to Disclose Changes in Information |
| 3000.141 | Applicant/Licensee Disclosure of Agents |
| 3000.150 | Owner's and Supplier's Duty to Investigate |
| 3000.155 | Investigatory Proceedings |
| 3000.160 | Duty to Report Misconduct |
| 3000.161 | Communication with Other Agencies |
| 3000.165 | Participation in Games by Owners, Directors, Officers, Key Persons or Gaming Employees |
| 3000.170 | Fair Market Value of Contracts |
| 3000.180 | Weapons on Riverboat |

SUBPART B: LICENSES

| Section | |
|----------|--|
| 3000.200 | Classification of Licenses |
| 3000.210 | Fees and Bonds |
| 3000.220 | Applications |
| 3000.221 | Other Required Forms |
| 3000.222 | Identification and Requirements of Key Persons |
| 3000.223 | Disclosure of Ownership and Control |

ILLINOIS GAMING BOARD

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| | |
|----------|--|
| 3000.224 | Economic Disassociation |
| 3000.225 | Business Entity and Personal Disclosure Filings |
| 3000.230 | Owner's Licenses |
| 3000.231 | Distributions |
| 3000.232 | Undue Economic Concentration |
| 3000.234 | Acquisition of Ownership Interest By Institutional Investors |
| 3000.235 | Transferability of Ownership Interest |
| 3000.236 | Owner's License Renewal |
| 3000.237 | Renewed Owner's Licenses, Term and Restrictions |
| 3000.238 | Appointment of Receiver for an Owner's License |
| 3000.240 | Supplier's Licenses |
| 3000.241 | Renewal of Supplier's License |
| 3000.242 | Amendment to Supplier's Product List |
| 3000.243 | Bankruptcy or Change in Ownership of Supplier |
| 3000.244 | Surrender of Supplier's License |
| 3000.245 | Occupational Licenses |
| 3000.250 | Transferability of Licenses |
| 3000.260 | Waiver of Requirements |
| 3000.270 | Certification and Registration of Electronic Gaming Devices |
| 3000.271 | Analysis of Questioned Electronic Gaming Devices |
| 3000.272 | Certification of Voucher Systems |
| 3000.280 | Registration of All Gaming Devices |
| 3000.281 | Transfer of Registration (Repealed) |
| 3000.282 | Seizure of Gaming Devices (Repealed) |
| 3000.283 | Analysis of Questioned Electronic Gaming Devices (Repealed) |
| 3000.284 | Disposal of Gaming Devices |
| 3000.285 | Certification and Registration of Voucher Validation Terminals |

SUBPART C: OWNER'S INTERNAL CONTROL SYSTEM

| | |
|----------|--|
| Section | |
| 3000.300 | General Requirements – Internal Control System |
| 3000.310 | Approval of Internal Control System |
| 3000.320 | Minimum Standards for Internal Control Systems |
| 3000.330 | Review of Procedures (Repealed) |
| 3000.340 | Operating Procedures (Repealed) |
| 3000.350 | Modifications (Repealed) |

SUBPART D: HEARINGS ON NOTICE OF DENIAL,

ILLINOIS GAMING BOARD

NOTICE OF ADOPTED AMENDMENT

RESTRICTION OF LICENSE, PLACEMENT ON BOARD EXCLUSION LIST OR
REMOVAL FROM BOARD EXCLUSION LIST OR SELF-EXCLUSION LIST

| Section | |
|----------|---|
| 3000.400 | Coverage of Subpart |
| 3000.405 | Requests for Hearings |
| 3000.410 | Appearances |
| 3000.415 | Discovery |
| 3000.420 | Motions for Summary Judgment |
| 3000.424 | Subpoena of Witnesses |
| 3000.425 | Proceedings |
| 3000.430 | Evidence |
| 3000.431 | Prohibition on Ex Parte Communication |
| 3000.435 | Sanctions and Penalties |
| 3000.440 | Transmittal of Record and Recommendation to the Board |
| 3000.445 | Status of Applicant for Licensure or Transfer Upon Filing Request for Hearing |

SUBPART E: CRUISING

| Section | |
|----------|--------------------------------|
| 3000.500 | Riverboat Cruises |
| 3000.510 | Cancelled or Disrupted Cruises |

SUBPART F: CONDUCT OF GAMING

| Section | |
|----------|--|
| 3000.600 | Wagering Only with Electronic Credits, Approved Chips, Tokens and Electronic Cards |
| 3000.602 | Disposition of Unauthorized Winnings |
| 3000.605 | Authorized Games |
| 3000.606 | Gaming Positions |
| 3000.610 | Publication of Rules and Payout Ratio for Live Gaming Devices |
| 3000.614 | Tournaments, Enhanced Payouts and Give-aways |
| 3000.615 | Payout Percentage for Electronic Gaming Devices |
| 3000.616 | Cashing-In |
| 3000.620 | Submission of Chips for Review and Approval |
| 3000.625 | Chip Specifications |
| 3000.630 | Primary, Secondary and Reserve Sets of Gaming Chips |
| 3000.631 | Tournament Chips |

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| | |
|----------|--|
| 3000.635 | Issuance and Use of Tokens for Gaming |
| 3000.636 | Distribution of Coupons for Complimentary Chips, Tokens and Cash |
| 3000.640 | Exchange of Chips, Tokens, and Vouchers |
| 3000.645 | Receipt of Gaming Chips or Tokens from Manufacturer or Distributor |
| 3000.650 | Inventory of Chips |
| 3000.655 | Destruction of Chips, Tokens, and Vouchers |
| 3000.660 | Minimum Standards for Electronic Gaming Devices |
| 3000.661 | Minimum Standards for Voucher Systems |
| 3000.665 | Integrity of Electronic Gaming Devices |
| 3000.666 | Bill Validator Requirements |
| 3000.667 | Integrity of Voucher Systems |
| 3000.670 | Computer Monitoring Requirements of Electronic Gaming Devices |
| 3000.671 | Computer Monitoring Requirements of Voucher Systems |

SUBPART G: EXCLUSION OF PERSONS

| | |
|----------|--|
| Section | |
| 3000.700 | Organization of Subpart |
| 3000.701 | Duty to Exclude |
| 3000.705 | Voluntary Self-Exclusion Policy (Repealed) |
| 3000.710 | Distribution and Availability of Board Exclusion List |
| 3000.720 | Criteria for Exclusion or Ejection and Placement on the Board Exclusion List |
| 3000.725 | Duty of Licensees |
| 3000.730 | Procedure for Entry of Names |
| 3000.740 | Petition for Removal from the Board Exclusion List |
| 3000.745 | Voluntary Self-Exclusion Policy |
| 3000.750 | Establishment of a Self-Exclusion List |
| 3000.751 | Locations to Execute Self-Exclusion Forms |
| 3000.755 | Information Required for Placement on the Self-Exclusion List |
| 3000.756 | Stipulated Sanctions for Failure to Adhere to Voluntary Self-Exclusion |
| 3000.760 | Distribution and Availability of Confidential Self-Exclusion List |
| 3000.770 | Duties of Licensees |
| 3000.780 | Request for Removal from the IGB Self-Exclusion List |
| 3000.782 | Required Information, Recommendations, Forms and Interviews |
| 3000.785 | Appeal of a Notice of Denial of Removal |
| 3000.786 | Duties of Owner Licensees to Persons Removed from the Self-Exclusion List |
| 3000.787 | Placement on the Self-Exclusion List Following Removal |
| 3000.790 | Duties of the Board |

ILLINOIS GAMING BOARD

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SUBPART H: SURVEILLANCE AND SECURITY

Section

| | |
|----------|--|
| 3000.800 | Required Surveillance Equipment |
| 3000.810 | Riverboat and Board Surveillance Room Requirements |
| 3000.820 | Segregated Telephone Communication |
| 3000.830 | Surveillance Logs |
| 3000.840 | Storage and Retrieval |
| 3000.850 | Dock Site Board Facility |
| 3000.860 | Maintenance and Testing |

SUBPART I: LIQUOR LICENSES

Section

| | |
|----------|---------------------------|
| 3000.900 | Liquor Control Commission |
| 3000.910 | Liquor Licenses |
| 3000.920 | Disciplinary Action |
| 3000.930 | Hours of Sale |

SUBPART J: OWNERSHIP AND ACCOUNTING RECORDS AND PROCEDURES

Section

| | |
|-----------|---|
| 3000.1000 | Ownership Records |
| 3000.1010 | Accounting Records |
| 3000.1020 | Standard Financial and Statistical Records |
| 3000.1030 | Annual and Special Audits and Other Reporting Requirements |
| 3000.1040 | Accounting Controls Within the Cashier's Cage |
| 3000.1050 | Procedures for Exchange of Checks Submitted by Gaming Patrons and Granting Credit |
| 3000.1060 | Handling of Cash at Gaming Tables |
| 3000.1070 | Tips or Gratuities |
| 3000.1071 | Admission Tax and Wagering Tax |
| 3000.1072 | Cash Reserve Requirements |

SUBPART K: SEIZURE AND DISCIPLINARY HEARINGS

Section

| | |
|-----------|------------------------------|
| 3000.1100 | Coverage of Subpart |
| 3000.1105 | Duty to Maintain Suitability |

ILLINOIS GAMING BOARD

NOTICE OF ADOPTED AMENDMENT

| | |
|-----------|---|
| 3000.1110 | Board Action Against License or Licensee |
| 3000.1115 | Complaint |
| 3000.1120 | Appearances |
| 3000.1125 | Answer |
| 3000.1126 | Appointment of Hearing Officer |
| 3000.1130 | Discovery |
| 3000.1135 | Motions for Summary Disposition |
| 3000.1139 | Subpoena of Witnesses |
| 3000.1140 | Proceedings |
| 3000.1145 | Evidence |
| 3000.1146 | Prohibition of Ex Parte Communication |
| 3000.1150 | Sanctions and Penalties |
| 3000.1155 | Transmittal of Record and Recommendation to the Board |

AUTHORITY: Implementing and authorized by the Riverboat Gambling Act [230 ILCS 10].

SOURCE: Emergency rule adopted at 15 Ill. Reg. 11252, effective August 5, 1991, for a maximum of 150 days; adopted at 15 Ill. Reg. 18263, effective December 10, 1991; amended at 16 Ill. Reg. 13310, effective August 17, 1992; amended at 17 Ill. Reg. 11510, effective July 9, 1993; amended at 20 Ill. Reg. 5814, effective April 9, 1996; amended at 20 Ill. Reg. 6280, effective April 22, 1996; emergency amendment at 20 Ill. Reg. 8051, effective June 3, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14765, effective October 31, 1996; amended at 21 Ill. Reg. 4642, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 14566, effective October 22, 1997, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 978, effective December 29, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4390, effective February 20, 1998; amended at 22 Ill. Reg. 10449, effective May 27, 1998; amended at 22 Ill. Reg. 17324, effective September 21, 1998; amended at 22 Ill. Reg. 19541, effective October 23, 1998; emergency amendment at 23 Ill. Reg. 8191, effective July 2, 1999 for a maximum of 150 days; emergency expired November 28, 1999; amended at 23 Ill. Reg. 8996, effective August 2, 1999; amended at 24 Ill. Reg. 1037, effective January 10, 2000; amended at 25 Ill. Reg. 94, effective January 8, 2001; amended at 25 Ill. Reg. 13292, effective October 5, 2001; proposed amended at 26 Ill. Reg. 9307, effective June 14, 2002; emergency amendment adopted at 26 Ill. Reg. 10984, effective July 1, 2002, for a maximum of 150 days; adopted at 26 Ill. Reg. 15296, effective October 11, 2002; amended at 26 Ill. Reg. 17408, effective November 22, 2002; emergency amendment at 27 Ill. Reg. 10503, effective June 30, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 15793, effective September 25, 2003; amended at 27 Ill. Reg. 18595, effective November 25, 2003; amended at 28 Ill. Reg. 12824, effective August 31, 2004; amended at 32 Ill. Reg. 8098, effective June 14, 2007; amended at 32 Ill. Reg. 2967, effective February 15, 2008; amended at 32 Ill. Reg. 3275, effective February 19, 2008; amended

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at 32 Ill. Reg. 7357, effective April 28, 2008; amended at 32 Ill. Reg. 8592, effective May 29, 2008; amended at 32 Ill. Reg. 8931, effective June 4, 2008; amended at 32 Ill. Reg. 13200, effective July 22, 2008; amended at 32 Ill. Reg. 17418, effective October 23, 2008.

SUBPART F: CONDUCT OF GAMING

Section 3000.600 Wagering Only with Electronic Credits, Approved Chips, Tokens and Electronic Cards

- a) Except as provided in subsections (b) and (c) of this Section, Riverboat Gaming Wagers may be made only with Electronic Credits, Tokens or Chips. All Chips, Tokens and Electronic Cards must be approved by the Administrator and purchased from the holder of an Owner's license. Such Chips, Tokens or Electronic Cards may only be used as set forth in the owner licensee's Internal Control System. At the patron's option, Electronic Credits may either be used as a Wager on an Electronic Gaming Device or be withdrawn only in the form of Tokens and/or a Voucher issued from the Electronic Gaming Device.
- b) Riverboat Gaming Wagers may be made with Electronic Credits [downloaded from an owner licensee's computer management system or](#) acquired through the insertion of a Voucher issued by an Electronic Gaming Device authorized for wagering at a holder of an Owner's license, as set forth in the Owner licensee's Internal Control System.
 - 1) Prior to the Redemption Period, such Vouchers may, at the patron's option, be:
 - A) used to obtain electronic credits to place a wager in Electronic Gaming Devices registered with the Board;
 - B) withdrawn only in the form of Tokens or Vouchers from the Electronic Gaming Device; or
 - C) redeemed only for United States currency at a Voucher Validation Terminal or at the cage of a holder of an Owner's license.
 - 2) At any time prior to the Expiration Date, Vouchers may be redeemed for United States currency at the cage of a holder of an Owner's license.

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- c) Riverboat Gaming Wagers may be made with match play coupons issued by the holder of an Owner's license and approved by the Administrator. Such match play coupons may only be used in conjunction with the Wager of a Chip as set forth in the owner licensee's Internal Control System.

(Source: Amended at 32 Ill. Reg. 17418, effective October 23, 2008)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Medical Assistance Programs
- 2) Code Citation: 89 Ill. Adm. Code 120
- 3)

| | |
|--------------------------|-------------------------|
| <u>Section Numbers</u> : | <u>Adopted Action</u> : |
| 120.60 | Amendment |
| 120.384 | Amendment |
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and 305 ILCS 5/5-2.07
- 5) Effective Date of Amendments: November 1, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 31 Ill. Reg. 16629; December 21, 2007
- 10) Has JCAR issued a Statement of Objection to this rulemaking? Yes
 - A) Statement of Objection: March 28, 2008; 32 Ill. Reg. 4404
 - B) Agency Response: Not yet published
 - C) Date Agency Response Submitted for Approval to JCAR: March 31, 2008
- 11) Differences Between Proposal and Final Version: The following changes were made:

In Section 120.60(c)(3), added "or having a third-party pay" after the phrase "meeting their spenddown by paying".

In Section 120.60(c)(3)(D), added "or to have a third-party pay" after "clients may choose to pay".

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were made.

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

14) Are there any other amendments pending on this Part? Yes

| <u>Section Numbers:</u> | <u>Proposed Action:</u> | <u>Illinois Register Citation:</u> |
|-------------------------|-------------------------|---------------------------------------|
| 120.32 | Amendment | 31 Ill. Reg. 15424; November 26, 2007 |
| 120.33 | New Section | 31 Ill. Reg. 15424; November 26, 2007 |
| 120.381 | Amendment | 32 Ill. Reg. 1530; February 8, 2008 |
| 120.510 | Amendment | 32 Ill. Reg. 1530; February 8, 2008 |
| 120.530 | Amendment | 32 Ill. Reg. 6328; April 18, 2008 |

15) Summary and Purpose of Amendments: These amendments are due to Public Act 94-847 that amended the Public Aid Code. The law provides that, subject to federal approval of a State Medicaid Plan amendment, persons who fail to qualify for basic maintenance under the Aid to the Aged, Blind or Disabled (AABD) program on the basis of need because of excess income or assets, or both, may establish eligibility for medical assistance by paying their monthly Medicaid spend-down amount to the Department or by having a third party pay that amount to the Department. The Department anticipates receiving federal approval within a few months.

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

Tamara Tanzillo Hoffman
 Chief of Staff
 Illinois Department of Healthcare and Family Services
 201 South Grand Avenue E., 3rd Floor
 Springfield IL 62763-0002

217/557-7157

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 120

MEDICAL ASSISTANCE PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section

120.1 Incorporation by Reference

SUBPART B: ASSISTANCE STANDARDS

Section

120.10 Eligibility For Medical Assistance
120.11 MANG(P) Eligibility
120.12 Healthy Start – Medicaid Presumptive Eligibility Program For Pregnant Women
120.14 Presumptive Eligibility for Children
120.20 MANG(AABD) Income Standard
120.30 MANG(C) Income Standard
120.31 MANG(P) Income Standard
120.32 KidCare Parent Coverage Waiver Eligibility and Income Standard
120.40 Exceptions To Use Of MANG Income Standard
120.50 AMI Income Standard (Repealed)

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section

120.60 Cases Other Than Long Term Care, Pregnant Women and Certain Children
120.61 Cases in Intermediate Care, Skilled Nursing Care and DMHDD –
MANG(AABD) and All Other Licensed Medical Facilities
120.62 Department of Mental Health and Developmental Disabilities (DMHDD)
Approved Home and Community Based Residential Settings Under 89 Ill. Adm.
Code 140.643
120.63 Department of Mental Health and Developmental Disabilities (DMHDD)
Approved Home and Community Based Residential Settings
120.64 MANG(P) Cases
120.65 Department of Mental Health and Developmental Disabilities (DMHDD)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Licensed Community – Integrated Living Arrangements

SUBPART D: MEDICARE PREMIUMS

Section

- 120.70 Supplementary Medical Insurance Benefits (SMIB) Buy-In Program
- 120.72 Eligibility for Medicare Cost Sharing as a Qualified Medicare Beneficiary (QMB)
- 120.73 Eligibility for Medicaid Payment of Medicare Part B Premiums as a Specified Low-Income Medicare Beneficiary (SLIB)
- 120.74 Qualified Medicare Beneficiary (QMB) Income Standard
- 120.75 Specified Low-Income Medicare Beneficiary (SLIB) Income Standards
- 120.76 Hospital Insurance Benefits (HIB)

SUBPART E: RECIPIENT RESTRICTION PROGRAM

Section

- 120.80 Recipient Restriction Program

SUBPART F: MIGRANT MEDICAL PROGRAM

Section

- 120.90 Migrant Medical Program (Repealed)
- 120.91 Income Standards (Repealed)

SUBPART G: AID TO THE MEDICALLY INDIGENT

Section

- 120.200 Elimination Of Aid To The Medically Indigent
- 120.208 Client Cooperation (Repealed)
- 120.210 Citizenship (Repealed)
- 120.211 Residence (Repealed)
- 120.212 Age (Repealed)
- 120.215 Relationship (Repealed)
- 120.216 Living Arrangement (Repealed)
- 120.217 Supplemental Payments (Repealed)
- 120.218 Institutional Status (Repealed)
- 120.224 Foster Care Program (Repealed)
- 120.225 Social Security Numbers (Repealed)
- 120.230 Unearned Income (Repealed)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

| | |
|---------|--|
| 120.235 | Exempt Unearned Income (Repealed) |
| 120.236 | Education Benefits (Repealed) |
| 120.240 | Unearned Income In-Kind (Repealed) |
| 120.245 | Earmarked Income (Repealed) |
| 120.250 | Lump Sum Payments and Income Tax Refunds (Repealed) |
| 120.255 | Protected Income (Repealed) |
| 120.260 | Earned Income (Repealed) |
| 120.261 | Budgeting Earned Income (Repealed) |
| 120.262 | Exempt Earned Income (Repealed) |
| 120.270 | Recognized Employment Expenses (Repealed) |
| 120.271 | Income From Work/Study/Training Program (Repealed) |
| 120.272 | Earned Income From Self-Employment (Repealed) |
| 120.273 | Earned Income From Roomer and Boarder (Repealed) |
| 120.275 | Earned Income In-Kind (Repealed) |
| 120.276 | Payments from the Illinois Department of Children and Family Services (Repealed) |
| 120.280 | Assets (Repealed) |
| 120.281 | Exempt Assets (Repealed) |
| 120.282 | Asset Disregards (Repealed) |
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| 120.284 | Spend-down of Assets (AMI) (Repealed) |
| 120.285 | Property Transfers (Repealed) |
| 120.290 | Persons Who May Be Included in the Assistance Unit (Repealed) |
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- 120.382 Asset Disregard
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120.395 Payment Levels for MANG (Repealed)
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- 120.500 Health Benefits for Persons with Breast or Cervical Cancer
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- 120.TABLE A Value of a Life Estate and Remainder Interest
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AUTHORITY: Implementing Articles III, IV, V and VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory

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amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; preemptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; preemptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; preemptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; preemptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; preemptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; preemptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; preemptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; preemptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; preemptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 6082; amended at 7 Ill. Reg. 8256, effective July 1, 1983; amended at 7 Ill. Reg. 8264, effective July 5, 1983; amended (by adding

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Section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16108; amended at 8 Ill. Reg. 5253, effective April 9, 1984; amended at 8 Ill. Reg. 6770, effective April 27, 1984; amended at 8 Ill. Reg. 13328, effective July 16, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17897; amended at 8 Ill. Reg. 18903, effective September 26, 1984; peremptory amendment at 8 Ill. Reg. 20706, effective October 3, 1984; amended at 8 Ill. Reg. 25053, effective December 12, 1984; emergency amendment at 9 Ill. Reg. 830, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 4515, effective March 25, 1985; amended at 9 Ill. Reg. 5346, effective April 11, 1985; amended at 9 Ill. Reg. 7153, effective May 6, 1985; amended at 9 Ill. Reg. 11346, effective July 8, 1985; amended at 9 Ill. Reg. 12298, effective July 25, 1985; amended at 9 Ill. Reg. 12823, effective August 9, 1985; amended at 9 Ill. Reg. 15903, effective October 4, 1985; amended at 9 Ill. Reg. 16300, effective October 10, 1985; amended at 9 Ill. Reg. 16906, effective October 18, 1985; amended at 10 Ill. Reg. 1192, effective January 10, 1986; amended at 10 Ill. Reg. 3033, effective January 23, 1986; amended at 10 Ill. Reg. 4907, effective March 7, 1986; amended at 10 Ill. Reg. 6966, effective April 16, 1986; amended at 10 Ill. Reg. 10688, effective June 3, 1986; amended at 10 Ill. Reg. 12672, effective July 14, 1986; amended at 10 Ill. Reg. 15649, effective September 19, 1986; amended at 11 Ill. Reg. 3992, effective February 23, 1987; amended at 11 Ill. Reg. 7652, effective April 15, 1987; amended at 11 Ill. Reg. 8735, effective April 20, 1987; emergency amendment at 11 Ill. Reg. 12458, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14034, effective August 14, 1987; amended at 11 Ill. Reg. 14763, effective August 26, 1987; amended at 11 Ill. Reg. 20142, effective January 1, 1988; amended at 11 Ill. Reg. 20898, effective December 14, 1987; amended at 12 Ill. Reg. 904, effective January 1, 1988; amended at 12 Ill. Reg. 3516, effective January 22, 1988; amended at 12 Ill. Reg. 6234, effective March 22, 1988; amended at 12 Ill. Reg. 8672, effective May 13, 1988; amended at 12 Ill. Reg. 9132, effective May 20, 1988; amended at 12 Ill. Reg. 11483, effective June 30, 1988; emergency amendment at 12 Ill. Reg. 11632, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 11839, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12835, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 13243, effective July 29, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17867, effective October 30, 1988; amended at 12 Ill. Reg. 19704, effective November 15, 1988; amended at 12 Ill. Reg. 20188, effective November 23, 1988; amended at 13 Ill. Reg. 116, effective January 1, 1989; amended at 13 Ill. Reg. 2081, effective February 3, 1989; amended at 13 Ill. Reg. 3908, effective March 10, 1989; emergency amendment at 13 Ill. Reg. 11929, effective June 27, 1989, for a maximum of 150 days; emergency expired November 25, 1989; emergency amendment at 13 Ill. Reg. 12137, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15404, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16586, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 17483, effective October 31, 1989; amended at 13 Ill. Reg. 17838,

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effective November 8, 1989; amended at 13 Ill. Reg. 18872, effective November 17, 1989; amended at 14 Ill. Reg. 760, effective January 1, 1990; emergency amendment at 14 Ill. Reg. 1494, effective January 2, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 4233, effective March 5, 1990; emergency amendment at 14 Ill. Reg. 5839, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 6372, effective April 16, 1990; amended at 14 Ill. Reg. 7637, effective May 10, 1990; amended at 14 Ill. Reg. 10396, effective June 20, 1990; amended at 14 Ill. Reg. 13227, effective August 6, 1990; amended at 14 Ill. Reg. 14814, effective September 3, 1990; amended at 14 Ill. Reg. 17004, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 348, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5302, effective April 1, 1991; amended at 15 Ill. Reg. 10101, effective June 24, 1991; amended at 15 Ill. Reg. 11973, effective August 12, 1991; amended at 15 Ill. Reg. 12747, effective August 16, 1991; amended at 15 Ill. Reg. 14105, effective September 11, 1991; amended at 15 Ill. Reg. 14240, effective September 23, 1991; amended at 16 Ill. Reg. 139, effective December 24, 1991; amended at 16 Ill. Reg. 1862, effective January 20, 1992; amended at 16 Ill. Reg. 10034, effective June 15, 1992; amended at 16 Ill. Reg. 11582, effective July 15, 1992; amended at 16 Ill. Reg. 17290, effective November 3, 1992; amended at 17 Ill. Reg. 1102, effective January 15, 1993; amended at 17 Ill. Reg. 6827, effective April 21, 1993; amended at 17 Ill. Reg. 10402, effective June 28, 1993; amended at 18 Ill. Reg. 2051, effective January 21, 1994; amended at 18 Ill. Reg. 5934, effective April 1, 1994; amended at 18 Ill. Reg. 8718, effective June 1, 1994; amended at 18 Ill. Reg. 11231, effective July 1, 1994; amended at 19 Ill. Reg. 2905, effective February 27, 1995; emergency amendment at 19 Ill. Reg. 9280, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 11931, effective August 11, 1995; amended at 19 Ill. Reg. 15079, effective October 17, 1995; amended at 20 Ill. Reg. 5068, effective March 20, 1996; amended at 20 Ill. Reg. 15993, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 692, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7423, effective May 31, 1997; amended at 21 Ill. Reg. 7748, effective June 9, 1997; amended at 21 Ill. Reg. 11555, effective August 1, 1997; amended at 21 Ill. Reg. 13638, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 1576, effective January 5, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 7003, effective April 1, 1998; amended at 22 Ill. Reg. 8503, effective May 1, 1998; amended at 22 Ill. Reg. 16291, effective August 28, 1998; emergency amendment at 22 Ill. Reg. 16640, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19875, effective October 30, 1998; amended at 23 Ill. Reg. 2381, effective January 22, 1999; amended at 23 Ill. Reg. 11301, effective August 27, 1999; amended at 24 Ill. Reg. 7361, effective May 1, 2000; emergency amendment at 24 Ill. Reg. 10425, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15075, effective October 1, 2000; amended at 24 Ill. Reg. 18309, effective December 1, 2000; amended at 25 Ill. Reg. 8783, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 10533, effective August 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 16098, effective December 1, 2001; amended at 26 Ill. Reg. 409,

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effective December 28, 2001; emergency amendment at 26 Ill. Reg. 8583, effective June 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 9843, effective June 26, 2002; emergency amendment at 26 Ill. Reg. 11029, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 15051, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16288, effective October 25, 2002; amended at 27 Ill. Reg. 4708, effective February 25, 2003; emergency amendment at 27 Ill. Reg. 10793, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18609, effective November 26, 2003; amended at 28 Ill. Reg. 4701, effective March 3, 2004; amended at 28 Ill. Reg. 6139, effective April 1, 2004; emergency amendment at 28 Ill. Reg. 6610, effective April 19, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 7152, effective May 3, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11149, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12921, effective September 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13621, effective September 28, 2004; amended at 28 Ill. Reg. 13760, effective October 1, 2004; amended at 28 Ill. Reg. 14541, effective November 1, 2004; amended at 29 Ill. Reg. 820, effective January 1, 2005; amended at 29 Ill. Reg. 10195, effective June 30, 2005; amended at 29 Ill. Reg. 14939, effective September 30, 2005; emergency amendment at 30 Ill. Reg. 521, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 10314, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 15029, effective September 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 2629, effective January 28, 2007; emergency amendment at 31 Ill. Reg. 7323, effective May 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11667, effective August 1, 2007; amended at 31 Ill. Reg. 12756, effective August 27, 2007; emergency amendment at 31 Ill. Reg. 15854, effective November 7, 2007, for a maximum of 150 days; emergency rule suspended at 31 Ill. Reg. 16060, effective November 13, 2007; peremptory amendment at 32 Ill. Reg. 7212, effective April 21, 2008; peremptory amendment suspended at 32 Ill. Reg. 8450, effective May 20, 2008; amended at 32 Ill. Reg. 17428, effective November 1, 2008.

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section 120.60 Cases Other Than Long Term Care, Pregnant Women and Certain Children

The following subsections apply to all cases other than those receiving care in licensed intermediate care facilities, licensed skilled nursing facilities, Department of Human Services (DHS) facilities, or DHS approved community based residential settings under 89 Ill. Adm. Code 140.643, or pregnant women and children under age 19 who do not qualify as mandatory categorically needy.

- a) The eligibility period shall begin with:

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- 1) the first day of the month of application;
 - 2) the first day of any month, prior to the month of application, in which the client meets non-financial eligibility requirements up to three months prior to the month of application, if the client so desires; or
 - 3) the first day of a month, after the month of application, in which the client meets non-financial eligibility requirements.
- b) Eligibility Without Spenddown for MANG
- 1) For AABD MANG, if the client's nonexempt income available during the eligibility period is equal to or below the applicable MANG standard (Sections 120.20 and 120.30) and nonexempt assets are not in excess of the applicable asset disregard (Section 120.382), the client is eligible for medical assistance from the first day of the eligibility period. The Department will pay for covered services received during the entire eligibility period.
 - 2) For TANF MANG, if the client's nonexempt income available during the eligibility period is equal to or below the applicable MANG standard (Sections 120.20 and 120.30), the client is eligible for medical assistance from the first day of the eligibility period. The Department will pay for covered services received during the entire eligibility period.
 - 3) The client is responsible for reporting any changes that occur during the eligibility period which might affect eligibility for medical assistance. If changes occur, appropriate action shall be taken by the Department, including termination of eligibility for medical assistance. If changes in income, assets or family composition occur ~~that~~which would make the client a spenddown case, a spenddown obligation will be determined and subsection (c) of this Section will apply.
 - 4) A redetermination of eligibility will be made at least every 12 months.
- c) Eligibility with Spenddown for MANG
- 1) For AABD MANG, if the client's nonexempt income available during the

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applicable eligibility period is greater than the applicable MANG standard and/or nonexempt assets are over the applicable asset disregard, the client must meet the spenddown obligation determined for the eligibility period before becoming eligible to receive medical assistance. The spenddown obligation is the sum of the amount by which the client's nonexempt income exceeds the MANG standard and the amount of nonexempt assets in excess of the applicable asset disregard.

- 2) For TANF MANG, if the client's nonexempt income available during the applicable eligibility period is greater than the applicable MANG standard, the client must meet the spenddown obligation determined for the eligibility period before becoming eligible to receive medical assistance. The spenddown obligation is the amount by which the client's nonexempt income exceeds the MANG standard.
- 3) The client meets the spenddown obligation by incurring or paying for medical expenses in an amount equal to the spenddown obligation.
[AABD MANG clients also have the option of meeting their spenddown by paying or having a third-party pay the amount of their spenddown obligation to the Department.](#)
 - A) Medical expenses shall be applied to the spenddown obligation in the following order:
 - i) Expenses for necessary medical or remedial services, as funded by DHS from sources other than federal funds. Such expenses shall be based on the service provider's usual and customary charges to the public. Such expenses shall not be based on any nominal amount the provider may assess the client. These charges are considered incurred the first day of the month, regardless of the day the services are actually provided.
 - ii) Payments made for medical expenses within the previous six months. Payments are considered incurred the first day of the month of payment.
 - iii) Unpaid medical expenses. These are considered as of the date of service and are applied in chronological order.

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- B) If multiple medical expenses are incurred on the same day, the expenses shall be applied in the following order:
- i) Health insurance deductibles (including Medicare and other co-insurance charges).
 - ii) All copayment charges incurred or paid on spenddown met day.
 - iii) Expenses for medical services and/or items not covered by the Department's Medical Assistance Program.
 - iv) Cost share amounts incurred for in-home care services by individuals receiving services through the Department on Aging (DonA).
 - v) Expenses incurred for in-home care services by individuals receiving or purchasing services from private providers.
 - vi) Expenses incurred for medical services or items covered by the Department's Medical Assistance Program. If more than one covered service is received on the day, the charges will be considered in order of amount. The bill for the smallest amount will be considered first.
- C) If a service is provided during the eligibility period but payment may be made by a third party, such as an insurance company, the medical expense will not be considered towards spenddown until the bill is adjudicated. When adjudicated, that part determined to be the responsibility of the client shall be considered as incurred on the date of service.
- D) [AABD MANG spenddown clients may choose to pay or to have a third-party pay the amount of their spenddown obligation to the Department to meet spenddown. The following rules will govern when clients or third parties choose to pay the spenddown:](#)

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- i) Payments to the Department will be applied to the spenddown obligation after all other medical expenses have been applied per subsections (c)(3)(A) and (B) of this Section.
 - ii) Excess payments will be credited forward to meet the spenddown obligation of a subsequent month for which the client chooses to meet spenddown.
 - iii) The spenddown obligation may be met using a combination of medical expenses and amounts paid.
- 4) After application for medical assistance for cases eligible with a spenddown obligation who do not have a QMB or MANG(P) member, an additional eligibility determination will be made.
 - A) For TANF MANG, if countable income is greater than the income standard (Section 120.30), and for AABD MANG, if countable income is greater than the income standard or countable assets are greater than the asset disregard (Section 120.382(d)), a person will not be enrolled in spenddown unless:
 - i) the person does not have a spenddown obligation for any month of the 12-month enrollment period;
 - ii) medical expenses equal the spenddown obligation for at least one month of the 12-month enrollment period; or
 - iii) the person is on a waiting list or would be on a waiting list to receive a transplant if he or she had a source of payment.
 - B) Cases thatwhich meet any of these conditions will be notified, in writing, of the spenddown obligation. The client will also be notified that his or her case will be reviewed beginning in the sixth month of the 12-month enrollment period. If the client has not had medical eligibility in one of the last three months at the time of review (including the month of review), the case will terminate unless the case contains a person who is on a waiting list or who would be on a waiting list to receive a transplant if he or she had a

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source of payment. A new application will be required if the client wishes continued medical assistance.

- C) When proof of incurred medical expenses equal to the spenddown obligation is provided to the local office, eligibility for medical assistance shall begin effective the first day that the spenddown obligation is met. The Department will pay for covered services received from that date until the end of the eligibility period. The client shall be responsible, directly to the provider, for payment for services provided prior to the time the client meets the spenddown obligation.

- 5) Cases with a spenddown obligation ~~that~~ which do not have a QMB, a MANG(P) member or a person on a waiting list or who would be on a waiting list to receive a transplant if he or she had a source of payment, will be reviewed beginning in the sixth month of enrollment to determine if they have had medical eligibility within the last three months, including the month of review. If so, enrollment will continue. If not, enrollment will be terminated and the client will be advised that if he or she wishes continued medical assistance, a reapplication must be filed. Upon reapplication, a new 12-month enrollment period will be established (assuming non-financial factors of eligibility are met). If appropriate, a new spenddown obligation will be created.
- A) If the client files a reapplication prior to four months after the end of the period of enrollment, the client will be sent through a special abbreviated intake procedure making use of current case record material to verify factors of eligibility not subject to change.
- B) Cases that remain eligible in the tenth month of the enrollment period or ~~that~~ which have a QMB, a MANG(P) member or a person on a waiting list or who would be on a waiting list to receive a transplant if he or she had a source of payment, will remain enrolled and will be redetermined once every 12 months.
- 6) The client is responsible for reporting any changes that occur during the enrollment period ~~that~~ which might affect eligibility for medical assistance. If changes occur, appropriate action shall be taken by the Department, including termination of eligibility for medical assistance.

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- 7) For AABD MANG, if changes in income, assets or family composition occur, appropriate adjustments to the spenddown obligation and date of eligibility for medical assistance shall be made by the Department. The client will be notified, in writing, of the new spenddown obligation.
- A) If income decreases, or assets fall below the applicable asset disregard and, as a result, the client has already met the new spenddown obligation, eligibility for medical assistance shall be ~~backdated~~[back-dated](#) to the appropriate date.
- B) If income or assets increase and, as a result, the client has not produced proof of incurred medical expenses equal to the new spenddown obligation, the written notification of the new spenddown amount will also inform the client that eligibility for medical assistance will be interrupted until proof of medical expenses equal to the new spenddown obligation is produced.
- 8) For TANF MANG, if changes in income or family composition occur, appropriate adjustments to the spenddown obligation and date of eligibility for medical assistance shall be made by the Department. The client will be notified, in writing, of the new spenddown obligation.
- A) If income decreases and, as a result, the client has already met the new spenddown obligation, eligibility for medical assistance shall be ~~backdated~~[back-dated](#) to the appropriate date.
- B) If income increases and, as a result, the client has not produced proof of incurred medical expenses equal to the new spenddown obligation, the written notification of the new spenddown amount will also inform the client that eligibility for medical assistance will be interrupted until proof of medical expenses equal to the new spenddown obligation is produced.
- 9) [Reconciliation of Amounts Paid-in to Meet Spenddown](#)
- A) [The Department will reconcile payments received to meet an income spenddown obligation for a given month against the amount of claims paid for services received in that month and](#)

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refund any excess spenddown paid to the client. Excess amounts paid for a calendar month will be determined and refunded to the client six calendar quarters later. Refund payments will be made once per quarter.

B) The Department will reconcile payments received to meet an asset spenddown obligation against the amount of all claims paid during the individual's period of enrollment for medical assistance. Excess amounts paid will be determined and refunded to the individual six calendar quarters after the individual's enrollment for medical assistance ends.

C) When payments are received to meet both an asset and an income spenddown obligation, the Department will first reconcile the amount of claims paid to amounts paid toward the asset spenddown. If the total amount of claims paid have not met or exceeded the amount paid to meet the asset spenddown by the time the individual's enrollment ends, the excess asset payments shall be handled per subsection (c)(3)(B) of this Section. Once the amount of claims paid equals or exceeds the amount paid toward the asset spenddown, the remaining amount of claims paid will be compared against the amount paid to meet the income spenddown per subsection (c)(3)(A) of this Section.

10) The Department will refund payment amounts received for any months in which the client is no longer in spenddown status and the payment cannot be used to meet a spenddown obligation. These payment amounts shall not be subject to reconciliation under subsection (c)(9) of this Section. Refunds shall be processed within six months after the case status changed.

(Source: Amended at 32 Ill. Reg. 17428, effective November 1, 2008)

SUBPART H: MEDICAL ASSISTANCE – NO GRANT

Section 120.384 ~~Spenddown~~**Spend-down** of Assets (AABD MANG)

a) Determination of Assets

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- 1) For individuals residing in the community, the Department determines the amount of non-exempt assets using the verified amount on the date of decision on the application for medical assistance. The date of verification may be prior to the date of decision. Money considered as income for a month is not considered as an asset for that same month. If income for a month is added to a bank account that month, the Department will subtract the amount of income from the bank balance to determine the asset level. Any income remaining the following ~~months~~ month(s) is considered as an asset.
 - 2) The amount of non-exempt assets verified during the application process is used on the date of decision. If medical eligibility includes ~~a~~ backdated ~~months~~ month(s), for the backdated ~~months~~ month(s), the Department will consider the amount of assets available to apply to the cost of medical care. The Department will not determine the value of assets for ~~a~~ backdated ~~months~~ month(s) of eligibility. However, the amount of the excess assets verified during the application process is used to determine ~~spenddown~~ spend-down status in each backdated month of eligibility.
 - 3) Once the excess asset has been used to meet ~~spenddown~~ spend-down, whether or not the excess amount has actually been reduced, it is no longer considered. However, at reapplication/redetermination, the Department will consider any excess non-exempt assets remaining as currently available.
- b) Community Cases (AABD MANG)
- For AABD MANG, to determine the ~~spenddown~~ spend-down obligation for clients in the community, the Department will compare monthly countable income to the appropriate MANG standard and add any non-exempt assets in excess of the appropriate asset disregard to non-exempt monthly income in excess of the appropriate MANG Standard.
- 1) Regular AABD MANG – Community Residents
When an individual residing in the community, has countable monthly income of not more than 99 cents over the appropriate MANG Standard and has non-exempt excess assets of not more than 99 cents over the appropriate asset disregard, the case is referred to as a Regular MANG case. Payment for covered services is made for each month eligibility exists.

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2) Spenddown~~Spend-down~~ AABD MANG

- A) When an individual resides in the community and has countable monthly income of at least \$1.00 over the MANG Standard and/or non-exempt assets of at least \$1.00 in excess of the asset disregard for the appropriate size household, the case is referred to as a community spenddown~~spend-down~~ case. The spenddown~~spend-down~~ amount is the sum of the amount of income in excess of the MANG Standard plus non-exempt assets in excess of the appropriate asset disregard. The Department will disregard any excess income and/or asset amounts that are not at least \$1.00 over the appropriate standard or disregard.
- B) If the individual presents verification that the excess amount is no longer available, the Department will make the appropriate changes the month following the month the assets were transferred.
- C) Individuals enrolled in spenddown~~spend-down~~ are not eligible for payment of covered medical services until spenddown~~spend-down~~ is met. Spenddown~~Spend-down~~ is met by presenting allowable medical bills or receipts to the Department that equal the amount of the individual's excess countable income and/or non-exempt excess assets. Individuals may also pay-in the amount of the income or asset spenddown to the Department by enrolling in the Pay-in Spenddown Program (see Section 120.60). Excess assets do not have to be reduced prior to the authorization of medical assistance.

c) Group Care Cases

To determine the spenddown~~spend-down~~ obligation for AABD MANG clients in group care, the Department will compare monthly countable income and non-exempt assets in excess of the appropriate asset disregard to the cost of long term care at the private pay rate or the Department rate, whichever is greater. When an individual has non-exempt excess assets, the excess amount is applied to the monthly long term care charges after the monthly countable income has been applied.

1) Regular Group Care

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When an individual in group care has countable monthly income plus non-exempt assets in excess of the applicable asset disregard of not more than 99 cents over the private pay rate or the Department rate, whichever is greater, the case is referred to as a Regular Group Care case. If monthly countable income plus excess non-exempt assets are less than the long term care charges at the Department rate, the Department will pay the difference.

2) Group Care ~~SpenddownSpend-down~~

- A) When an individual in group care has countable monthly income plus non-exempt assets in excess of the applicable asset disregard of at least \$1.00 over the cost of long term care at the private pay rate or the Department rate, whichever is greater, the case is referred to as a Group Care ~~SpenddownSpend-down~~ case. The ~~spenddownspend-down~~ amount is the sum of the monthly countable income plus non-exempt assets over the applicable asset disregard.
- B) The transfer of asset policy set forth in Section 120.385 still applies. Once the client has been determined to have a resource ~~spenddownspend-down~~ because of excess non-exempt assets, the ~~spenddownspend-down~~ cannot be eliminated by a non-allowable transfer made to qualify for or increase the need for medical assistance.
- C) If the individual presents verification that the excess amount is no longer available and the transfer of assets is allowable according to Section 120.385, the Department will make the appropriate changes the month following the month the assets were transferred. If ~~spenddownspend-down~~ has been met, the policy set forth in Section 120.385 regarding transfer of assets does not apply. The client may dispose of the asset as he/she wishes as it has been applied to a met ~~spenddownspend-down~~.
- D) Individuals enrolled in ~~spenddownspend-down~~ are not eligible for payment of covered medical services until ~~spenddownspend-down~~ is met. ~~SpenddownSpend-down~~ is met by presenting allowable medical bills or receipts to the Department that equal the amount

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of the individual's excess countable income and/or non-exempt assets. Excess assets do not have to be reduced prior to the authorization of medical assistance.

(Source: Amended at 32 Ill. Reg. 17428, effective November 1, 2008)

ILLINOIS VIOLENCE PREVENTION AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Public Information, Rule and Organization
- 2) Code Citation: 2 Ill. Adm. Code 1770
- 3)

| | |
|--------------------------|-------------------------|
| <u>Section Numbers</u> : | <u>Adopted Action</u> : |
| 1770.250 | Amendment |
| 1770.300 | Amendment |
- 4) Statutory Authority: Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15]
- 5) Effective Date of Amendments: October 23, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: These amendments are adopted pursuant to Section 5-15 of the IAPA and were not published as proposed amendments in the *Illinois Register*.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? JCAR issued an objection in connection with the previous rulemaking adopted at 32 Ill. Reg. 7417, effective April 25, 2008. This rulemaking responds to that Objection.
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? This rulemaking responds to a JCAR Objection issued to a previous rulemaking adopted at 32 Ill. Reg. 7417, effective April 25, 2008.
- 13) Will this rulemaking replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No

ILLINOIS VIOLENCE PREVENTION AUTHORITY

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- 15) Summary and Purpose of Rulemaking: This rulemaking sets out the Authority's rulemaking procedures and costs for public records.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Barbara Shaw, Executive Director
Illinois Violence Prevention Authority
100 W. Randolph, Room 6-600
Chicago, Illinois 60601

312/814-1514
Fax 312/814-8259
barbara.shaw@illinois.gov

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

ILLINOIS VIOLENCE PREVENTION AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

TITLE 2: GOVERNMENT ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER XII: ILLINOIS VIOLENCE PREVENTION AUTHORITY

PART 1770
PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION

SUBPART A: ORGANIZATION

Section:

- 1770.100 Preamble
- 1770.110 Co-Chairs
- 1770.120 Members
- 1770.130 Committees
- 1770.140 Authority Staff

SUBPART B: PUBLIC INFORMATION

Section:

- 1770.200 General Information Available From the Authority
- 1770.210 Authority Records and Information
- 1770.220 Address to Which Requests Should Be Directed
- 1770.230 Information to Be Provided By the Requestor
- 1770.240 Time Frame for Authority Response
- 1770.250 Approval of the Request for Information
- 1770.260 Denial of Request for Information
- 1770.270 Reconsideration of Denials by the Executive Director
- 1770.280 Inspection of Public Records at Authority Offices

SUBPART C: RULEMAKING

- 1770.300 Administrative Rules
- 1770.310 Rulemaking Procedures

AUTHORITY: Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Adopted at 32 Ill. Reg. 7417, effective April 25, 2008; amended at 32 Ill. Reg. 17450, effective October 23, 2008.

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SUBPART B: PUBLIC INFORMATION REQUESTS

Section 1770.250 Approval of the Request for Information

When a request for inspection and/or copies of public records is approved, the Authority shall notify the requestor in writing or by telephone as to when the public records will be available for inspection or provide copies, as appropriate as to the cost of copying.

(Source: Amended at 32 Ill. Reg. 17450, effective October 23, 2008)

SUBPART C: PROCEDURES

Section 1770.300 Administrative Rules

~~The Authority's rulemaking authority is limited to those rules required by Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15], which states that each agency shall maintain and file a description of the organization, current procedures for implementation of information requests, and a current description of the agency's rulemaking procedures.~~

- a) Initiation of new or amended rules or the repeal of existing rules will begin at the direction of the Executive Director or the Authority when required by statute, or when deemed necessary or desirable for the functioning of the Authority. All rulemaking must be approved by the Authority.
- b) Members of the public and advisory organizations may petition for the adoption, amendment, or repeal of a rule by writing to the Executive Director, Illinois Violence Prevention Authority, 100 W. Randolph, Room 6-600, Chicago, Illinois 60601. The written statement should cite the specific rules to be amended or repealed or should state proposed language for a new rule. Reasons for the proposals shall also be included.
- c) No later than 30 days after the Authority's receipt of the request, the individual submitting the request shall be informed in writing as to the Authority's determination regarding the proposal.
- d) All rulemaking must be approved by the Authority.
- e) All rulemaking activities will be conducted in accordance with the Illinois Administrative Procedure Act [5 ILCS 100].

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NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 32 Ill. Reg. 17450, effective October 23, 2008)

DEPARTMENT OF NATURAL RESOURCES

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- 1) Heading of the Part: Cock Pheasant, Hungarian Partridge, Bobwhite Quail, and Rabbit Hunting
- 2) Code Citation: 17 Ill. Adm. Code 530
- 3)

| | |
|--------------------------|-------------------------|
| <u>Section Numbers</u> : | <u>Adopted Action</u> : |
| 530.70 | Amendment |
| 530.80 | Amendment |
| 530.85 | Amendment |
| 530.110 | Amendment |
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.13, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.13, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29]
- 5) Effective Date of Amendments: October 24, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: July 25, 2008; 32 Ill. Reg. 11310
- 10) Has JCAR issued a Statement of Objection to this rulemaking? 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? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rulemakings currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part was amended to: update addresses for

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

the Department's website; update hunting dates, times and site-specific information; increase the maximum fees concessionaires can charge; add permit options; and clarify permits concessionaires can sell.

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

Bill Richardson, General Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

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TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFEPART 530
COCK PHEASANT, HUNGARIAN PARTRIDGE,
BOBWHITE QUAIL, AND RABBIT HUNTING

| Section | |
|---------|--|
| 530.10 | Statewide General Regulations |
| 530.20 | Statewide Cock Pheasant, Hungarian Partridge, Bobwhite Quail, and Cottontail and Swamp Rabbit Regulations |
| 530.30 | Statewide Hungarian Partridge Regulations (Repealed) |
| 530.40 | Statewide Bobwhite Quail Regulations (Repealed) |
| 530.50 | Statewide Rabbit Regulations (Repealed) |
| 530.60 | Statewide Crow Regulations (Repealed) |
| 530.70 | Permit Requirements for Fee Hunting of Pheasant, Quail and Rabbit at Controlled Permit Hunting Sites |
| 530.80 | Regulations for Fee Hunting of Pheasant, Quail and Rabbit at Controlled Permit Hunting Sites |
| 530.85 | Youth Pheasant Hunting Permit Requirements |
| 530.90 | Illinois Youth Pheasant Hunting Sites Permit Requirements (Repealed) |
| 530.95 | Youth Pheasant Hunting Regulations |
| 530.100 | Illinois Youth Pheasant Hunting Regulations (Repealed) |
| 530.105 | Regulations for Fee Hunting of Pheasant, Hungarian Partridge, Quail and Rabbit at Controlled Daily Drawing Pheasant Hunting Sites (Repealed) |
| 530.110 | Regulations for Non-Fee Hunting of Cock Pheasant, Hungarian Partridge, Quail, and Rabbit at Various Department-Owned or -Managed Sites |
| 530.115 | Regulations for Hunting by Falconry Methods at Various Department-Owned or -Managed Sites |
| 530.120 | Regulations for Hunting Crow at Various Department-Owned or -Managed Sites (Repealed) |

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.13, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.13, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29].

SOURCE: Adopted at 5 Ill. Reg. 8777, effective August 25, 1981; codified at 5 Ill. Reg. 10634; amended at 6 Ill. Reg. 10667, effective August 20, 1982; amended at 7 Ill. Reg. 10755, effective

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August 24, 1983; amended at 8 Ill. Reg. 21574, effective October 23, 1984; amended at 9 Ill. Reg. 15846, effective October 8, 1985; amended at 10 Ill. Reg. 15579, effective September 16, 1986; emergency amendment at 10 Ill. Reg. 18822, effective October 16, 1986, for a maximum of 150 days; emergency expired March 15, 1987; amended at 11 Ill. Reg. 10546, effective May 21, 1987; amended at 12 Ill. Reg. 12016, effective July 7, 1988; amended at 13 Ill. Reg. 12796, effective July 21, 1989; emergency amendment at 13 Ill. Reg. 12985, effective July 31, 1989, for a maximum of 150 days; emergency expired December 28, 1989; amended at 13 Ill. Reg. 17348, effective October 27, 1989; amended at 14 Ill. Reg. 10775, effective June 20, 1990; emergency amendment at 14 Ill. Reg. 18324, effective October 29, 1990, for a maximum of 150 days; emergency expired March 28, 1991; amended at 15 Ill. Reg. 9924, effective June 24, 1991; emergency amendment at 15 Ill. Reg. 16124, effective October 25, 1991, for a maximum of 150 days; emergency expired March 23, 1992; amended at 15 Ill. Reg. 18138, effective December 6, 1991; amended at 16 Ill. Reg. 12470, effective July 28, 1992; amended at 16 Ill. Reg. 18951, effective December 1, 1992; amended at 17 Ill. Reg. 15534, effective September 10, 1993; amended at 18 Ill. Reg. 12628, effective August 9, 1994; amended at 19 Ill. Reg. 12615, effective August 29, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 20 Ill. Reg. 12397, effective August 30, 1996; amended at 21 Ill. Reg. 9042, effective June 26, 1997; amended at 22 Ill. Reg. 14762, effective August 3, 1998; amended at 23 Ill. Reg. 9012, effective July 28, 1999; amended at 24 Ill. Reg. 12496, effective August 7, 2000; amended at 25 Ill. Reg. 11119, effective August 21, 2001; amended at 26 Ill. Reg. 16210, effective October 18, 2002; amended at 27 Ill. Reg. 15381, effective September 18, 2003; amended at 28 Ill. Reg. 12835, effective September 1, 2004; amended at 29 Ill. Reg. 13813, effective August 26, 2005; amended at 30 Ill. Reg. 14478, effective August 24, 2006; amended at 31 Ill. Reg. 9175, effective June 18, 2007; amended at 32 Ill. Reg. 17455, effective October 24, 2008.

Section 530.70 Permit Requirements for Fee Hunting of Pheasant, Quail and Rabbit at Controlled Permit Hunting Sites

- a) Applicants must contact the Department of Natural Resources (Department or DNR) to obtain a permit reservation. For Silver Springs State Park, Ramsey Lake State Park, Horseshoe Lake State Park (Madison County) and Chain O'Lakes State Park, applicants must contact the public/private partnership area concessionaire. Should the concessionaire, for any reason, fail to operate the concession, applicants must contact the DNR. Applications for reservations will be accepted on the first Monday of August until 24 hours before the last hunt date. Methods for making reservations are available on the Department's Website at: <http://dnr.state.il.us>, by email at: dnr.pheasant@illinois.gov pheasant@dnrmail.state.il.us or by writing to the Department's Division of Parks

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and Recreation-Pheasant at the address cited in subsection (c). Only applications for reservations submitted by Illinois residents will be accepted during the first two weeks of the application period. Reservations will be confirmed. Providing false information on the application is a Class A misdemeanor (see 520 ILCS 5/2.38).

- b) Permits will be issued until the daily quota is filled. The daily quota is determined by the formula one hunter per 10 to 80 huntable acres. Huntable acres are determined by, but not limited to, the biological studies on the number of the species available, the condition, topography, and configuration of the land at the site, the condition of the roads at the site, and the number of employees available to work at the site.
- c) For all DNR operated sites the permit is valid for the permit holder and up to three hunting partners. The hunting partners cannot hunt without the permit holder being present to hunt. Methods for changing hunting reservations and transferring permits will be provided on the Department's Website at: <http://dnr.state.il.us>, by email at: dnr.pheasant@illinois.gov or dnrmail.state.il.us or by writing to:

Illinois Department of Natural Resources
Division of Parks and Recreation – Pheasant
One Natural Resources Way
Springfield IL 62702-1271

- d) Reservations for pheasant hunting will be issued by the Department for the Des Plaines Conservation Area, Eldon Hazlet State Park (Carlyle Lake), Iroquois County Conservation Area, Jim Edgar Panther Creek State Fish and Wildlife Area – Controlled Unit, Johnson-Sauk Trail State Park, Kankakee River State Park, Lee County Conservation Area (Green River), Moraine View State Park, Sand Ridge State Forest and Wayne Fitzgerald State Park.
- e) The Department will operate a conveyance for disabled hunters possessing a current Standing Vehicle Permit at some controlled pheasant hunting sites. Reservations for this conveyance must be made at least 2 days in advance, and shall be on a first come-first served basis. Sites where the conveyance will be available as well as dates of operation shall be provided on the Department's Controlled Pheasant Hunting Website and/or publicly announced.

(Source: Amended at 32 Ill. Reg. 17455, effective October 24, 2008)

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Section 530.80 Regulations for Fee Hunting of Pheasant, Quail and Rabbit at Controlled Permit Hunting Sites

a) Hunting Seasons:

- 1) The following controlled pheasant hunting areas shall be closed to pheasant permit hunting on every Monday and Tuesday during the controlled hunting season and on December 25.

Chain O'Lakes State Park

Des Plaines Conservation Area

Eldon Hazlet State Park (Carlyle Lake)

Horseshoe Lake State Park – Madison County

Iroquois County Conservation Area

Jim Edgar Panther Creek State Fish and Wildlife Area – Controlled Unit

Johnson-Sauk Trail State Park

Kankakee River State Park

Moraine View State Park

Ramsey Lake State Park

Sand Ridge State Forest

Silver Springs State Park

Wayne Fitzgerald State Park (Rend Lake)

- 2) The following controlled pheasant hunting areas are open to the Illinois Youth Pheasant Hunting Program only on the first Sunday of the site's

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controlled pheasant hunting season.

Chain O'Lakes State Park

Des Plaines Conservation Area

Eldon Hazlet State Park (Carlyle Lake)

Iroquois County Conservation Area

Jim Edgar Panther Creek State Fish and Wildlife Area – Controlled Unit

Johnson-Sauk Trail State Park

Lee County Conservation Area (Green River State Wildlife Area)

Moraine View State Park

Sand Ridge State Forest

Wayne Fitzgerald State Park (Rend Lake)

- 3) The controlled hunting season on the Lee County Conservation Area (Green River) is November [2, 3, 9, 10, 16, 17, 24, 304, 5, 11, 12, 19, 25, 26](#) and December [1, 8, 14, 15, 163, 9, 10, 16, 17, 18](#).

- 4) Controlled pheasant hunting seasons are listed below; exceptions are in parentheses; with written authorization from the Director, captive-reared game bird hunting may be scheduled during the season authorized by statute (see 520 ILCS 5/2.6) on the following DNR operated areas:

Des Plaines Conservation Area (closed during the November 3-day firearm deer season) and Moraine View State Park – the Wednesday before the first Saturday of November through the ninth Sunday following

Eldon Hazlet State Park and Wayne Fitzgerald State Park – the Wednesday following the first Saturday of November through the

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ninth Sunday following

Horseshoe Lake State Park – Madison County (closed New Year's Day) – the second Wednesday of December or the first hunting day after the close of the central zone duck season, whichever occurs first, through the next following January 31

Iroquois County Conservation Area and Chain O'Lakes State Park (closed during the November 3-day firearm deer season) – the Wednesday before the first Saturday in November through the seventh Sunday following

Jim Edgar Panther Creek State Fish and Wildlife Area – Controlled Unit (closed during the November and December firearm deer seasons), Johnson-Sauk Trail State Park (closed New Year's Day), Kankakee River State Park (closed New Year's Day), Ramsey Lake State Park (closed New Year's Day), Sand Ridge State Forest – season dates are those specified in Section 530.20

Silver Springs State Park (closed New Year's Day) – the third Saturday of October through the next following January 8

- b) Hunting hours are listed below, ~~exceptions in parentheses.~~ On Thanksgiving Day, hunting hours are 9:00 a.m.-1:00 p.m. Hunters with reservations are required to check in at the check station on the following sites at the listed times. Hunters with reservations that check in after the required check-in time may not be allowed to hunt if the site hunter quota has been filled.

| Site Name | Check-In Times | Hunting Hours |
|-------------------------------|----------------|--|
| Chain O'Lakes State Park | 7:00-8:00 a.m. | 9:00 a.m.-4:00 p.m. (Thanksgiving Day – 9:00 a.m.-1:00 p.m.) |
| Des Plaines Conservation Area | 7:00-8:00 a.m. | 9:00 a.m.-4:00 p.m. (Thanksgiving Day – 9:00 a.m.-1:00 p.m.) |

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|--|----------------|---|
| Eldon Hazlet State Park (Carlyle Lake) | 7:00-8:00 a.m. | 9:00 a.m.-4:00 p.m. |
| Horseshoe Lake State Park (Madison County) | 8:00-8:30 a.m. | 9:00 a.m.-4:00 p.m. |
| Iroquois County Conservation Area | 7:00-8:00 a.m. | 9:00 a.m.-4:00 p.m. |
| Jim Edgar Panther Creek State Fish and Wildlife Area (Controlled Unit) | 8:00-8:30 a.m. | 9:00 a.m.-4:00 p.m. (Thanksgiving Day— 9:00 a.m.-1:00 p.m.) |
| Johnson-Sauk Trail State Park | 8:00-8:30 a.m. | 9:00 a.m.-4:00 p.m. (Thanksgiving Day— 9:00 a.m.-1:00 p.m.) |
| Kankakee River State Park | 8:00-8:30 a.m. | 9:00 a.m.-4:00 p.m. (Thanksgiving Day— 9:00 a.m.-1:00 p.m.) |
| Lee County Conservation Area (Green River State Wildlife Area) | 8:00-8:30 a.m. | 9:00 a.m.-4:00 p.m. |
| Moraine View State Park | 7:00-8:00 a.m. | 9:00 a.m.-4:00 p.m. |
| Ramsey Lake State Park | 8:00-8:30 a.m. | 9:00 a.m.-4:00 p.m. |
| Sand Ridge State Forest | 8:00-8:30 a.m. | 9:00 a.m.-4:00 p.m. (Thanksgiving Day— 9:00 a.m.-1:00 p.m.) |
| Silver Springs State Park | 8:00-8:30 a.m. | 9:00 a.m.-4:00 p.m. |
| Wayne Fitzgerald State Park (Rend Lake) | 7:00-8:00 a.m. | 9:00 a.m.-4:00 p.m. (Thanksgiving Day— 9:00 a.m.-1:00 p.m.) |

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- c) Except for Standing Vehicle Permittees hunting from the Department's disabled conveyance, during the controlled pheasant hunting season when daily quotas are not filled, permits shall be issued by drawing held at the conclusion of check-in time and if daily quotas remain unfilled at the conclusion of the drawing, on a first come-first served basis until 12:00 noon at the following sites:

Des Plaines Conservation Area

Eldon Hazlet State Park

Iroquois County Conservation Area

Jim Edgar Panther Creek State Fish and Wildlife Area

Johnson-Sauk Trail State Park

Lee County Conservation Area (Green River)

Kankakee River State Park

Moraine View State Park

Sand Ridge State Forest

Wayne Fitzgerald State Park

- d) Hunting licenses, daily usage stamps and fees:
- 1) During the controlled pheasant hunting season, hunters are required to deposit their hunting license in the check station while hunting. Persons exempt by law from having a hunting license must deposit their Firearm Owner's Identification Card. If they are under 21 years old and do not have a card they must be accompanied by a parent, legal guardian or a person in loco parentis who has a valid card in possession.
 - 2) At the Lee County Conservation Area (Green River) and the Iroquois County Conservation Area hunters must obtain a daily usage stamp from the Department prior to hunting, except on the Sunday following Thanksgiving Day hunters under 16 are not required to obtain a stamp.

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3) At the Des Plaines Conservation Area, Jim Edgar Panther Creek State Fish and Wildlife Area – Controlled Unit, Johnson-Sauk Trail State Park, Kankakee River State Park, Moraine View State Park, Eldon Hazlet State Park (Carlyle Lake), Wayne Fitzgerald State Park and Sand Ridge State Forest, hunters must obtain a daily usage stamp from the Department prior to hunting, except on the Sunday following Thanksgiving Day and the Friday between Christmas Day and New Year's Day hunters under 16 are not required to obtain a stamp.

4) Fees of not more than \$23 for a 2 pheasant hunting permit, \$32 for a 3 pheasant hunting permit or \$39 for a 4 pheasant hunting permit ~~in the listed amounts~~ must be paid to the public/private partnership area concessionaire at the following sites. In the event of a weather anomaly, such as drought, the listed fees may be increased.

Chain O'Lakes State Park ~~—not more than \$22 per hunting permit~~

Horseshoe Lake State Park (Madison County) ~~and Ramsey Lake State Park —not more than \$20 for a 2 pheasant hunting permit, \$28 for a 3 pheasant hunting permit, and \$35 for a 4 pheasant hunting permit~~

Ramsey Lake State Park

Silver Springs State Park ~~—not more than \$22 for a 2 pheasant hunting permit, \$28 for a 3 pheasant hunting permit, and \$36 for a 4 pheasant hunting permit~~

- e) During the controlled pheasant hunting season, hunters must wear a back patch issued by the check station.
- f) Anyone who has killed game previously and has it in possession or in their vehicle must declare it with the person in charge of the area during check-in. All game found in a hunter's possession after hunting has started on the area shall be considered illegally taken if the hunter has not declared it prior to going afield.
- g) All hunting must be done with shotguns or bow and arrow. Only shot shells with a shot size of No. 5 lead or a non-toxic shot size ballistically equivalent to No. 5

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lead or smaller may be used, except at Chain O' Lakes State Park, Johnson-Sauk Trail State Park, Lee County Conservation Area (Green River), Wayne Fitzgerald State Park and Eldon Hazlet State Park where only nontoxic shot approved by the U.S. Fish and Wildlife Service may be possessed and only shot shells with a shot size ballistically equivalent to No. 5 lead or smaller may be used or in possession. Flu flu arrows only may be used or in possession by bow and arrow hunters.

- h) Non-hunters are not allowed in the field, except at special hunts publicly announced by the Department where non-hunters authorized by the Department shall be allowed in the field, and except for operators of Department conveyances and Standing Vehicle Permittees and a single dog handler for the Permittee.
- i) Hunters under 16 years of age must be accompanied by an adult hunter.
- j) Daily limits – On the following areas, hunters may obtain one permit each day; a permit authorizes the harvest of 2 pheasants of either sex per hunter; exceptions are in parentheses; with written authorization from the Director, the limits provided for in 520 ILCS 5/3.28 shall apply for Illinois Conservation Foundation sponsored hunts:

Chain O'Lakes State Park ([two 2 pheasant permits](#) [or one 3 or 4 pheasant permit](#) per hunter each day)

Des Plaines Conservation Area

Eldon Hazlet State Park

Lee County Conservation Area (2 cock pheasants per permit hunter)

Horseshoe Lake State Park-Madison County (two 2 pheasant permits or one 3 or 4 pheasant permit per hunter each day; additionally, first day only, 4 quail and 2 rabbits per hunter)

Iroquois County Conservation Area

Jim Edgar Panther Creek State Fish and Wildlife Area (additionally, 8 bobwhite quail opening day through the Sunday following Thanksgiving and 4 rabbits per hunter)

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Johnson-Sauk Trail State Park (additionally, 8 bobwhite quail, 2 Hungarian partridge and 4 rabbits per hunter)

Kankakee River State Park (additionally, 8 bobwhite quail and 4 rabbits per hunter)

Moraine View State Park

Ramsey Lake State Park (two 2 pheasant permits or one 3 or 4 pheasant permit per hunter each day; additionally, 8 bobwhite quail and 4 rabbits per hunter)

Sand Ridge State Forest (additionally, 8 bobwhite quail and 4 rabbits per hunter)

Silver Springs State Park (two 2 pheasant permits or one 3 or 4 pheasant permit per hunter each day)

Wayne Fitzgerald State Park

- k) Tagging of birds.
During the controlled pheasant hunting season, all pheasants must be affixed with a Department tag before they are removed from the area during the controlled pheasant hunting season. The tag must remain on the leg of the pheasants until the pheasants are finally prepared for consumption.
- l) During the controlled pheasant hunting season, hunters may not leave the confines of any permit area and return to hunt on the permit area during the same day.
- m) Any person who violates any provision of this Part or 17 Ill. Adm. Code 510.10(c)(1), (4) and (6) or 510.10(d)(7) or Section 2.33(n), (x) or (z) of the Wildlife Code [520 ILCS 5/2.33(n), (x) or (z)] shall be subject to arrest and/or removal from the premises for the remainder of the controlled pheasant hunting season under applicable statutes including 720 ILCS 5/21-5, Criminal Trespass to State Supported Land. Hunters may request a hearing within ten days after the citation by written request addressed to: Legal Division, Department of Natural Resources, One Natural Resources Way, Springfield IL 62702-1271. Such hearing shall be governed by the provisions of 17 Ill. Adm. Code 2530.

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- n) Violation of a site regulation is a petty offense (see 520 ILCS 5/2.6, 2.7, 2.13 or 2.27).

(Source: Amended at 32 Ill. Reg. 17455, effective October 24, 2008)

Section 530.85 Youth Pheasant Hunting Permit Requirements

- a) Applicants must contact the Department of Natural Resources (Department or DNR) to obtain a permit reservation. Applications for reservations will be accepted on the first Monday of August until 24 hours before the hunt date. Methods for making reservations are available on the Department's Website at: <http://dnr.state.il.us>, by email at: dnr.pheasant@illinois.gov ~~pheasant@dnrmail.state.il.us~~ or by writing to the Department's Division of Parks and Recreation. Only applications for reservations submitted by Illinois residents will be accepted during the first two weeks of the application period. Reservations will be confirmed. Providing false information on the application is a Class A misdemeanor (see 520 ILCS 5/2.38).
- b) Only one permit per person will be issued until the daily quota is filled. The daily quota is determined by the formula: one hunter per 10 to 40 huntable acres. Huntable acres are determined by, but not limited to, the biological studies on the number of the species available, the condition, topography, and configuration of the land at the site, the condition of the roads at the site, and the number of employees available to work at the site.
- c) Methods for transferring permits will be provided on the Department's Website at: <http://dnr.state.il.us>, by email at: dnr.pheasant@illinois.gov ~~pheasant@dnrmail.state.il.us~~ or by writing to:

Illinois Department of Natural Resources
Division of Parks and Recreation – Youth Pheasant Hunt
One Natural Resources Way
Springfield IL 62702-1271

- d) Reservations for the Illinois Youth Pheasant Hunt permits will be issued for Chain O'Lakes State Park, Clinton Lake State Recreation Area, Des Plaines Conservation Area, Edward R. Madigan State Park, Eldon Hazlet State Park (Carlyle Lake), Iroquois County Conservation Area, Johnson-Sauk Trail State Park, Lee County Conservation Area (Green River), Moraine View State Park,

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Wayne Fitzgerald (Rend Lake) State Park, Mackinaw River State Fish and Wildlife Area, Horseshoe Lake State Park (Madison County), Sand Ridge State Forest, Sangchris Lake State Park and Jim Edgar Panther Creek State Fish and Wildlife Area-Controlled Unit.

(Source: Amended at 32 Ill. Reg. 17455, effective October 24, 2008)

Section 530.110 Regulations for Non-Fee Hunting of Cock Pheasant, Hungarian Partridge, Quail, and Rabbit at Various Department-Owned or -Managed Sites

- a) General Site Regulations
 - 1) All regulations in 17 Ill. Adm. Code 510 – General Hunting and Trapping – apply in this Section, unless this Section is more restrictive.
 - 2) Only flu flu arrows may be used by bow and arrow hunters; broadheads are not allowed.
 - 3) On sites which are indicated by (1), hunters must check in and/or sign out as provided for in 17 Ill. Adm. Code 510.
 - 4) On sites which are indicated by (2), only nontoxic shot approved by the U.S. Fish and Wildlife Service of size #3 steel or #5 bismuth shot or smaller may be used or possessed with a shot size of #3 steel or tin, #4 bismuth, #5 tungsten-iron, tungsten-polymer, tungsten-matrix or smaller may be used.
 - 5) Site specific rules or exceptions are noted in parentheses after each site.
- b) Site Specific Regulations
 - 1) Statewide regulations apply at the following sites:
 - Anderson Lake Conservation Area (1)
 - Apple River Canyon State Park – Salem and Thompson Units (rabbits only; closed during firearm deer season) (1)
 - Argyle Lake State Park (closed during firearm deer season) (1)

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Banner Marsh State Fish and Wildlife Area (opens the day after the close of the central zone duck season) (1)

Big Bend State Fish and Wildlife Area (hunting for bobwhite quail will terminate at the close of legal shooting hours on December 14) (1)

Big River State Forest (closed during firearm deer season) (1)

Cache River State Natural Area (1)

Campbell Pond Wildlife Management Area

Cape Bend State Fish and Wildlife Area (1)

Carlyle Lake Lands and Waters (Corps of Engineers Managed Lands)

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

Crawford County Conservation Area (1)

Cypress Pond State Natural Area (1)

Deer Pond State Natural Area (1)

Devil's Island State Fish and Wildlife Area

Dog Island Wildlife Management Area (1)

Eagle Creek State Park (open only January 16-22)

Eldon Hazlet State Park (north of Allen Branch and west of Peppenhorst Branch only) (1)

Falling Down Prairie (1)

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Ferne Clyffe State Park (1)

Fort de Chartres Historic Site (hunting with muzzleloading shotgun or bow and arrow only) (1)

Ft. Massac State Park (1)

Fulton County Goose Management Area (opens the day after the close of the Central Illinois Quota Zone goose season) (1)

Giant City State Park (1)

Hamilton County Conservation Area (1)

Hanover Bluff State Natural Area (1)

Horseshoe Lake Conservation Area (Alexander County) (Public Hunting Area) (1)

Horseshoe Lake Conservation Area (Controlled Hunting Area; closed prior to and during the Canada goose season) (1)

Jubilee College State Park (hunting for pheasant and quail will terminate at sunset on the Sunday after Thanksgiving; closed during all site firearm deer seasons) (1)

Kaskaskia River State Fish and Wildlife Area (Doza Creek Waterfowl Management Area closed 7 days prior to and during duck season; the defined Baldwin Lake Waterfowl Rest Area is closed) (1)

Kinkaid Lake Fish and Wildlife Area (1)

Marseilles State Fish and Wildlife Area (closed during all site firearm deer seasons; unauthorized personnel may not be on the site outside of the posted check station operating hours; hunters may only enter the site from designated parking lots) (1)

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Marshall Fish and Wildlife Area (closed during firearm deer season) (1)

Mazonia State Fish and Wildlife Area (upland season does not open until the day after the close of the site's waterfowl season; the site is closed Mondays, Tuesdays, Christmas Day and New Year's Day) (1)

Mermet Lake Fish and Wildlife Area (1)

Mississippi River Pools 16, 17, 18

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

Mississippi River Pools 21, 22, 24

Mt. Vernon Game Propagation Center (hunting from January 1 to the end of season; rabbits only) (1)

Nauvoo State Park (Max Rowe Unit only)

Oakford Conservation Area

Peabody River King State Fish and Wildlife Area (West [and North Subunits](#) ~~Subunit~~ only) (1)

Pyramid State Park (1)

Ramsey Lake State Park (8:00 a.m. to 4:00 p.m.; rabbits and quail only may be hunted on Mondays and Tuesdays during the fee pheasant season) (1)

Randolph County Conservation Area (1)

Ray Norbut State Fish and Wildlife Area (1)

Red Hills State Park (1)

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Rend Lake Project Lands and Waters

Sahara Woods State Fish and Wildlife Area (1)

Saline County Conservation Area (1)

Sam Dale Lake Conservation Area (8:00 a.m. to 4:00 p.m.) (1)

Sam Parr State Park (8:00 a.m. to 4:00 p.m.) (1)

Sangamon County Conservation Area

Shawnee National Forest, Oakwood Bottoms (2)

Sielbeck Forest Natural Area (1)

Skinner Farm State Habitat Area (1)

Snakeden Hollow State Fish and Wildlife Area (opens the day after the close of the Central Illinois Quota zone goose season) (1) (2)

Spoon River State Forest (1)

Stephen A. Forbes State Park (8:00 a.m. to 4:00 p.m.) (1)

Tapley Woods State Natural Area (closed during firearm and muzzleloading rifle deer seasons) (1)

Trail of Tears State Forest (1)

Turkey Bluffs State Fish and Wildlife Area (1)

Union County Conservation Area (Firing Line Management Area only) (1) (2)

Washington County Conservation Area (1)

Weinberg-King State Park (1)

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Weinberg-King State Park (Cecil White Unit)

Weinberg-King State Park (Scripps Unit) (1)

Weinberg-King State Park (Spunky Bottoms Unit) (1)

Wildcat Hollow State Forest

Witkowsky State Wildlife Area (rabbit only; opens after second firearm deer season) (1)

Wolf Creek State Park (open only January 16-22)

- 2) Statewide regulations apply at the following sites except that hunters must obtain a free site permit from site office; this permit must be in possession while hunting at the site. The permit must be returned, and harvest reported, by February 15 or the hunter will forfeit hunting privileges at the site for the following year:

Chauncey Marsh (obtain permit at Red Hills State Park headquarters)

Clinton Lake State Recreation Area (4:00 p.m. daily closing)

Fox Ridge State Park (4:00 p.m. daily closing; closed during firearm deer season)

Hidden Springs State Forest (no hunting during firearm deer season; 4:00 p.m. daily closing)

Horseshoe Lake State Park (Madison County) – Gabaret, Mosenthein, Chouteau Island Unit

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

Jim Edgar Panther Creek State Fish and Wildlife Area – Controlled Unit (rabbit hunting only open Monday following the close of the controlled pheasant hunting season through the next following January 22)

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Kickapoo State Park (4:00 p.m. daily closing; closed during firearm deer season)

Lake Shelbyville – Kaskaskia and West Okaw Wildlife Management Area (4:00 p.m. daily closing)

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

Middle Fork Fish and Wildlife Area (4:00 p.m. daily closing; closed during firearm deer season)

Moraine View State Park (rabbit hunting permitted Mondays and Tuesdays during the site controlled hunting season; hunting hours are 8 a.m. to 4 p.m. only)

Newton Lake Fish and Wildlife Area (closed during firearm deer season)

Pyramid State Park – Galum Unit

Sanganois State Fish and Wildlife Area

Ten Mile Creek State Fish and Wildlife Area (nontoxic shot only on posted waterfowl rest areas)

- 3) Hunting is permitted on the following areas only on the dates listed in parentheses; or on sites indicated by (3), hunting will be permitted on the first and second day of the statewide upland game season and on each subsequent Wednesday and Saturday in November, and on each Thursday and Sunday in December, through December 24. On sites indicated by (4), hunting will be permitted on the first and second day of the statewide upland game season and on each subsequent Wednesday and Saturday in November and on each Thursday and Sunday in December, through December 24, except closed during the firearm deer seasons and open December 27 and 29. Daily hunting permits filled by drawing through DNR Permit Office. Procedures for application and drawings will be publicly announced. Illinois residents will have preference. Only one

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permit per person will be issued. Each permit authorizes the holder to bring the number of additional hunting partners listed in parentheses for the day's hunt. The permit must be returned and harvest reported by February 15 or permit holders will forfeit hunting privileges at the sites covered in this Section for the following year:

Birkbeck Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Bradford Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Clifton Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Coffeen Lake State Fish and Wildlife Area – [Upland Management Area](#)~~Cranfill Unit~~ (open every Wednesday during the upland season; daily limit of bobwhite quail is 4; each permit authorizes the holder to bring 2 hunting partners)

Dublin Highlands Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Eagle Creek State Park (each permit authorizes the holder to bring 3 hunting partners) (3)

Edward R. Madigan State Park (open on Mondays from the opening of upland game season until Christmas Day; each permit authorizes the holder to bring 3 hunting partners; check in required before hunting)

Freeman Mine (open every Wednesday in November and December starting with opening day of upland game season except during firearm deer season and December 24 and 25; each permit authorizes holder to bring 3 hunting partners; hunting hours 8 a.m. to 4 p.m.; daily bag limit is 2 cock pheasants, 4 quail, and 2 rabbits)

Franklin Creek State Natural Area – Nachusa Prairie Sand Farm

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(each permit authorizes the holder to bring 3 hunting partners) (3)

Gifford Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Green River State Wildlife Area (open only November [1, 5, 6, 8, 12, 19, 22, 7, 8, 10, 14, 21, 24](#) and December [3, 4, 6, 10, 11, 13, 17, 18, 20, 5, 6, 8, 12, 13, 15, 19, 20, 22](#); each permit authorizes the holder to bring 5 hunting partners) (1) (2)

Hallsville Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Harry "Babe" Woodyard State Natural Area (each permit authorizes the holder to bring 3 hunting partners; 8 a.m. to 4 p.m. hunting hours) (4)

Herschel Workman Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Hindsboro Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Hurricane Creek Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (4)

Jim Edgar Panther Creek State Fish and Wildlife Area (Upland Game Management Area) (open every Tuesday and Saturday in November, December and January starting with opening day of upland game season except during firearm deer season and December 24 and 25; rabbit hunting only after the close of pheasant and quail season; each permit authorizes holder to bring 3 hunting partners)

[Little Rock Creek Habitat Area \(each permit authorizes the holder to bring 3 hunting partners\) \(3\)](#)

Loda Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

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Mackinaw State Fish and Wildlife Area (each permit authorizes the holder to bring 3 hunting partners) (4)

Manito Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Maytown Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

[Milks Grove Pheasant Habitat Area \(each permit authorizes the holder to bring 3 hunting partners\) \(3\)](#)

Perdueville Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Pyramid State Park – Captain Unit (open only November [1, 5, 8, 12, 15, 26, 7, 10, 14, 21, 24](#); December [3, 10, 13, 20, 27, 12, 15, 19, 22, 26](#); and January [3, 7, 9, 15, 9, 12](#); each permit authorizes the holder to bring 2 hunting partners)

Pyramid State Park – Denmark Unit (open only November [2, 5, 8, 12, 15, 26, 7, 10, 14, 21, 25](#); December [3, 10, 13, 20, 27, 12, 15, 19, 22, 26](#); and January [4, 7, 10, 14, 9, 12](#); each permit authorizes the holder to bring 2 hunting partners)

Pyramid State Park – East Conant Unit (open only November [1, 5, 8, 12, 15, 26, 7, 10, 14, 21, 24](#); December [3, 10, 13, 20, 27, 12, 15, 19, 22, 26](#); and January [3, 7, 10, 14, 9, 12](#); each permit authorizes the holder to bring 2 hunting partners)

Sand Prairie Pheasant Habitat Area (each permit authorizes the holder to bring 5 hunting partners) (3)

Sand Ridge State Forest (Sparks Pond Land and Water Reserve Area) (open on Saturdays and Tuesdays from the opening of the upland game season through the end of December except during firearm deer season; each permit authorizes holder to bring 3 hunting partners)

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Sangchris Lake State Park (open every Wednesday and Saturday in November and December after the opening day of upland game season except the Saturday of the second firearm deer season and December 24 and 25; each permit authorizes holder to bring 3 hunting partners; hunting hours 11:00 a.m. to sunset; check in required before hunting)

Saybrook Pheasant Habitat Area (each permit authorizes the holder to bring 5 hunting partners) (3)

Sibley Pheasant Habitat Area (each permit authorizes the holder to bring 5 hunting partners) (3)

Siloam Springs State Park – Buckhorn Unit (open only the first and third days of firearm deer season and every Tuesday and Saturday thereafter until close of the statewide quail season; each permit authorizes the holder to bring 3 hunting partners)

Steward Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Victoria Pheasant Habitat Area (each permit authorizes the holder to bring 5 hunting partners) (3)

Willow Creek Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Wolf Creek State Park (each permit authorizes the holder to bring 3 hunting partners) (4)

- 4) The following sites will be open for pheasant, quail, rabbit and partridge hunting following the site's controlled pheasant hunting season; pheasants of either sex may be taken; all hen pheasants must be tagged by DNR before leaving sites; hunting hours are 8:00 a.m.-4:00 p.m.; hunting dates are noted in parentheses:

Chain O'Lakes State Park (open Wednesday through Friday following permit pheasant season) (1)

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Des Plaines Conservation Area (dates are 5 days following the close of the site's permit pheasant season excluding Mondays, Tuesdays and Christmas) (1)

Eldon Hazlet State Park ([no quail or rabbit hunting](#); controlled pheasant hunting area and for 5 consecutive days only) (1)

Iroquois County Wildlife Management Area (open Wednesday through Sunday following permit pheasant season) (1)

Kankakee River State Park (no quail hunting)

Moraine View State Park (open Monday following the close of the controlled pheasant hunting season through the close of the northern zone season) (1)

Silver Springs State Park (dates are 5 days following the close of the site's permit pheasant season, excluding Mondays and Tuesdays) (1)

- c) Violation of a site regulation is a petty offense (see 520 ILCS 5/2.6, 2.7, 2.13 or 2.27).

(Source: Amended at 32 Ill. Reg. 17455, effective October 24, 2008)

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- 1) Heading of the Part: Revocation Procedures for Conservation Offenses
- 2) Code Citation: 17 Ill. Adm. Code 2530
- 3)

| <u>Section Numbers</u> : | <u>Adopted Action</u> : |
|--------------------------|-------------------------|
| 2530.240 | Amendment |
| 2530.260 | Amendment |
| 2530.270 | Amendment |
| 2530.600 | New Section |
| 2530.700 | New Section |
- 4) Statutory Authority: Implementing and authorized by Sections 1-125 and 20-105 of the Fish and Aquatic Life Code of 1971 [515 ILCS 5/1-125 and 20-105], Sections 1.4 and 3.36 of the Wildlife Code [520 ILCS 5/1.4 and 3.36], Sections 4 and 5 of the Illinois Endangered Species Protection Act [520 ILCS 10/4 and 5], Section 3B-8 of the Boat Registration and Safety Act [625 ILCS 45/3B-8], Sections 10 and 13 of the Timber Buyers Licensing Act [225 ILCS 735/10 and 13], Section 6 of the Ginseng Harvesting Act [525 ILCS 20/6] and the Illinois Administrative Procedure Act [5 ILCS 100] and authorized by Sections 5-625 and 805-545 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625 and 805/805-545]
- 5) Effective Date of Amendments: October 24, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including all material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: July 25, 2008; 32 Ill. Reg. 11336
- 10) Has JCAR issued a Statement of Objection to these amendments? 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? No agreements were necessary.

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- 13) Will this rulemaking replace any emergency rulemakings currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part was amended to: modify language pertaining to points to incorporate changes within the Wildlife Code, modify language pertaining to computation of the suspension period, modify procedures to provide that suspension will be imposed on a quarterly basis, add a new Section to explain how privileges are reinstated, and add a new Section containing information on suspension of operating privileges.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Bill Richardson, General Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

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TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER f: ADMINISTRATIVE SERVICES

PART 2530
REVOCATION PROCEDURES
FOR CONSERVATION OFFENSES

SUBPART A: GENERAL RULES

| | |
|---------|---------------------|
| Section | |
| 2530.10 | Applicability |
| 2530.20 | Definitions |
| 2530.30 | Filing |
| 2530.40 | Documents |
| 2530.50 | Computation of Time |
| 2530.60 | Appearances |

SUBPART B: SUMMARY REVOCATION/SUSPENSION

| | |
|----------|--|
| Section | |
| 2530.110 | Applicability (Recodified) |
| 2530.130 | Rules Proposed by Member of Public (Recodified) |
| 2530.140 | Authorization of Hearing (Recodified) |
| 2530.150 | Notice of Hearing (Recodified) |
| 2530.160 | Hearing Officer (Recodified) |
| 2530.180 | Written Submission (Recodified) |
| 2530.190 | Record (Recodified) |
| 2530.200 | Revision of Proposed Rules (Recodified) |
| 2530.210 | Filing and Publication of Final Rules (Recodified) |
| 2530.220 | Applicability |
| 2530.230 | Point System |
| 2530.240 | Points |
| 2530.245 | Single Incident Rule |
| 2530.250 | Groups |
| 2530.255 | Types of Offenses |
| 2530.260 | Computation of Suspension Period |
| 2530.270 | Procedures |
| 2530.280 | Appeal and Hearing |

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SUBPART C: HEARINGS OF CONTESTED CASES

| | |
|----------|--|
| Section | |
| 2530.310 | Applicability |
| 2530.320 | General Procedures |
| 2530.330 | Parties |
| 2530.340 | Notice and Complaint |
| 2530.350 | Service |
| 2530.360 | Notice of Hearing |
| 2530.370 | Prehearing Conferences |
| 2530.380 | Authority of Hearing Officer |
| 2530.390 | Order of Administrative Hearings |
| 2530.400 | Official Notice |
| 2530.410 | Default |
| 2530.420 | Evidence |
| 2530.430 | Motions and Answers |
| 2530.470 | Record |
| 2530.480 | Briefs and Oral Arguments |
| 2530.482 | Disposition |
| 2530.484 | Compelling Appearance at Hearing |
| 2530.486 | Recording of Hearing |
| 2530.488 | Hearing on Timber Buyers – Second and Subsequent Suspensions |
| 2530.490 | Decision and Order |

SUBPART D: INTERSTATE WILDLIFE VIOLATOR COMPACT

| | |
|----------|--------------------|
| Section | |
| 2530.500 | Compact Membership |

SUBPART E: REINSTATEMENT OF PRIVILEGES

| | |
|-----------------|---------------------------------|
| <u>Section</u> | |
| <u>2530.600</u> | <u>Reinstatement Procedures</u> |

SUBPART F: STATUTORILY MANDATED SUSPENSIONS

| | |
|-----------------|---|
| <u>Section</u> | |
| <u>2530.700</u> | <u>Suspension of Operating Privileges</u> |

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AUTHORITY: Implementing and authorized by Sections 1-125 and 20-105 of the Fish and Aquatic Life Code of 1971 [515 ILCS 5/1-125 and 20-105], Sections 1.4 and 3.36 of the Wildlife Code [520 ILCS 5/1.4 and 3.36], Sections 4 and 5 of the Illinois Endangered Species Protection Act [520 ILCS 10/4 and 5], Section 3B-8 of the Boat Registration and Safety Act [625 ILCS 45/3B-8], Sections 10 and 13 of the Timber Buyers Licensing Act [225 ILCS 735/10 and 13], Section 6 of the Ginseng Harvesting Act [525 ILCS 20/6] and the Illinois Administrative Procedure Act [5 ILCS 100] and authorized by Sections 5-625 and 805-545 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625 and 805/805-545].

SOURCE: Filed December 21, 1977; effective December 31, 1977; codified at 5 Ill. Reg. 10664; amended at 6 Ill. Reg. 10687, effective August 25, 1982; Subpart B recodified to 2 Ill. Adm. Code 825: Subpart B at 8 Ill. Reg. 4133, effective March 19, 1984; amended at 10 Ill. Reg. 20201, effective November 25, 1986; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 25 Ill. Reg. 3659, effective February 26, 2001; amended at 25 Ill. Reg. 14126, effective October 22, 2001; amended at 28 Ill. Reg. 9990, effective July 6, 2004; amended at 31 Ill. Reg. 9215, effective June 18, 2007; amended at 32 Ill. Reg. 17481, effective October 24, 2008.

SUBPART B: SUMMARY REVOCATION/SUSPENSION

Section 2530.240 Points

- a) Unless otherwise specified in subsection (b), points shall be assessed by classification of offense as follows:
 - 1)a) For a petty offense – 3 points
 - 2)b) For a Class C Misdemeanor – 6 points
 - 3)e) For a Class B Misdemeanor – 9 points
 - 4)d) For a Class A Misdemeanor – 12 points
 - 5)e) For a Class 4 Felony – 24 points
 - 6)f) For a Class 3 Felony or Higher – 60 points
- b) Points for the following violations shall be assessed as follows:

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- 1)g) For any violation committed during a period of suspension – 60 points
- 2)h) For any person previously suspended once under Group C (Timber Buyers Licensing Act), a minimum of 60 points and up to a maximum of 120 points shall be assessed for a second suspension. The actual number of points to be assessed shall be determined in accordance with Section 2530.488.
- 3)i) For any person previously suspended twice under Group C (Timber Buyers Licensing Act), a minimum of 120 points and up to a maximum of 900 points shall be assessed for a third or subsequent suspension. The actual number of points to be assessed shall be determined in accordance with Section 2530.488.
- 4)j) Federal offenses shall be assessed points based upon the classification of offense for the corresponding Illinois violation, rather than the federal classification of the offense.
- 5) [For any person found guilty of Section 2.33\(cc\) of the Wildlife Code \[520 ILCS 5/2.33\(cc\)\] – 13 points.](#)
- 6) [For any person found guilty of Section 2.38 of the Wildlife Code \[520 ILCS 5/2.38\] – 13 points.](#)

(Source: Amended at 32 Ill. Reg. 17481, effective October 24, 2008)

Section 2530.260 Computation of Suspension Period

All offenses shall be classified by type and by group for computation of points.

- a) For Type I offenses, any person who, within an 18 month period, accumulates 13 or more points in a single group as set out in Section 2530.250 shall have all [commercial/business](#) licenses, permits and stamps relevant to that ~~group~~[type of activity](#) revoked, and the person's privilege to engage in ~~those activities~~[the activity](#) shall be suspended for a period of time that equals one month for each point accumulated. All accumulated points shall remain in effect for 18 months from the date of the arrest that resulted in the point accumulation and shall not be removed or reduced by a period of suspension. Any second or subsequent

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suspension imposed upon an individual shall be served consecutively to any earlier suspension, if still in effect, commencing on the date the earliest suspension expires.

- 1) Example: An individual operates as a commercial game bird breeder and a migratory waterfowl hunting area, and is found guilty of violations relating to his/her commercial game bird breeding operation, resulting in points sufficient to result in revocation/suspension. A revocation shall ~~only~~ be imposed upon both the individual's game bird breeding license and his/her migratory waterfowl hunting area permit, and the person's privilege to obtain any Type I license under the Wildlife Code is suspended for the appropriate period of time ~~a suspension shall be imposed only upon the activities requiring that license. All other businesses (in this instance, migratory waterfowl hunting area) may continue to operate.~~
 - 2) Example: Found guilty of no taxidermy license, possession of untagged specimens and failure to keep proper records (~~both~~ Class B Misdemeanor and 2 Petty Offenses ~~Misdemeanors, normally 9 points each~~) as a result of a single incident. No revocation/suspension imposed, ~~11+2~~ points assessed (9+1+1).
 - 3) Example: Found guilty of same violations as in subsection (a)(1) above (~~a2~~ Class B Misdemeanor and 2 Petty Offenses ~~Misdemeanors~~), but on different dates. Revocation/suspension shall be imposed, as full ~~15+8~~ points apply (9+3+3).
 - 4) Example: Found guilty of buying timber without a license and failure to pay harvest fees (both Class A Misdemeanors, 12 points each). Revocation/suspension imposed, regardless of whether findings are the result of a single incident or separate occurrences, 24 points applied.
- b) For Type II offenses: Any person who, within a 36 month period, accumulates 13 or more points in a single group as set out in Section 2530.250 shall have all licenses, permits and stamps relevant to that type and group revoked, and the person's privilege to engage in the activity covered by the type and group shall be suspended for a period of time that equals one month for each point accumulated. Lifetime licenses issued pursuant to 515 ILCS 5-20-45(f) shall only be revoked for felony violations or for violations committed during a period of suspension. The privileges of lifetime license holders shall be suspended, however, in

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accordance with the provisions of this Section. All accumulated points shall remain in effect for 36 months from the date of the arrest that resulted in the point accumulation and shall not be removed or reduced by a period of suspension. Any second or subsequent suspension imposed upon an individual shall be served consecutively to any earlier suspension, if still in effect, commencing on the date the earliest suspension expires.

- 1) Example: Found guilty of ~~hunting by use of lights from a vehicle~~ ~~unlawful possession of freshly killed white-tailed deer during closed season~~ (Class A Misdemeanor) and taking an over limit of quail (petty offense) – hunting license, trapping license, migratory waterfowl stamp and habitat stamp revoked – Type II privileges authorized under Group A suspended for 15 months from date of notice.
- 2) Example: Found guilty of a Class B Misdemeanor under the Wildlife Code and a Class B Misdemeanor under the Fish Code – no revocation or suspension as there is no 13 point accumulation in any one group.
- 3) Example: Person in subsection ~~(b)(1)(a)~~ completes 15 month suspension; two months later (less than 36 months from first violation) the person again ~~hunts by use of lights from a vehicle~~ ~~commits unlawful possession of freshly killed white-tailed deer during closed season~~, for which person is found guilty – appropriate licenses and stamps revoked and person suspended for 27 months (15+12).
- 4) Example: Found guilty of two Class B Misdemeanors (normally 9 points each) under the Wildlife Code for violations arising out of a single incident – due to Single Incident Rule, reduced points are assessed (9+3) and no suspension is imposed.
- 5) Example: Person in subsection ~~(b)(1)(a)~~ is found guilty of a violation under the Wildlife Code that occurred during the time that the person's privileges were suspended – 60 additional points assessed and a second suspension is imposed, to run consecutively after the first suspension (75 months total).

(Source: Amended at 32 Ill. Reg. 17481, effective October 24, 2008)

Section 2530.270 Procedures

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- a) All circuit clerks shall report the disposition of Natural Resources cases to the Office of Law Enforcement, Illinois Department of Natural Resources, One Natural Resources Way, Springfield IL 62702-1271.
- b) Points shall be assessed to the individual by the Department once reports of disposition are received from the circuit clerk.
- c) Whenever sufficient points have been accumulated for suspension as set out in Section 2530.260, the suspension shall be imposed by the Department on a quarterly basis as follows:
- 1) For any dispositions received during the first quarter of the calendar year (January-March), suspensions shall begin on April 30.
 - 2) For any dispositions received during the second quarter of the calendar year (April-June), suspensions shall begin on July 30.
 - 3) For dispositions received during the third quarter of the calendar year (July-September), suspensions shall begin on October 30.
 - 4) For dispositions received during the fourth quarter of the calendar year (October-December), suspensions shall begin on January 30.
- d)e) Any person suspended under subsection (c)~~who accumulates sufficient points for suspensions as set out in Section 2530.260~~ shall be notified, by mail, that any licenses, stamps or permits held by that person pursuant to the statutes or administrative rules of the type and group in which the points were accumulated are immediately revoked, and the notice shall further inform the person how many points have been assessed and for how long his/her privileges have been suspended.
- e)d) For Type I (commercial/business type) suspensions, the notice shall also include instructions that no new business may be taken in, effective immediately with the suspension, and that existing business must cease within 30 days after the effective date of the suspension. Proof that all existing business has ceased may be in the form of written correspondence to all current clients notifying them of the suspension and their alternatives.

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- f)e) Notices shall be mailed to the last known address of the person through the U.S. mail, and an affidavit of mailing shall be proof that the notice was received 4 days after being mailed. Revocation and suspension shall be effective 4 days after notice is deposited in a U.S. mailbox.

(Source: Amended at 32 Ill. Reg. 17481, effective October 24, 2008)

SUBPART E: REINSTATEMENT OF PRIVILEGESSection 2530.600 Reinstatement Procedures

Any person whose privileges have been suspended pursuant to Subpart B of this Part (Summary Revocation/Suspension) may have his/her privileges reinstated in one of the following manners:

- a) through successful completion of the period of suspension;
- b) as a final determination of a hearing conducted as a result of the person's timely appeal of his/her suspension; or
- c) through a written order issued by the Department in accordance with Subpart C of this Part, as outlined in this subsection:
 - 1) Any person who returns to court to change his/her plea on charges after a period of suspension has been imposed must file, within 34 days after the court action, a petition with the Department accompanied by a \$50 filing fee to request that his/her privileges be reinstated. The Department shall set a hearing date pursuant to the provisions of Subpart C: Hearings of Contested Cases. The burden of proof to justify reinstatement shall be upon the applicant. During the hearing, consideration shall be given to the factors listed in Section 2530.420(f).
 - 2) The mere fact that certain charges were reopened and modified to a lesser class of offense, or reopened and dismissed, shall not be grounds for modification of point totals or automatic reinstatement of privileges.
 - 3) Once a person's privileges have been reinstated, the Department shall process that information within a reasonable time frame, but in no event shall the processing take longer than a period of 10 working days.

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(Source: Added at 32 Ill. Reg. 17481, effective October 24, 2008)

SUBPART F: STATUTORILY MANDATED SUSPENSIONSSection 2530.700 Suspension of Operating Privileges

- a) Pursuant to the Illinois Snowmobile Registration and Safety Act [625 ILCS 40] and the Illinois Boat Registration and Safety Act [625 ILCS 45], the Department is mandated to suspend operating privileges for certain violations. This includes violations of, but may not be limited to:

625 ILCS 40/5-7; Operating a Snowmobile While Under the Influence

625 ILCS 45/5-2; Reckless Operation of a Watercraft

625 ILCS 45/6-1a-1; Leaving the Scene of a Watercraft Accident

625 ILCS 45/5-16; Operating a Watercraft While Under the Influence

625 ILCS 45/5-22; Failure to Yield to an Emergency Watercraft

- b) Whenever suspensions under this Section are imposed by the Department, they shall be implemented in accordance with, and to the maximum extent allowed by, law.

(Source: Added at 32 Ill. Reg. 17481, effective October 24, 2008)

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- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3)

| <u>Section Numbers:</u> | <u>Adopted Action:</u> |
|-------------------------|------------------------|
| 100.7040 | Amendment |
| 100.7300 | Amendment |
| 100.7310 | Amendment |
| 100.7320 | Amendment |
| 100.7325 | New Section |
| 100.7330 | Amendment |
| 100.7350 | New Section |
| 100.7360 | New Section |
| 100.7370 | New Section |
- 4) Statutory Authority: 35 ILCS 5/704, 5/704A and 5/1401
- 5) Effective Date of Amendments: October 24, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department of Revenue's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 32 Ill. Reg. 12164; August 1, 2008
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Several non-substantive grammatical corrections were made in agreement with JCAR. Additionally the following changes were made in response to comments received during the first notice period:

Replaced the text in Section 100.7300(b)(2) with the following: "For calendar years after 2007, payroll providers who withhold Illinois income tax for employers during the year and who are required to file copies of the W-2s on magnetic media under 26 CFR 301.6011-2 shall file copies of the W-2s with the Department using the same magnetic

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media used for their federal filing no later than March 31 of the year following the year of the withholding, unless a later due date is prescribed under federal law for filing the copies of the W-2, in which case filing of copies with the Department shall be due on the same date. (See IITA Sections 704(f) and 704A(f).)"

Added to Section 100.7310(b) the following: "3) An employer that is eligible to make an annual filing and payment under subsection (b)(1) for any calendar year after 2008 may elect to file quarterly returns under Section 100.7300(a) and make monthly payments under Section 100.7300(d)(2) by filing a return for any quarter of that year. Payment of all amounts withheld or required to be withheld through the end of that quarter shall be due with the filing of that return, and the employer shall be required to make monthly payments and quarterly returns for the remainder of that year, unless Section 100.7300(d)(1)(B) requires semi-weekly payments."

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

| <u>Section Numbers:</u> | <u>Proposed Action:</u> | <u>Illinois Register Citation:</u> |
|-------------------------|-------------------------|---------------------------------------|
| 100.2406 | New Section | 31 Ill. Reg. 15240; November 16, 2007 |
| 100.3371 | New Section | 32 Ill. Reg. 16037, October 3, 2008 |
| 100.2310 | Amendment | 32 Ill. Reg. 16309, October 10, 2008 |
| 100.5070 | Amendment | 32 Ill. Reg. 16682, October 17, 2008 |
| 100.5080 | Amendment | 32 Ill. Reg. 16682, October 17, 2008 |
| 100.2430 | Amendment | 32 Ill. Reg. 16951, October 24, 2008 |
| 100.5100 | Amendment | 32 Ill. Reg. 17105, October 31, 2008 |
| 100.5140 | Amendment | 32 Ill. Reg. 17105, October 31, 2008 |
| 100.5160 | Amendment | 32 Ill. Reg. 17105, October 31, 2008 |
| 100.5180 | New Section | 32 Ill. Reg. 17105, October 31, 2008 |
| 100.7035 | New Section | 32 Ill. Reg. 17105, October 31, 2008 |
| 100.7120 | Amendment | 32 Ill. Reg. 17394; November 7, 2008 |

- 15) Summary and Purpose of Rulemaking: This rulemaking provides guidance on the application of the Illinois income tax withholding requirements for employers, as amended in Public Act 95-0008.

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

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

217/782-7055

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

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NOTICE OF ADOPTED AMENDMENTS

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

SUBPART A: TAX IMPOSED

Section

- 100.2000 Introduction
100.2050 Net Income (IITA Section 202)

SUBPART B: CREDITS

Section

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

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

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Section

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

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

Section

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

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After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

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

Section

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

SUBPART F: BASE INCOME OF INDIVIDUALS

Section

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

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

Section

- 100.2655 Subtraction Modification for Enterprise Zone and River Edge Redevelopment Zone Interest (IITA Section 203(b)(2)(M))
- 100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

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

Section

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| 100.3000 | Terms Used in Article 3 (IITA Section 301) |
| 100.3010 | Business and Nonbusiness Income (IITA Section 301) |
| 100.3015 | Business Income Election (IITA Section 1501) |
| 100.3020 | Resident (IITA Section 301) |

SUBPART J: COMPENSATION

Section

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| 100.3100 | Compensation (IITA Section 302) |
| 100.3110 | State (IITA Section 302) |
| 100.3120 | Allocation of Compensation Paid to Nonresidents (IITA Section 302) |

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

Section

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| 100.3200 | Taxability in Other State (IITA Section 303) |
| 100.3210 | Commercial Domicile (IITA Section 303) |
| 100.3220 | Allocation of Certain Items of Nonbusiness Income by Persons Other Than Residents (IITA Section 303) |

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

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| 100.3300 | Allocation and Apportionment of Base Income (IITA Section 304) |
| 100.3310 | Business Income of Persons Other Than Residents (IITA Section 304) – In General |
| 100.3320 | Business Income of Persons Other Than Residents (IITA Section 304) – Apportionment (Repealed) |
| 100.3330 | Business Income of Persons Other Than Residents (IITA Section 304) – Allocation |
| 100.3340 | Business Income of Persons Other Than Residents (IITA Section 304) |
| 100.3350 | Property Factor (IITA Section 304) |
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- 100.3380 Special Rules (IITA Section 304)
100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
100.3400 Apportionment of Business Income of Financial Organizations (IITA Section 304(c))
100.3420 Apportionment of Business Income of Insurance Companies (IITA Section 304(b))
100.3500 Allocation and Apportionment of Base Income by Nonresident Partners

SUBPART M: ACCOUNTING

- Section
100.4500 Carryovers of Tax Attributes (IITA Section 405)

SUBPART N: TIME AND PLACE FOR FILING RETURNS

- Section
100.5000 Time for Filing Returns: Individuals (IITA Section 505)
100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)
100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
100.5040 Innocent Spouses
100.5050 Frivolous Returns
100.5060 Reportable Transactions
100.5070 List of Investors in Potentially Abusive Tax Shelters
100.5080 Registration of Tax Shelters (IITA Section 1405.5)

SUBPART O: COMPOSITE RETURNS

- Section
100.5100 Composite Returns: Eligibility
100.5110 Composite Returns: Responsibilities of Authorized Agent
100.5120 Composite Returns: Individual Liability
100.5130 Composite Returns: Required forms and computation of Income
100.5140 Composite Returns: Estimated Payments
100.5150 Composite Returns: Tax, Penalties and Interest
100.5160 Composite Returns: Credits for Resident Individuals
100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"

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SUBPART P: COMBINED RETURNS

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

SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

| Section | |
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| 100.7000 | Requirement of Withholding (IITA Section 701) |
| 100.7010 | Compensation Paid in this State (IITA Section 701) |
| 100.7020 | Transacting Business Within this State (IITA Section 701) |
| 100.7030 | Payments to Residents (IITA Section 701) |
| 100.7040 | Employer Registration (IITA Section 701) |
| 100.7050 | Computation of Amount Withheld (IITA Section 702) |
| 100.7060 | Additional Withholding (IITA Section 701) |
| 100.7070 | Voluntary Withholding (IITA Section 701) |
| 100.7080 | Correction of Underwithholding or Overwithholding (IITA Section 701) |
| 100.7090 | Reciprocal Agreement (IITA Section 701) |
| 100.7095 | Cross References |

SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

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

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SUBPART S: INFORMATION STATEMENT

Section
100.7200 Reports for Employee (IITA Section 703)

SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section
100.7300 Returns [and Payments](#) of Income Tax Withheld from Wages (IITA ~~Sections~~[Section 704 and 704A](#))
100.7310 ~~Quarterly~~ Returns Filed [and Payments Made](#) on Annual Basis (IITA Section 704)
100.7320 Time for Filing Returns [and Making Payments for Taxes Required to Be Withheld Prior to January 1, 2008](#) (IITA Section 704)
[100.7325](#) [Time for Filing Returns and Making Payments for Taxes Required to Be Withheld On or After January 1, 2008](#) (IITA Section 704A)
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100.9900 Tax Shelter Voluntary Compliance Program

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

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

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84,
effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at
5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981;
amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May
20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843,
effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at
5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December
29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399,
effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8
Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg.
685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986;
amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941,
effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986;
amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410,
effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12
Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25,
1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307,

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effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516,

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effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 17, 2008; amended at 32 Ill. Reg. 3400, effective February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. 10170, effective June 30, 2008; amended at 32 Ill. Reg. 13223, effective July 24, 2008; amended at 32 Ill. Reg. 17492, effective October 24, 2008.

SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section 100.7040 Employer Registration (IITA Section 701)

Every employer required to deduct and withhold Illinois income tax must register with the Department of Revenue ~~by filing Form NUC-1 Illinois Business Taxpayer Application for Registration~~. Each registration application of an employer that has been assigned a federal identification number must contain the employer's federal identification number. If an employer has not been issued a federal employer's identification number, the employer must notify the Department within a reasonable time after its federal employer's identification number has been issued.

(Source: Amended at 32 Ill. Reg. 17492, effective October 24, 2008)

SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section 100.7300 Returns and Payments of Income Tax Withheld ~~from~~ Wages (IITA ~~Sections~~ Section 704 and 704A)

- a) Quarterly returns. Except as otherwise provided in Section 100.7310 or 100.7350 below, every employer required to deduct and withhold tax on compensation paid in Illinois shall make a return for the first calendar quarter in which ~~the~~ tax is deducted and withheld and for each subsequent calendar quarter (whether or not compensation is paid in that quarter ~~therein~~) until a final return is filed. (See IITA Sections 704(c) and 704A(b).) Form IL-941, Employer's Quarterly Illinois Withholding Tax Return, is prescribed for making the return required under this paragraph. Monthly and quarter-monthly tax payments may also be required. See subsections (c) and (d) below. In some circumstances, only a single IL-941 and payment of withheld taxes will be required. See Section 100.7310 below.

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b) Retention of copies of combined W-2.

1) [For calendar years prior to 2008.](#)

[A\)](#) Every employer required under [this Section or Section 100.7310 or 100.7350](#)~~subsection (a) above~~ to make a return of tax withheld from compensation for a period ending December 31, or for any period for which a return is made as a final return, shall retain a copy of each wage and tax statement on the combined W-2 required under Section 100.7200~~above~~ to be furnished by the employer with respect to compensation paid during the calendar year. [For calendar years prior to 2008, every](#)Every employer shall maintain copies of the combined W-2 forms for three years from the due date of the IL-W-3 for that period. [For each calendar year after 2007, every employer shall maintain copies of the combined W-2 forms until January 31 of the fourth year following that calendar year.](#) If the Department makes a written request for copies of the combined W-2 forms, the copies shall be forwarded to the Department within 30 days after the written request.

[B2\)](#) If an employer issues a corrected copy of a combined W-2 to an employee for a prior calendar year (see Section 100.7200(d) above), a copy shall be retained for a period of four years from the date fixed for filing the employer's return of tax withheld (~~Form IL-941~~) for the period ending December 31 of the year in which the correction is made, or for any period in ~~the~~such year for which the return is made as a final return. A statement explaining the corrections shall also be retained and, if the Department requests, a copy of the corrected W-2 shall be submitted within 30 days after the written request.

[C3\)](#) Each year, the Department will contact a sample of Illinois employers and require those employers to provide copies of their employee W-2s. Employers chosen by the Department will be required to file W-2s in the same manner they are required to file W-2s federally.

[iA\)](#) Employers with more than 250 employees in the State of

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Illinois will be required to provide the W-2s on magnetic tape, diskette, or cartridge meeting the specifications required by the Social Security Administration (see 26 CFR 301.6011-2-(1994)).

iiB) All other employers may provide the W-2s on magnetic media or paper.

D4) An extension of time for providing statements requested by the Department shall be granted upon a showing of good cause.

2) For calendar years after 2007, payroll providers who withhold Illinois income tax for employers during the year and who are required to file copies of the W-2s on magnetic media under 26 CFR 301.6011-2 shall file copies of the W-2s with the Department using the same magnetic media used for their federal filing no later than March 31 of the year following the year of the withholding, unless a later due date is prescribed under federal law for filing the copies of the W-2, in which case filing of copies with the Department shall be due on the same date. (See IITA Sections 704(f) and 704A(f).)

3) For calendar years after 2007, with respect to copies of W-2s other than those required to be filed on magnetic media under subsection (b)(2):

A) Every employer required under this Section or Section 100.7310 or 100.7350 to make a return of tax withheld from compensation for a period ending December 31, or for any period for which a return is made as a final return, shall retain a copy of each wage and tax statement on the combined W-2 required under Section 100.7200 to be furnished by the employer with respect to compensation paid during the calendar year. Every employer shall maintain copies of the combined W-2 forms until January 31 of the fourth year following that calendar year. If the Department makes a written request for copies of the combined W-2 forms, the copies shall be forwarded to the Department within 30 days after the written request.

B) If an employer issues a corrected copy of a combined W-2 to an employee for a prior calendar year (see Section 100.7200(d)), a

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copy shall be retained for a period of four years from the date fixed for filing the employer's return of tax withheld for the period ending December 31 of the year in which the correction is made, or for any period in the year for which the return is made as a final return. A statement explaining the corrections shall also be retained and, if the Department requests, a copy of the corrected W-2 shall be submitted within 30 days after the written request.

- C) Each year, the Department will contact a sample of Illinois employers and require those employers to provide copies of their employee W-2s.
- D) An extension of time for providing statements requested by the Department shall be granted upon a showing of good cause.
- c) Payments of amounts withheld prior to January 1, 2008. Except as otherwise provided in Section 100.7310 or 100.7350, with respect to amounts withheld or required to be withheld prior to January 1, 2008:
- 1) Quarter-monthly tax payments. Every employer required to file a quarterly return under subsection (a)-~~above~~ shall also file a quarter-monthly tax payment form if the amount of tax deducted and withheld during any quarter-monthly period plus the amount previously withheld and not remitted to the Department exceeds \$1,000.~~00~~. An employer need not file a quarter-monthly form if no quarter-monthly payment is due. ~~Form IL-501 is prescribed for use with the payments required under this paragraph. Quarter-monthly periods end on the 7th, 15th, 22nd and last day of each month.~~ Certain taxpayers with tax liabilities exceeding statutory thresholds are required to pay their tax liabilities by electronic funds transfer. 86 Ill. Adm. Code 750 sets forth the rules of the Department concerning payment of taxes by electronic funds transfer, as well as the statutory payment thresholds.
- 2) ~~d~~ Monthly tax payments. Every employer required to file a quarterly return under subsection (a)-~~above~~ shall also file a monthly tax payment form if the amount of tax deducted and withheld during any calendar month plus the amount previously withheld and not remitted to this Department exceeds \$500.~~00~~ including amounts previously withheld and not remitted to the Department, but does not exceed \$1,000.~~00~~. An employer need not

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file a monthly form if no monthly payment is due. No monthly form is required for the third month in any calendar quarter. The information otherwise required to be reported on the monthly form for the third month in a calendar quarter shall be reported on the quarterly return filed for that quarter and no monthly form need be filed for ~~that~~ month. ~~Form IL-501 is prescribed for use with the payments required under this subsection.~~

- d) Payments of amounts withheld on or after January 1, 2008. Except as provided in Section 100.7310 or 100.7350, with respect to amounts withheld or required to be withheld on or after January 1, 2008:
- 1) Semi-weekly tax payments.
 - A) An employer who withheld or was required to withhold more than \$12,000 during the look-back period for a calendar year must make semi-weekly payments for the entire calendar year.
 - B) An employer who withholds or is required to withhold more than \$12,000 in any quarter of a calendar year is required to make semi-weekly payments of amounts withheld or required to be withheld during each remaining quarter of that calendar year and for the subsequent calendar year. (See IITA Section 704A(c)(1).)
 - 2) Monthly tax payments. An employer who is not required to make semi-weekly payments shall make monthly payments of taxes withheld or required to be withheld. (See IITA Section 704A(c)(3).)

(Source: Amended at 32 Ill. Reg. 17492, effective October 24, 2008)

Section 100.7310 ~~Quarterly~~ Returns Filed and Payments Made on Annual Basis (IITA Section 704)

- a) With respect to taxes withheld or required to be withheld prior to January 1, 2008:
- 1) In general. Effective January 1, 2005, if an employer had no obligation to deduct and withhold Illinois income tax in the previous calendar year or if the amount of tax deducted and withheld during the previous calendar year was less than \$500 and, in either case, the amount that will be deducted and withheld in the current calendar year will be less than \$500, the

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employer may file an annual return for the current calendar year or for any period for which a return is made as a final return. No application need be made to file an annual return. The return filed for such period shall report the amount of tax deducted and withheld during the period and not previously remitted. Form IL-941 is prescribed for making the return authorized under this subsection (a). An employer shall use Form W-3 to submit the information contained on the combined Form W-2, in the same manner as required under Section 100.7300.

~~2)~~^{b)} Duration of annual filing status. Authority to file a return pursuant to this Section shall remain in effect until that time during any calendar year when the amount of tax deducted and withheld equals or exceeds \$500. When, during any ~~such~~ calendar year, the amount deducted and withheld equals or exceeds \$500, an employer must file a quarterly return, as required under Section 100.7300(a), for the quarter in which ~~that~~^{such} event occurs and for all subsequent quarters until the requirements of subsection (a)~~(1)~~ are again met by the employer.

- b) With respect to any calendar year beginning on or after January 1, 2008:
- 1) An employer who has timely filed all returns due under IITA Sections 704 or 704A during the look-back period for a calendar year, reporting on those returns a total liability of \$1,000 or less, and who timely paid the amounts reported, may file a single annual return for that calendar year and pay the tax required to be withheld during that calendar year when that return is due. An employer who was not required to file returns during the look-back period is not eligible under this subsection (b)(1) to make annual filings or payments. (See IITA Section 704A(d)(1).)
 - 2) Any employer that is eligible to make an annual filing and payment for a calendar year under subsection (b)(1) and who withholds or is required to withhold more than \$12,000 in any quarter of that year must:
 - A) make a quarterly return for that quarter, reporting and paying all amounts withheld or required to be withheld during the year through the end of that quarter with that return;

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- B) make a quarterly return for each subsequent quarter of that calendar year and for each quarter of the following calendar year; and
- C) make semi-weekly payments of taxes withheld or required to be withheld during the remaining quarters of that calendar year and during the following calendar year. (See IITA Section 704A(c)(2).)
- 3) An employer that is eligible to make an annual filing and payment under subsection (b)(1) for any calendar year after 2008 may elect to file quarterly returns under Section 100.7300(a) and make monthly payments under Section 100.7300(d)(2) by filing a return for any quarter of that year. Payment of all amounts withheld or required to be withheld through the end of that quarter shall be due with the filing of that return, and the employer shall be required to make monthly payments and quarterly returns for the remainder of that year, unless Section 100.7300(d)(1)(B) requires semi-weekly payments.
- e) ~~Cross reference. See IITA Sections 1002(c) and 1002(d), the UPIA and 86 Ill. Adm. Code 700 for penalties for failure to file a return and remit the tax required by this Act.~~

(Source: Amended at 32 Ill. Reg. 17492, effective October 24, 2008)

Section 100.7320 Time ~~for~~ Filing Returns and Making Payments for Taxes Required to Be Withheld Prior to January 1, 2008 (IITA Section 704)

- a) Quarterly return. Each return required under Section 100.7300(a)~~by paragraph (a) of 86 Ill. Adm. Code 100.7300~~ shall be filed on or before the last day of the first calendar month following the calendar quarter for which ~~the~~such return is made.
- b) Quarter-monthly tax payments. Quarter-monthly periods end on the 7th, 15th, 22nd, and last day of each month. Quarter-monthly forms required under Section 100.7300(c)(1)~~by paragraph (c) of 86 Ill. Adm. Code 100.7300~~ shall be filed on or before the third banking day following the close of the quarter-monthly period. ~~Banking days do not include Saturdays, Sundays, legal holidays, or local bank holidays.~~ Whenever a quarter-monthly payment is due ~~that~~which includes amounts withheld in a prior calendar quarter, separate quarter-monthly forms must be submitted. See the note in the example in subsection (d)~~below~~.

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- c) Monthly tax payments. Monthly returns and payments forms required by Section 100.7300(c)(2) paragraphs (c) and (d) of 86 Ill. Adm. Code 100.7300 shall be made filed on or before the 15th day of the second and third months of each calendar quarter for amounts withheld during the first and second months of the quarter, respectively, and on or before the due date prescribed in subsection (a) for filing the return for the quarter for amounts withheld during the third month of the quarter. (See IITA Section 704(c).)
- d) Example. The provisions of this Section with respect to taxes required to be withheld prior to January 1, 2008 can be partially illustrated as follows:

| <u>Withholding Period</u> | <u>Amount Withheld</u> | <u>Amount of Payment/Due Date</u> |
|---|------------------------|-----------------------------------|
| Feb. 1-7 | \$ 900 | Add to next period |
| Feb. 8-15 | 900 | \$1,800 by Feb. 18* |
| Feb. 16-22 | 1,010 | \$1,010 by Feb. 25* |
| Feb. 23-28 | 900 | Add to next period |
| Mar. 1-7 | 0 | \$900 by Mar. 15* |
| Mar. 8-15 | 600 | Add to next period |
| Mar. 16-22 | 600 | \$1,200 by Mar. 25* |
| Mar. 23-31 | 400 | Add to next period |
| Apr. 1-7 | 800 | \$1,200 by Apr. 10* |
| NOTE: separate IL-501s must be used; one to report the \$400 withheld for the last quarter-monthly period of March, and the other to report the \$800 withheld for the first quarter-monthly period of April. | | |
| Apr. 8-15 | 700 | Add to next period |
| Apr. 16-22 | 200 | Add to next period |
| April 23-30** | 0 | \$900 to next period |
| May 1-7 | 110 | \$1,010 by May 10* |

* With Form IL-501 (employee withholding).

** Form IL-941 (employee withholding) due April 30.

- e) Extension of time for filing returns. An extension of time for filing the statements

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and returns required to be filed under this subsection shall be granted upon approval of a similar extension granted by the Internal Revenue Service (but in no event to exceed six months) for filing the federal statements. The extension shall be for the same period as granted by the Internal Revenue Service and shall be granted by the Department upon submission of a copy of the federal application and approval of an extension.

(Source: Amended at 32 Ill. Reg. 17492, effective October 24, 2008)

Section 100.7325 Time for Filing Returns and Making Payments for Taxes Required to Be Withheld On or After January 1, 2008 (IITA Section 704A)

- a) Quarterly return. Each return required under Section 100.7300(a) shall be filed on or before the last day of the first calendar month following the calendar quarter for which the return is made. (See IITA Section 704A(b).)
- b) Monthly payments. Monthly payments required under Section 100.7300(d)(2) are due on or before the 15th day of the month following the month in which the tax was withheld or required to be withheld. (See IITA Section 704A(c)(3).)
- c) Semi-weekly payments.
 - 1) Semi-weekly payments required under Section 100.7300(d)(1) or 100.7310(b)(2)(B) are due:
 - A) on or before each Friday of the calendar year, for taxes withheld or required to be withheld on the immediately preceding Saturday, Sunday, Monday or Tuesday;
 - B) on or before each Wednesday of the calendar year, for taxes withheld or required to be withheld on the immediately preceding Wednesday, Thursday or Friday. (See IITA Section 704A(c)(1).)
 - 2) If a payment due on a Friday or Wednesday under this subsection (c) would include amounts withheld in two different quarters, a separate payment must be made for the amounts withheld in each quarter;
 - 3) Under 26 CFR 31.6302-1(c)(2)(iii), semi-weekly depositors are given at least three banking days following the close of the semi-weekly period by

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which to deposit taxes during the semi-weekly period. Thus, if any of the three weekdays following the close of a semi-weekly period is a holiday on which banks are closed, the employer has an additional banking day by which to make the required deposit. For example, if the Monday following the close of a Wednesday to Friday semi-weekly period is a holiday on which banks are closed, the required deposit for the semi-weekly period may be made by the following Thursday rather than the following Wednesday. Under IITA Section 704A(d)(2), the Department may provide by regulation that any payment due under this subsection (c) is deemed to be timely to the extent paid by electronic funds transfer on or before the due date for deposit of federal income taxes withheld from, or federal employment taxes due with respect to, the wages from which the Illinois taxes were withheld. Accordingly, employers making electronic payments of taxes withheld may use the due dates prescribed in 26 CFR 31.6302-1(c)(2)(iii).

- d) Annual returns. Annual returns are due on or before:
- 1) January 31 of the year following the calendar year for which the return is made, in the case of an annual return under Section 100.7310(b)(1) (See IITA Section 704A(d)(1).); or
 - 2) the 15th day of the 4th month following the close of the taxpayer's tax year, in the case of an annual return under Section 100.7350. (See IITA Section 704A(e).)

(Source: Added at 32 Ill. Reg. 17492, effective October 24, 2008)

Section 100.7330 Payment of Tax Required to be Shown Due on a Return~~Deducted And Withheld~~ (IITA ~~Sections~~Section 704 and 704A)

The amount of tax required to be shown to be due on each return required to be filed under IITA Section 704 or 704A shall be due on or before the date on which ~~the~~such return is required to be filed, except to the extent that amount has been paid to the Department pursuant to a provision requiring payment prior to that date.

(Source: Amended at 32 Ill. Reg. 17492, effective October 24, 2008)

Section 100.7350 Domestic Service Employment (IITA Sections 704 and 704A)

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- a) On and after January 1, 1998, every employer who deducts and withholds or is required to deduct and withhold tax from a person engaged in domestic service employment, as that term is defined in IRC section 3510, may comply with the payment and reporting requirements of IITA Section 704 by filing an annual return and paying the taxes required to be deducted and withheld on or before the 15th day of the fourth month following the close of the employer's taxable year. (IITA Sections 704(e-5) and 704A(e))
- b) All taxes withheld from compensation of domestic employees may be paid and reported under this provision, regardless of the amount of taxes withheld and regardless of whether the employer has other employees and must pay and report taxes withheld from their compensation under other provisions of IITA Sections 704 and 704A.
- c) Employers wishing to pay and report on an annual basis taxes withheld from domestic employees must register to do so with the Illinois Department of Employment Security, and use the form required by the Illinois Department of Employment Security to report the Illinois income taxes withheld and unemployment insurance contributions.

(Source: Added at 32 Ill. Reg. 17492, effective October 24, 2008)

Section 100.7360 Definitions and Special Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)

For purposes of the provisions of IITA Sections 704 and 704A:

- a) Date of withholding. Income tax is withheld on the date payment of compensation is made to the employee. (See IRS Revenue Ruling 74-126.)

EXAMPLE: An employer pays employees bi-monthly on the last day of the month for services rendered through the 15th of the month and on the 15th of the month for services rendered from the 16th of the previous month through the end of the previous month. Taxes withheld from compensation earned in the second half of May and paid on June 15 are withheld on June 15 for purposes of determining when the taxes must be reported and paid over to the Department.

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- b) Quarter-monthly period. A quarter-monthly period ends on the 7th, 15th, 22nd and last day of each calendar month. (IITA Section 704(b)) These dates are not affected by weekends or holidays. That is, the 7th of a month is the end of a quarter-monthly period, even if it is a Saturday, Sunday or holiday.
- c) Banking day. Saturdays, Sundays, legal holidays and local bank holidays are not banking days. (IITA Section 704(b))
- d) Employer, employee and compensation. The term "employer" includes all persons required to withhold Illinois income tax; "employee" includes all persons from whom Illinois income tax is required to be withheld; and "compensation" includes all payments from which Illinois income tax is withheld or required to be withheld under IITA Section 711(a). For purposes of determining when monthly, quarter-monthly or semi-weekly payments must be made and whether an employer is required to pay by electronic funds transfer, the amount of tax withheld or required to be withheld by the employer shall include all taxes withheld or required to be withheld under Article 7 of the IITA, other than taxes withheld from domestic employees that are reported and paid pursuant to Section 100.7350. (See IITA Section 711(a) and Section 2505-210 of the Department of Revenue Law [20 ILCS 2505/2505-210].)
- e) Look-back period. The term "look-back period" for a calendar year means the 12-month period ending June 30 of the preceding calendar year. For example, the look-back period for calendar 2008 is the period from July 1, 2006 through June 30, 2007.

(Source: Added at 32 Ill. Reg. 17492, effective October 24, 2008)

Section 100.7370 Penalty and Interest Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)

- a) Failure to file returns. In addition to any other penalties imposed by the IITA, an employer failing to file a quarterly return or the annual transmittal form for wage and tax statements required by IITA Section 704 or regulations promulgated under the statute shall incur a penalty for each such failure as prescribed by UPIA Section 3-3 [35 ILCS 735/3-3]. (IITA Section 1104) See 86 Ill. Adm. Code 700.300 for more guidance on the penalty for failure to file quarterly and annual returns.

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- b) Failure to pay. UPIA Section 3-3(b), (b-5), (b-10), (b-15) and (b-20) provides for penalties for failure to pay amounts shown due on a return on or before the due date for payment. Pursuant to 86 Ill. Adm. Code 700.500(c), any payment of taxes withheld during a quarter shall be applied against the earliest unpaid liability for that quarter under Section 100.7320(b) or (c) or 100.7325(b) or (c).

EXAMPLE 1: An employer required to make semi-weekly payments is required to deposit \$500 on the 10th, 18th and 25th day of a month and on the 3rd day of the following month. Employer makes a payment of \$700 on the 15th of the month and pays the remaining \$1,300 of the liability on the 15th of the following month. No other payments are made during that period. \$500 of the payment on the 15th of the month is applied in satisfaction of the amount due on the 10th, and the remaining \$200 is applied toward the amount due on the 18th. The remainder of the amount due on the 18th and the remaining amounts due are unpaid until the 15th of the following month. Any amount withheld in the following month and due on or before the 15th of that month is subject to late payment penalty because the payment made on the 15th is applied to amounts due in the first month.

EXAMPLE 2: The employer in Example 1 makes payments of \$500 on the 18th and 25th days of the month and on the 3rd of the following month. The balance is paid on the 15th of the following month. The payment made on the 18th is applied to the amount due on the 10th, the payment made on the 25th is applied to the amount due on the 18th, and the payment made on the 3rd is applied to the amount due on the 25th. The penalty for late payment will therefore apply to all four amounts.

- c) Failure to withhold. *If an employer fails to deduct and withhold any amount of tax as required under Article 7 of the IITA, and thereafter the tax on account of which such amount was required to be deducted and withheld is paid, such amount of tax shall not be collected from the employer, but the employer shall not be relieved from liability for penalties or interest otherwise applicable in respect of such failure to deduct and withhold.* (IITA Sections 706 and 713) The amount required to be deducted and withheld during a year shall be considered paid by the employee if the employee pays his or her entire Illinois income tax liability for that year, even if that liability is less than the amount required to be deducted and withheld by the employer. Any employer who fails to deduct and withhold the required amount of tax shall be liable for any underpayment of tax by the employee (excluding interest and penalties imposed on the employee), up to the amount the employer improperly failed to deduct and withhold, together with

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interest and penalties for failure to deduct and withhold; provided that the amount of tax due from the employee shall not be collected more than once under this provision.

- d) Personal liability penalty. Any person required to collect, truthfully account for, and pay over the tax required to be paid over under Article 7 of the IITA who willfully fails to collect such tax or truthfully account for and pay over such tax or willfully attempts in any manner to evade or defeat the tax or the payment thereof shall, in addition to other penalties provided by law, be liable for the penalty imposed by UPIA Section 3-7. (IITA Section 1002(d)) (See 86 Ill. Adm. Code 700.340.)

(Source: Added at 32 Ill. Reg. 17492, effective October 24, 2008)

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- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Section Numbers: Adopted Action:
130.340 Amendment
130.2115 Amendment
- 4) Statutory Authority: 20 ILCS 2505/2505-25
- 5) Effective Date of Amendments: October 24, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 32 Ill. Reg. 10806; July 18, 2008
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace any emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

| <u>Section Numbers:</u> | <u>Proposed Action:</u> | <u>Illinois Register Citation:</u> |
|-------------------------|-------------------------|------------------------------------|
| 130.120 | Amendment | 32 Ill. Reg. 4155; March 21, 2008 |
| 130.330 | Amendment | 32 Ill. Reg. 8561; June 13, 2008 |
| 130.340 | Amendment | 32 Ill. Reg. 10806; July 18, 2008 |
| 130.2115 | Amendment | 32 Ill. Reg. 10806; July 18, 2008 |

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|----------|-----------|--|
| 130.2145 | Amendment | 32 Ill. Reg. 15763; September 26, 2008 |
| 130.325 | Amendment | 32 Ill. Reg. 16057; October 3, 2008 |
| 130.331 | Amendment | 32 Ill. Reg. 16057; October 3, 2008 |

- 15) Summary and Purpose of Amendments: The adopted amendment to Section 130.340 incorporates the statutory changes provided by Public Act 95-528 (allowing limousines to qualify for the exemption) and Public Act 93-1033 (changing the test for qualifying for the exemption).

Beginning July 1, 2004, Public Act 93-1033 changed the requirements for claiming the rolling stock exemption for motor vehicles, trailers, and parts for motor vehicles and trailers. The new test for motor vehicles and trailers was changed to require that the vehicle or trailer travel greater than 50% of its miles or trips for hire in interstate commerce. The previous test required that the vehicle travel on trips in interstate commerce 51% or more of the time, and intrastate trips did not qualify. The new test provides that trips and miles between points in Illinois can qualify if the persons or cargo are continuing on to or returning from a location outside of this State. Trailers that are dedicated to qualifying motor vehicles will qualify for the exemption. Motor vehicles whose gross vehicle weight rating is 16,000 pounds or less could no longer qualify for the exemption.

Beginning on August 28, 2007, Public Act 95-528 provided that limousines, which would not otherwise qualify for the rolling stock exemption because of the 16,000 pound gross vehicle weight rating limitation, could now qualify for the exemption.

Since the test for qualifying for the rolling stock exemption has changed various times since 1999, a new subsection is provided to clarify that the test that is applicable to the purchase of a motor vehicle will depend upon the test in effect for the first 12-month qualifying period for that motor vehicle or trailer. The test applicable to the purchase of repair and replacement parts for a motor vehicle or trailer that is used as rolling stock will depend upon the test in effect during the motor vehicle's or trailer's 12-month qualifying period in which the purchase of the parts was made. Examples are provided.

The adopted amendment to Section 130.2115 clarifies when Retailers' Occupation Tax is incurred on transactions for 50 or more special order items. This proposed rulemaking provides a definition of a "repeat order" that is subject to Retailers' Occupation Tax liability. Examples are provided involving single orders, simultaneous orders of 50 or more items, simultaneous orders of fewer than 50 items, repeat orders by the same purchaser, and repeat orders by different purchasers. The rule also clarifies that the seller

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has the burden of establishing that a sale qualifies as exempt from Retailers' Occupation Tax liability under the provisions of this rule.

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

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

217/782-2844

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

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

SUBPART A: NATURE OF TAX

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

SUBPART B: SALE AT RETAIL

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

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

| | |
|---------|--|
| Section | |
| 130.305 | Farm Machinery and Equipment |
| 130.310 | Food, 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 |
| 130.321 | Fuel Used by Air Common Carriers in International Flights |
| 130.325 | Graphic Arts Machinery and Equipment Exemption |
| 130.330 | Manufacturing Machinery and Equipment |
| 130.331 | Manufacturer's Purchase Credit |
| 130.332 | Automatic Vending Machines |
| 130.335 | Pollution Control Facilities and Low Sulfur Dioxide Emission Coal-Fueled |

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| | Devices |
| 130.340 | Rolling Stock |
| 130.341 | Commercial Distribution Fee Sales Tax Exemption |
| 130.345 | Oil Field Exploration, Drilling and Production Equipment |
| 130.350 | Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment |
| 130.351 | Aggregate Manufacturing |

SUBPART D: GROSS RECEIPTS

| | |
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| 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

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

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| 130.550 | Filing of Returns for Retailers by Suppliers Under Certain Circumstances |
| 130.551 | Prepayment of Retailers' Occupation Tax on Motor Fuel |
| 130.552 | Alcoholic Liquor Reporting |
| 130.555 | Vending Machine Information Returns |
| 130.560 | Verification of Returns |

SUBPART F: INTERSTATE COMMERCE

| | |
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| 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

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| Section | |
| 130.801 | General Requirements |
| 130.805 | What Records Constitute Minimum Requirement |
| 130.810 | Records Required to Support Deductions |
| 130.815 | Preservation and Retention of Records |
| 130.820 | Preservation of Books During Pendency of Assessment Proceedings |
| 130.825 | Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible |

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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

Section

- 130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale

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

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section

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

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

Section

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

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section

- 130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

Section

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

SUBPART S: SPECIFIC APPLICATIONS

Section

- 130.1901 Addition Agents to Plating Baths
- 130.1905 Agricultural Producers

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- 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
- 130.1953 Sales of Building Materials to be Incorporated into a Redevelopment Project Area within an Intermodal Terminal Facility Area
- 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 |

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130.2170 Warehousemen

SUBPART T: DIRECT PAYMENT PROGRAM

Section

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| 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

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

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;

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amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, 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,

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for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26, 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621, effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007; amended at 31 Ill. Reg. 14091, effective September 21, 2007; amended at 32 Ill. Reg. 4226, effective March 6, 2008; emergency amendment at 32 Ill. Reg. 8785, effective May 29, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 10207, effective June 24, 2008; amended at 32 Ill. Reg. 17519, effective October 24, 2008.

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.340 Rolling Stock

- a) *Notwithstanding the fact that the sale is at retail, the Retailers' Occupation Tax does not apply to sales of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce, or lessors under leases of one year or longer executed or in effect at the time of purchase to interstate carriers for hire for use as rolling stock moving in interstate commerce. [35 ILCS 120/2-5(12)] In addition, notwithstanding the fact that the sale is at retail, the Retailers' Occupation Tax does not apply to sales of tangible personal property to owners, lessors, or shippers of tangible personal property that is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce as long as so used by the interstate carriers for hire. [35 ILCS 120/2-5(13)]* For example, the exemption may also apply to lessors under leases of less than one year's duration and manufacturers who provide tangible personal property (such as shipping containers) to interstate carriers for hire when those interstate carriers use that property as rolling stock moving in interstate commerce.
- b) The term "Rolling Stock" includes the transportation vehicles of any kind of interstate transportation company for hire (railroad, bus line, air line, trucking company, etc.), but not vehicles ~~that which~~ are being used by a person to transport its officers, employees, customers or others not for hire (even if they cross State lines) or to transport property ~~that the which such~~ person owns or is selling and delivering to customers (even if ~~thesuch~~ transportation crosses State lines).

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Railroad "rolling stock" includes all railroad cars, passenger and freight, and locomotives (including switching locomotives) or mobile power units of every nature for moving ~~thesueh~~ cars, operating on railroad tracks, and includes all property purchased for the purpose of being attached to ~~thesueh~~ cars or locomotives as a part ~~of the cars or locomotives thereof~~. The exemption includes some equipment (such as containers called trailers) ~~thatwhieh~~ are used by interstate carriers for hire, loaded on railroad cars, to transport property, but ~~thatwhieh~~ do not operate under their own power and are not actually attached to the railroad cars. The exemption does not apply to fuel nor to jacks or flares or other items that are used by interstate carriers for hire in servicing the transportation vehicles, but that do not become a part of ~~thesueh~~ vehicles, and that do not participate directly in some way in the transportation process. The exemption does not include property of an interstate carrier for hire used in the company's office, such as furniture, typewriters, office supplies and the like.

- c) The rolling stock exemption cannot be claimed by a purely intrastate carrier for hire as to any tangible personal property ~~thatwhieh~~ it purchases because it does not meet the statutory tests of being an interstate carrier for hire.
- d) Except as provided in subsection ~~(h)~~(g) of this Section, the exemption applies to vehicles used by an interstate carrier for hire, even just between points in Illinois, in transporting, for hire, persons whose journeys or property whose shipments, originate or terminate outside Illinois on other carriers. The exemption cannot be claimed for an interstate carrier's use of vehicles solely between points in Illinois where the journeys of the passengers or the shipments of property neither originate nor terminate outside Illinois.
- e) This subsection applies to motor vehicles and trailers for purposes of subsections (f), (h) and (i) of this Section.
 - 1) The first 12-month qualifying period for the use of a vehicle or trailer begins on the date of registration or titling with an agency of this State, whichever occurs later. If the vehicle or trailer is not required to be titled or registered with an agency of this State and the vehicle or trailer is not titled or registered with an agency of this State, the first 12-month qualifying period for use of that vehicle or trailer begins on the date of purchase of that vehicle or trailer. Motor vehicles and trailers must continue to be used in a qualifying manner for each consecutive 12-month period subject to the limitations period for issuing a Notice of Tax

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Liability under the Retailers' Occupation Tax Act [35 ILCS 120/4 and 5]; the Use Tax Act [35 ILCS 105/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act); the Service Occupation Tax Act [35 ILCS 115/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act); and the Service Use Tax Act [35 ILCS 110/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act).

- 2) When motor vehicles and trailers that are purchased by a lessor, for lease to an interstate carrier for hire, by lease executed or in effect at the time of the purchase are no longer used in a qualifying manner, the lessor will incur Use Tax upon the fair market value of such property on the date that the property reverts to the use of the lessor (i.e., the property is no longer subject to a qualifying lease). However, in determining the fair market value at the time of reversion, the fair market value of such property shall not exceed the original purchase price of the property. The lessor shall file a return with the Department and pay the tax to the Department by the last day of the month following the calendar month [35 ILCS 105/10] in which the property is no longer subject to a qualifying lease. The provisions of this subsection (e)(2) apply equally to owners, lessors and shippers who purchase tangible personal property that is utilized by interstate carriers for hire as rolling stock moving in interstate commerce when the property is no longer used in a qualifying manner.

- f) From August 14, 1999 through June 30, 2003, pursuant to Public Act 91-0587, motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, trailers, as defined in Section 1-209 of the Illinois Vehicle Code, and all property purchased for the purpose of being attached to those motor vehicles or trailers as a part thereof, will qualify as rolling stock under this Section if they carry persons or property for hire in interstate commerce on 15 or more occasions in a 12-month period. [35 ILCS 120/2-51] The first 12-month qualifying period for the use of a vehicle or trailer begins on the date of registration or titling with an agency of this State, whichever occurs later. If the vehicle or trailer is not required to be titled or registered with an agency of this State and the vehicle or trailer is not titled or registered with an agency of this State, the first 12-month qualifying period for use of that vehicle or trailer begins on the date of purchase of that vehicle or trailer. The vehicle or trailer must continue to be used in a qualifying manner for each consecutive 12-month period. The Department will apply the provisions of this subsection in determining whether ~~thesuch~~ items qualify for exempt status under this Section for all periods in which liability has

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not become final or for which the statute of limitations for filing a claim has not expired. A liability does not become final until the liability is no longer open to protest, hearing, judicial review, or any other proceeding or action, either before the Department or in any court of this State.

- 1) If a vehicle or trailer carries persons or property for hire in interstate commerce on 15 or more occasions in the first 12-month period or in a subsequent 12-month period, but then does not carry persons or property for hire in interstate commerce on 15 or more occasions in a subsequent 12-month period, the vehicle, trailer, or any property attached to that vehicle or trailer upon which the rolling stock exemption was claimed will be subject to tax on its original purchase price. For example, if a vehicle was used in a qualifying manner for the first 12-month period, but was not used in a qualifying manner for the second 12-month period, that vehicle will be subject to tax based upon its original purchase price even if it was then used in a qualifying manner in the third 12-month period.
- 2) For repair or replacement parts to qualify for the rolling stock exemption, the vehicle or trailer upon which those parts are installed must be used in a qualifying manner for the 12-month period in which the purchase of the repair or replacement parts occurred and each consecutive 12-month period thereafter. For example, if repair parts were attached or incorporated into a vehicle that was titled and registered prior to the audit period (beyond the limitations period for issuing a Notice of Tax Liability), that vehicle must be used in a qualifying manner for the 12-month period in which the purchase of the repair or replacement parts occurred and the 12-month periods thereafter in order for the parts to continue to qualify for the exemption. This applies regardless of whether the vehicle was originally used in a qualifying manner for the 12-month periods preceding the 12-month period in which the purchase of the repair or replacement parts occurred.
- 3) For vehicles, trailers, and all property purchased for the purpose of being attached to those motor vehicles or trailers as a part [of the motor vehicle or trailer thereof](#) that are *purchased by a lessor*, for lease to an interstate carrier for hire, by lease *executed or in effect at the time of the purchase*, *the lessor will incur Use Tax upon the fair market value of such property on the date that the property reverts to the use of the lessor* (i.e., the property is no longer subject to a qualifying lease). *However, in*

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determining the fair market value at the time of reversion, the fair market value of such property shall not exceed the original purchase price of the property. The lessor shall file a return with the Department and pay the tax to the Department by the last day of the month following the calendar month [35 ILCS 105/10] in which such property is no longer subject to a qualifying lease. The provisions of this subsection (f)(e)(3) apply equally to owners, lessors or shippers who purchase tangible personal property that is utilized by interstate carriers for hire as rolling stock moving in interstate commerce when ~~thesueh~~ property is no longer used in a qualifying manner.

- 4) The provisions of Public Act 91-0587 did not change the limitations period for issuing a Notice of Tax Liability under the Retailers' Occupation Tax Act [35 ILCS 120/4 and 5] or the Use Tax Act [35 ILCS 105/12] incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act.
 - A) For example, a vehicle was purchased on January 15, 2000 and titled and registered on that date and was used in a qualifying manner for the first 12-month period ending on January 15, 2001. However, that vehicle was not used in a qualifying manner at anytime thereafter. The period in which the Department would be able to issue a Notice of Tax Liability for tax due regarding that vehicle would expire on June 30, 2003.
 - B) For example, a vehicle was purchased for lease to an interstate carrier for hire on August 15, 2000 and was titled and registered on that date. The lease to the interstate carrier for hire was executed or in effect at the time of purchase. The qualifying lease ended on November 15, 2001, and the vehicle was no longer used in a qualifying manner. The period in which the Department would be able to issue a Notice of Tax Liability for tax due regarding that vehicle would expire on December 31, 2003.
- gf)** When the rolling stock exemption may properly be claimed, the purchaser should give the seller a certification that the purchaser is an interstate carrier for hire, and that the purchaser is purchasing the property for use as rolling stock moving in interstate commerce. If the purchaser is a carrier, the purchaser must include its Interstate Commerce Commission Certificate of Authority number or must certify

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that it is a type of interstate carrier for hire (such as an interstate carrier of agricultural commodities for hire) that is not required by law to have an Interstate Commerce Commission Certificate of Authority. In the latter event, the carrier must include its Illinois Commerce Commission Certificate of Registration number indicating that it is recognized by the Illinois Commerce Commission as an interstate carrier for hire. If the carrier is a type ~~that~~which is subject to regulation by some Federal Government regulatory agency other than the Interstate Commerce Commission, the carrier must include its registration number from such other Federal Government regulatory agency in the certification claiming the benefit of the rolling stock exemption. If the purchaser is a long term lessor (under a lease of one year or more in duration), the purchaser must give the seller of the property a certification to that effect, similarly identifying the lessee interstate carrier for hire. The giving of ~~such~~ a certification does not preclude the Department from going behind it and disregarding it if, in examining ~~the~~such purchaser's records or activities, the Department finds that the certification was not true as to some fact or facts ~~that~~which show that the purchase was taxable and should not have been certified as being tax exempt. The Department reserves the right to require a copy of the carrier's Interstate Commerce Commission or other Federal Government regulatory agency Certificate of Authority or Illinois Commerce Commission Certificate of Registration (or as much of the certificate as the Department deems adequate to verify the fact that the carrier is an interstate carrier for hire) to be provided whenever the Department deems that to be necessary.

hg) Beginning on ~~and after~~ July 1, 2003 through June 30, 2004, Public Act 93-0023 imposed~~creates~~ a new rolling stock exemption test for motor vehicles, trailers, and repair and replacement parts for motor vehicles and trailers.

1) Motor vehicles:

A) For purposes of this Section, the term "motor vehicle" means a motor vehicle as defined in Section 1-146 of the Illinois Vehicle Code. Because of the commercial distribution fee sales tax exemption provided in Section 130.341 of this Part, purchasers of motor vehicles of the second division with a gross vehicle weight in excess of 8,000 pounds and that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code [625 ILCS 5/3-815.1] are exempt from tax regardless of whether those vehicles are used in a manner that

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qualifies for the rolling stock exemption. All other motor vehicles are subject to the provisions of this Section except that such motor vehicles must meet the following test to qualify as rolling stock instead of the previous test set forth in subsection (f)(e). *A motor vehicle must, during a 12 month period, carry persons or property for hire in interstate commerce for 51 percent of its total trips to qualify for the exemption.* [35 ILCS 120/2-51]

- B) Trips by motor vehicles that are only between points in Illinois are not counted as interstate trips when calculating whether the motor vehicle qualifies for the exemption, but such trips are included in the total trips taken within the 12-month period. ~~The Such~~ trips that are only between points in Illinois are not counted as interstate trips even if those motor vehicles are transporting, for hire, persons whose journeys or property whose shipments originate or terminate outside of Illinois on other carriers. For an interstate trip to qualify, it must be for hire. However, the total amount of trips taken by a motor vehicle within the 12-month period includes trips for hire and those not for hire. An example of a not for hire trip is when a business uses its truck to transport its own merchandise.
- C) Documentation of all trips taken by the motor vehicle in each 12-month period must be maintained and be made available to the Department upon request. Any use of the motor vehicle in a movement from one location to another, including but not limited to mileage incurred by a motor vehicle returning from a delivery without a load or passengers, shall be counted as a trip. However, the movement of the motor vehicle in relation to the maintenance or repair of that motor vehicle shall not count as a trip. Any mileage shown for a motor vehicle that is undocumented as a trip or trips shall be counted as part of the total trips taken by that motor vehicle. The Department shall use its best judgment and information to determine the number of trips represented by such mileage. A trip whereby a motor vehicle or trailer is returning empty from a trip for hire shall be counted as a trip for hire. A trip whereby a motor vehicle or trailer is moving to a location where property or passengers are being loaded for a trip for hire shall be counted as a trip for hire.

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D) Examples of application of the 51% trips test:

EXAMPLE~~Example~~ 1: An interstate carrier uses a truck to carry property for hire from Springfield, Illinois to Champaign, Illinois where part of that property is delivered. The carrier continues to Indianapolis, Indiana and delivers part of that property in that city. The truck then continues to Gary, Indiana and delivers the remainder of the property in that city. The truck then returns empty to Springfield, Illinois from the delivery in Gary, Indiana. The truck is considered to have made a total of four trips (one trip to Champaign, Illinois, one trip to Indianapolis, Indiana, one trip to Gary, Indiana, and a return trip back to Springfield, Illinois). If this were all the trips that the truck made within the first 12-month period after it was purchased (or was all the trips that truck made in a subsequent 12-month period), it would qualify for the test set forth in this subsection (h)(g) for that 12-month period because it made 3 qualifying trips for hire that terminated or originated outside of Illinois and only one intrastate trip, thereby resulting in a percentage of 75% of its total trips during that first 12-month period. Any repair and replacement parts purchased for the truck during that first 12-month period would also have qualified for the exemption.

EXAMPLE~~Example~~ 2: An interstate carrier uses a truck to carry property for hire from Chicago, Illinois to Joliet, Illinois where that property is delivered. The carrier then continues to Gary, Indiana and picks up property for use by that carrier's business. The carrier then returns to Chicago, Illinois. The truck is considered to have made a total of three trips (one to Joliet, Illinois, one to Gary, Indiana, and a return trip to Chicago, Illinois). If this were all the trips that the truck made within the first 12-month period after it was purchased (or was all the trips that truck made in a subsequent 12-month period), it would not qualify for the test set forth in this subsection (h)(g) for that 12-month period because it made no qualifying trips for hire that terminated or originated outside of Illinois.

E) Motor vehicles must continue to be used in a qualifying manner for each consecutive 12-month period subject to the limitations period

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for issuing a Notice of Tax Liability under the Retailers' Occupation Tax Act [35 ILCS 120/4 and 5]; the Use Tax Act [35 ILCS 105/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act); the Service Occupation Tax Act [35 ILCS 115/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act); and the Service Use Tax Act [35 ILCS 110/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act).

- F) When motor vehicles and trailers that are purchased by a lessor, for lease to an interstate carrier for hire, by lease executed or in effect at the time of the purchase are no longer used in a qualifying manner, *the lessor will incur Use Tax upon the fair market value of such property on the date that the property reverts to the use of the lessor (i.e., the property is no longer subject to a qualifying lease). However, in determining the fair market value at the time of reversion, the fair market value of such property shall not exceed the original purchase price of the property. The lessor shall file a return with the Department and pay the tax to the Department by the last day of the month following the calendar month [35 ILCS 105/10] in which such property is no longer subject to a qualifying lease. The provisions of this subsection ~~(h)(g)~~(1)(F) apply equally to owners, lessors or shippers who purchase tangible personal property that is utilized by interstate carriers for hire as rolling stock moving in interstate commerce when such property is no longer used in a qualifying manner.*
- 2) Trailers – For purposes of this Section, the term "trailer" means a trailer as defined in Section 1-209 of the Illinois Vehicle Code. The test provided in subsection ~~(h)(g)~~(1) of this Section does not apply to trailers.
- 3) Repair and replacement parts for motor vehicles and trailers
- A) Repair and replacement parts for motor vehicles – repair and replacement parts purchased on and after July 1, 2003 must meet the test regarding motor vehicles described in subsection ~~(h)(g)~~(1) of this Section to qualify for the rolling stock exemption.

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- B) Repair and replacement parts for trailers – repair and replacement parts purchased on and after July 1, 2003 are not subject to the test provided in subsection [\(h\)\(g\)\(1\)](#).
- 4) Application of 51% test to motor vehicles and trailers that are currently in a 12-month period under the 15-trip test
- A) Motor vehicles that were subject to the 15-trip test described in subsection [\(f\)\(e\)](#) prior to July 1, 2003 will remain subject to [thesueh](#) 15-trip test for the remainder of their current 12-month period only if the last 6 months of their 12-month period began on or after January 1, 2003 and before July 1, 2003. If the first 6 months of that 12-month period began on or after January 1, 2003 and before July 1, 2003, then the new 51% test provided in subsection [\(h\)\(g\)\(1\)](#) will apply for such 12-month period. Any 12-month period beginning on or after July 1, 2003 is subject to the 51% test provided in subsection [\(h\)\(g\)\(1\)](#).
 - B) Trailers that were subject to the 15-trip test described in subsection [\(f\)\(e\)](#) prior to July 1, 2003 will remain subject to [thesueh](#) 15-trip test for the remainder of their current 12-month period only if the last 6 months of that 12-month period began on or after January 1, 2003 and before July 1, 2003. If the first 6 months of their 12-month period began on or after January 1, 2003 and before July 1, 2003, then the 15-trip test will no longer apply beginning July 1, 2003.
- i) [Beginning on July 1, 2004, Public Act 93-1033 imposed a new rolling stock exemption test for motor vehicles and trailers, and repair and replacement parts for motor vehicles and trailers.](#)
- 1) [Motor Vehicles:](#)
 - A) [For purposes of this subsection \(i\), the term "motor vehicle" means a motor vehicle as defined in Section 1-146 of the Illinois Vehicle Code \[625 ILCS 5/1-146\].](#)
 - B) [Beginning on July 1, 2004, the exemption for motor vehicles used as rolling stock moving in interstate commerce cannot be claimed](#)

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for motor vehicles whose gross vehicle weight rating is 16,000 pounds or less. Motor vehicles whose gross vehicle weight rating is 16,000 pounds or less that were purchased prior to July 1, 2004 and had qualified for the rolling stock exemption under subsection (f) or (h) of this Section will continue to qualify for the rolling stock exemption as long as those motor vehicles meet the applicable requirements under those subsections until such time as the Department is no longer able to issue a Notice of Tax Liability for the purchase of those motor vehicles. See subsection (e)(1) of this Section.

- C) For purchases of motor vehicles made on and after July 1, 2004, a motor vehicle whose gross vehicle weight rating exceeds 16,000 pounds will qualify for the rolling stock exemption if, during a 12-month period, it carries persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the rolling stock exemption for a motor vehicle must make an election at the time of purchase to use either the trips or mileage method to document that the motor vehicle will be used in a manner that qualifies for the exemption. If the purchase is from an Illinois retailer, the election must be made on certification described in subsection (g) of this Section. If the purchase is from an out-of-State retailer or from a non-retailer, the election must be documented in the purchaser's books and records. If no election is made as required under the provisions of this subsection (i)(1)(C), the owner will be deemed to have chosen the mileage method. Once such an election for a motor vehicle has been made, or is deemed to have been made, the method used to document the qualification of that motor vehicle for the rolling stock exemption shall not be changed. [35 ILCS 120/2-51]
- D) Documentation of all trips taken by the motor vehicle in each 12-month period must be maintained and be made available to the Department upon request. Any use of the motor vehicle in a movement from one location to another, including but not limited to mileage incurred by a motor vehicle returning from a delivery without a load or passengers, shall be counted as a trip or mileage. However, the movement of the motor vehicle in relation to the

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maintenance or repair of that motor vehicle shall not count as a trip or mileage. Any mileage shown for a motor vehicle that is undocumented as a trip or trips shall be counted as part of the total trips or mileage taken by that motor vehicle. If the trips method has been chosen for that motor vehicle, the Department shall use its best judgment and information to determine the number of trips represented by such mileage. A movement whereby a motor vehicle or trailer is returning empty from a trip for hire shall be counted as a trip or mileage for hire. A movement whereby a motor vehicle or trailer is moving to a location where property or passengers are being loaded for a trip for hire shall be counted as a trip or mileage for hire. The provisions of subsection (d) of this Section will apply to any trip or mileage that occurs on or after July 1, 2004.

E) Examples of application of the greater than 50% trips test:

EXAMPLE 1: An interstate carrier uses a truck to carry property for hire from Springfield, Illinois to Champaign, Illinois where part of that property is delivered. That property will be delivered by another carrier to a location outside of Illinois. The truck continues to Indianapolis, Indiana and delivers part of that property in that city. The truck then continues to Gary, Indiana and delivers the remainder of the property in that city. The truck then returns empty to Springfield, Illinois from the delivery in Gary, Indiana. The truck is considered to have made a total of four trips (one trip to Champaign, Illinois, one trip to Indianapolis, Indiana, one trip to Gary, Indiana, and a return trip back to Springfield, Illinois). If this were all the trips that the truck made within the first 12-month period after it was purchased (or was all the trips that truck made in a subsequent 12-month period), it would qualify for the test set forth in this subsection (i) for that 12-month period because it made 4 qualifying interstate trips for hire, thereby resulting in a percentage of 100% of its total trips during that first 12-month period. Any repair and replacement parts purchased for the truck during that first 12-month period would also have qualified for the exemption.

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EXAMPLE 2: An interstate carrier uses a truck to carry property for hire from Chicago, Illinois to Joliet, Illinois where that property is delivered for use by the recipient. The truck then continues to Gary, Indiana and picks up property for use by that carrier's business. The truck then returns to Chicago, Illinois. The truck is considered to have made a total of three trips (one to Joliet, Illinois, one to Gary, Indiana, and a return trip to Chicago, Illinois). If this were all the trips that the truck made within the first 12-month period after it was purchased (or was all the trips that truck made in a subsequent 12-month period), it would not qualify for the test set forth in this subsection (i) for that 12-month period because those trips resulted in a 0 percentage of qualifying interstate trips for hire.

F) Example of application of the greater than 50% mileage test:

EXAMPLE 1: An interstate carrier uses a truck to carry property for hire from City A in Illinois to City B in Illinois (88 mile movement) where part of that property is delivered. That property will be delivered by another carrier to a location outside of Illinois. The truck continues to City C in Indiana and delivers part of that property in that city (125 mile movement). The truck then continues to City D in Indiana (151 mile movement) and delivers the remainder of the property in that city. The truck then returns empty to City A in Illinois (204 mile movement) from the delivery in City D in Indiana. The truck is considered to have driven a total of 568 qualifying miles. If this were all the miles that the truck drove within the first 12-month period after it was purchased (or was all the mileage that truck drove in a subsequent 12-month period), it would qualify for the test set forth in this subsection (i) for that 12-month period because 100% of its miles were for qualifying interstate movements for hire. Any repair and replacement parts purchased for the truck would also have qualified for the exemption.

EXAMPLE 2: If the truck described above in Example 1 had traveled instead a total of 1568 miles during that 12-month period with 1000 of those miles not being documented as qualifying miles, the truck would not have qualified for the exemption

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because it only had 568 qualifying miles out of 1568 miles for a 36.22% qualifying percentage. Any repair and replacement parts purchased for the truck would not have qualified for the exemption.

2) Trailers:

- A) For purposes of this Section, the term "trailer" means 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 1-209 of the Illinois Vehicle Code. For purchases of a trailer made on or after July 1, 2004, to qualify for the rolling stock exemption the trailer must, during a 12-month period, carry persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period.
- B) Except as provided in subsection (i)(2)(C), purchasers of trailers must make an election at the time of purchase to use either the trips or mileage method to document that those trailers will be used in a manner that qualifies for the exemption. If the purchase is from an Illinois retailer, the election must be made on certification described in subsection (g) of this Section. If the purchase is from an out-of-State retailer or from a non-retailer, the election must be documented in the purchaser's books and records. If no election is made as required under the provisions of this subsection (i)(2)(B), the owner will be deemed to have chosen the mileage method.
- C) Beginning on July 1, 2004, the owner of trailers that are dedicated to a motor vehicle, or group of motor vehicles, may elect to alternatively document the qualifying use of those trailers in the following manner:
- i) if a trailer is dedicated to a single motor vehicle that qualifies under subsection (i)(1) of this Section, then that trailer will also qualify for the exemption;

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- ii) if a trailer is dedicated to a group of motor vehicles that all qualify under subsection (i)(1) of this Section, then that trailer will also qualify for the exemption; or
- iii) if a group of trailers is dedicated to a group of motor vehicles and not all of those motor vehicles in that group qualify under subsection (i)(1) of this Section, then the percentage of those trailers that qualify for the exemption is equal to the percentage of the motor vehicles in the group that qualify for the exemption. However, the mathematical application of the qualifying percentage to the group of trailers will not be applied to any fraction of a trailer. If the owner of the trailers chooses to use the method provided under this subsection (i)(2)(C)(iii), any trailer or group of trailers that is not considered to qualify for the exemption under the mathematical application of the qualifying percentage will not qualify for the exemption even if documentation for a specific trailer or trailers in that group is provided to show that such a trailer or trailers would have met the test in subsection (i)(2) of this Section.

D) For purposes of this subsection (i), the phrase "dedicated" means that the trailer or trailers are used exclusively by a specific motor vehicle or specific group or fleet of motor vehicles.

EXAMPLE 1: A trucking company owns 2 trailers that are dedicated to (used exclusively by) the company's 2 trucks. Both these trucks meet either the greater than 50% trips or greater than 50% mileage test for the appropriate 12-month periods. Both the trailers will be considered to have met the requirements for the exemption during those periods.

EXAMPLE 2: A trucking company owns 30 trailers. All of those trailers are dedicated to (used exclusively by) a subsidiary company's 20 truck fleet. Only 19 of those 20 trucks meet either the greater than 50% trips or greater than 50% mileage test for the appropriate 12-month periods. The qualifying percentage for the group of trucks for which all of the trailers are dedicated is 95%. The application of the 95% qualifying percentage to the 30 trailer

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group would represent 28.5 trailers. Because no fraction of a trailer may qualify under the mathematical application of the qualifying percentage, only 28 of the 30 trailers will be considered to have met the requirements for the exemption during those periods.

3) Repair and Replacement Parts:

The rolling stock exemption may be claimed for purchases of repair and replacement parts that are incorporated into motor vehicles and trailers that meet the rolling stock test that is applicable for the 12-month qualifying period in which the purchase of the repair or replacement parts occurred and each consecutive 12-month qualifying period thereafter.

j) Application of Rolling Stock Test

1) Motor Vehicles and Trailers

The test applicable to the purchase of a motor vehicle or trailer will depend upon the test in effect for the first 12-month qualifying period for that motor vehicle or trailer. For motor vehicles and trailers, the test in effect for the first 12-month qualifying period for that motor vehicle or trailer will remain the test for the remaining 12-month qualifying periods for any time for which a Notice of Tax Liability may be issued in regards to the purchase of that motor vehicle or trailer. See subsection (e) of this Section in regards to when Notices of Tax Liability may be issued. A change in the rolling stock test in a subsequent 12-month qualifying period will not change the test for the exemption from tax for the purchase of that motor vehicle or trailer. However, a change in the rolling stock test in a subsequent 12-month qualifying period will impact the test used in regards to purchases of repair and replacement parts for that motor vehicle or trailer. See subsection (i)(4)(B).

EXAMPLE: A motor vehicle is purchased on October 1, 2003 and is licensed and titled on that date. The motor vehicle's first 12-month qualifying period begins on October 1, 2003 and runs through September 30, 2004. The rolling stock test applicable to that motor vehicle for its first 12-month qualifying period is the test set out in subsection (h) of this Section. That test will remain in effect for all subsequent 12-month qualifying periods until such time as the Department is no longer able to issue a Notice of Tax Liability in regards to the purchase of that motor

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vehicle. The change in the rolling stock test set out in subsection (i) of this Section has no impact on the tests applied to the motor vehicle's subsequent 12-month qualifying periods for purposes of claiming the exemption on the purchase of that motor vehicle.

2) Repair and Replacement Parts

The test applicable to the purchase of repair and replacement parts for a motor vehicle or trailer that is used as rolling stock will depend upon the test in effect during the motor vehicle's or trailer's 12-month qualifying period in which the purchase of the parts was made. If the rolling stock test is changed during a 12-month qualifying period, the test for parts purchased in that 12-month qualifying period will be the test in effect during the majority of that 12-month qualifying period as described in the following chart. See subsections (j)(2)(A)-(C). Repair and replacement parts purchased during a specific 12-month qualifying period will remain subject to the test for that period and subsequent 12-month qualifying periods for any time for which a Notice of Tax Liability may be issued in regards to the purchase of that motor vehicle or trailer. See subsection (e) of this Section in regards to when Notices of Tax Liability may be issued. For ease of referencing the changes in the rolling stock tests, the following rolling stock tests described in the specified subsections will be referred to as:

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| <u>subsection (f)</u> | <u>15 trips test</u> |
| <u>subsection (h)</u> | <u>51% trips test</u> |
| <u>subsection (i)</u> | <u>greater than 50% trips or miles test</u> |

A) Prior to January 1, 2003:

If a motor vehicle's or trailer's 12-month qualifying period starts prior to January 1, 2003, the test that is applicable for purchases of all parts made during that 12-month qualifying period is the 15 trips test set out in subsection (f) of this Section.

B) On or after January 1, 2003 but before January 1, 2004:

If a motor vehicle's or trailer's 12-month qualifying period starts on or after January 1, 2003, but before January 1, 2004, the test that is applicable for purchases of all parts made during that 12-month qualifying period is the 51% trips test set out in subsection (h) of this Section.

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- C) On or after January 1, 2004:
If a motor vehicle's or trailer's 12-month qualifying period starts on or after January 1, 2004, the test that is applicable for purchases of all parts made during that 12-month qualifying period is the greater than 50% trips or miles test set out in subsection (i) of this Section.
- k) Public Act 95-0528 provides that limousines, purchased on or after August 28, 2007, that would not otherwise qualify for the rolling stock exemption because of the 16,000 pound gross vehicle weight rating limitation described in subsection (i)(1)(B) of this Section, may qualify for the rolling stock exemption if the use of the vehicle otherwise meets the requirements set out in subsection (i) of this Section. This subsection (k) applies only to limousines, as defined in Section 1-139.1 of the Illinois Vehicle Code.

(Source: Amended at 32 Ill. Reg. 17519, effective October 24, 2008)

SUBPART S: SPECIFIC APPLICATIONS

Section 130.2115 Sellers of Machinery, Tools and Special Order Items

- a) When Liable For Retailers' Occupation Tax
- 1) Sellers of machinery, tools, dies, jigs, patterns, gauges, models, exhibits, and the like to users or consumers incur Retailers' Occupation Tax liability except as specified in subsection (b) of this Section, and except to the extent that the item sold is exempted by the provisions of the Act. This is true whether the seller installs ~~the~~ tangible personal property for the purchaser or not. (For information concerning the taxability of receipts from installation charges, see Section 130.450 of this Part.)
 - 2) The fact that it is not a stock item and is only produced after an order is received, or is an alteration of a standard item, is not sufficient to exempt it from Retailers' Occupation Tax unless it meets all the exemption tests of subsection (b) ~~below~~.
 - 3) Even if the sale would otherwise qualify for exemption under subsection (b) of this Section, the sale is taxable if the designing of the property that is to be sold is done by the purchaser, or by someone other than the seller

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hired by the purchaser, but the sale is not taxable if the seller is responsible for furnishing the service of designing ~~thesueh~~ property or for contributing substantially to the designing of ~~thesueh~~ property.

- 4) However, ~~effective January 1, 1964,~~ a single ~~repeat~~ order from a purchaser for 50 or more of the same item or simultaneous orders from a purchaser user (so-called multiple orders) for 50 or more in the aggregate of the same item ~~that which~~ would otherwise qualify for exemption under subsection (b) of this Section will be deemed to be volume production and will be subject to Retailers' Occupation Tax on the total amount received by the seller from any such volume production ~~multiple~~ order or orders. For purposes of this subsection (a)(4), "simultaneous orders" consist of any orders placed on the same day by the same purchaser. Also, ~~effective January 1, 1964,~~ even if an item qualifies for Retailers' Occupation Tax exemption under subsection (b) of this Section, subsequent sales by the seller of the same item without material change to ~~anythe~~ purchaser for use (so-called repeat orders) are subject to the Retailers' Occupation Tax because the skill that is involved after the first item is made is production skill and not specialized engineering and design skill. For purposes of this subsection (a)(4), a "repeat order" is an order for the same item without material change that is placed by the same purchaser on a date after the date that the original order for that item was placed or an order for the same item without material change that is placed by another purchaser at any time after the original order for that item.

EXAMPLES:

A) Single orders. For example, on May 1, a building contractor special orders 75 identical ~~may special order individual~~ roof trusses in a single order that are to be engineered and fabricated by the seller and would otherwise qualify for exemption under subsection (b) of this Section. Even though the seller may use his or her skill to design and build the 75 identical roof trusses, the seller will be deemed to be engaged in volume production and will incur Retailers' Occupation Tax liability, ~~rather than Service Occupation Tax liability~~ on those sales ~~if the seller produces 50 or more identical roof trusses.~~

B) Simultaneous Orders

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- i) Simultaneous orders of 50 or more. For example, on May 1, a purchaser special orders a single order of 40 electrical turbines that are to be engineered and fabricated by the seller and would otherwise qualify for exemption under subsection (b) of this Section. On that same day, the same purchaser places another order for 25 electrical turbines that are identical to the 40 other electrical turbines ordered earlier that day. Even though the seller may use his or her skill to design and build the 65 identical electrical turbines, the seller will be deemed to be engaged in volume production and will incur Retailers' Occupation Tax liability on those sales.
- ii) Simultaneous multiple orders of fewer than 50. For example, on May 1, a purchaser special orders a single order of 20 identical rain gutter components that are to be engineered and fabricated by the seller and would otherwise qualify for exemption under subsection (b) of this Section. On that same day, the same purchaser places another order for 25 rain gutter components that are identical to the 20 other rain gutter components ordered earlier that day. Since that purchaser has ordered fewer than 50 identical rain gutter components on that date, the seller will not be deemed to be engaged in volume production with these orders and would be exempt from Retailers' Occupation Tax liability on those sales. However, the seller will incur either Service Occupation Tax liability or Use Tax liability, depending upon the seller's activities in relation to the sale of those 45 rain gutter components. See the Department's Service Occupation Tax rules, 86 Ill. Adm. Code 140.
- C) Repeat order by same purchaser. For example, on June 1, a purchaser orders 20 identical window cladding materials that are to be engineered and fabricated by the seller and would otherwise qualify for exemption under subsection (b) of this Section. The seller will incur Service Occupation Tax liability or Use Tax liability depending upon the seller's activities, rather than Retailers'

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Occupation Tax liability, in relation to those sales. See the Department's Service Occupation Tax rules, 86 Ill. Adm. Code 140. If, however, on June 2, the same purchaser orders another 10 window cladding materials that are identical to the first 20 window cladding materials ordered by that purchaser, then the seller will incur Retailers' Occupation Tax liability on the sales of those 10 additional window cladding materials because those transactions are considered subsequent sales by the seller of the same item without material change (repeat orders). In this example, the seller's skill that is involved after the first order is made is considered production skill and not specialized engineering and design skill.

D) Repeat order by different purchaser. For example, on June 1, a purchaser orders 20 identical roof trusses that are to be engineered and fabricated by the seller and would otherwise qualify for exemption under subsection (b) of this Section. The seller will incur Service Occupation Tax liability or Use Tax liability, depending upon the seller's activities, rather than Retailers' Occupation Tax liability, in relation to those sales. See the Department's Service Occupation Tax rules, 86 Ill. Adm. Code 140. Later that day on June 1, a different purchaser orders 10 roof trusses that are identical to the first 20 roof trusses ordered earlier that day by the previous purchaser. The seller will incur Retailers' Occupation Tax liability on the sales of those 10 roof trusses because those transactions are considered subsequent sales by the seller of the same item without material change (repeat orders). On June 2 another purchaser orders 30 roof trusses that are identical to the roof trusses ordered on June 1 by previous purchasers. The seller will incur Retailers' Occupation Tax liability on the sales of those 30 roof trusses because those transactions are considered subsequent sales by the seller of the same item without material change (repeat orders). In this example, the seller's skill that is involved after the first order is made is considered production skill and not specialized engineering and design skill.

5) In the case of special assemblies, such as switchboards, where the completed product is made almost entirely of standard parts and materials

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[thatwhich](#) can be interchanged in other like products and sold to other users, the sale is taxable.

b) When Not Liable For Retailers' Occupation Tax

- 1) The seller of a special machine, tool, die, jig, pattern, gauge or other similar item is engaged primarily in a service occupation, rather than in the business of selling tangible personal property, and so does not incur Retailers' Occupation Tax liability with respect to the sale, if the following tests for exemption are all met in the transaction:
 - A) The purchaser employs the seller primarily for his engineering or other scientific skill to design and produce the property on special order for the purchaser and to meet the particular needs of the purchaser;
 - B) the property has use or value only for the specific purpose for which it is produced; and
 - C) the property has use or value only to the purchaser.
- 2) On the requirement of design by the seller, it is sufficient if the seller is responsible for making a substantial contribution to the designing of the property that is to be produced on special order and sold.
- 3) If the item qualifies for Retailers' Occupation Tax exemption under this Section, [thesueh](#) exemption is not lost merely because the seller subcontracts the service work to someone else as long as the seller is contractually responsible to see that the necessary service work is provided.
- 4) On the question of "use or value only to the purchaser", this test for exemption is met if the property is not standard enough to be stocked or to be ordered from a catalog or other type of sales literature, but has to be produced in accordance with special requirements [thatwhich](#) are peculiar to the purchaser and not common to someone else whose conditions for possible use of the property can be shown by the Department to be reasonably comparable to those of the purchaser.

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- 5) In the case of special assemblies such as special conveyors, the sale does not become taxable (if it would otherwise be exempt under this subsection (b)) merely because a fairly substantial portion of the completed product is made of standard parts or of raw material (such as steel) ~~that~~^{which} can be stocked for sale.
- 6) The seller has the burden of establishing that the sale qualifies for exemption under the provisions of this subsection (b), and unless the seller overcomes that burden, the sale is taxable under the Retailers' Occupation Tax Act.
- c) Cross Reference to Service Occupation Tax Regulations
When a seller is exempt from the Retailers' Occupation Tax under subsection (b) of this Section because of being engaged primarily in a service occupation, the transaction is governed by the Service Occupation Tax (see Subpart A of the Service Occupation Tax ~~rules~~^{Regulations}, 86 Ill. Adm. Code 140).

(Source: Amended at 32 Ill. Reg. 17519, effective October 24, 2008)

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- 1) Heading of the Part: Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 150
- 3)

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|-------------------------|------------------------|
| <u>Section Numbers:</u> | <u>Adopted Action:</u> |
| 150.306 | Amendment |
| 150.310 | Amendment |
- 4) Statutory Authority: 20 ILCS 2505/2505-90
- 5) Effective Date of Amendments: October 24, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 32 Ill. Reg. 8869; June 20, 2008
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

| | | |
|------------------------|-------------------------|------------------------------------|
| <u>Section Number:</u> | <u>Proposed Action:</u> | <u>Illinois Register Citation:</u> |
| 150.340 | New Section | 32 Ill. Reg. 8563; June 13, 2008 |
- 15) Summary and Purpose of Amendments: Section 150.306 is being amended to replace the current rulemaking for that Section that expired on May 27, 2008. The Illinois

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Automobile Dealers Association (IADA) filed an objection to that rulemaking. Discussions with the IADA and the Chicago Automobile Trade Association have resulted in the changes incorporated into this rulemaking. Beginning July 1, 2008, this proposed rulemaking sets out 3 criteria that, if they occur, would prohibit the availability of the exemption for those items in those specific situations. It also provides a safe harbor for the use of items for which the interim use exemption is claimed as long as the retailers meet 6 criteria in regards to those items. If the use of the item does not fall either under the specific prohibitions or under the safe harbor provisions, another set of criteria is provided to determine if the exemption applies. The rules also make clear that manufacturers who are registered as retailers and claim the interim use exemption are subject to the same requirements as other retailers beginning on July 1, 2008.

Section 150.310 is being amended to reference the exemption from Use Tax for nonresidents who claim the drive-away decal exemption described in 130.605(b)(1). The rulemaking also provides notice that, beginning July 1, 2008, if the motor vehicle is then used in this State for 30 or more days in a calendar year, the purchaser is liable for Use Tax on the purchase price of that motor vehicle. The rules reference that, if the purchaser incurs tax under this provision, a credit will be given for any tax that was properly due and paid in another state; and any assessment of tax under that provision is limited to the period for which the Department may issue a notice of tax liability under the Use Tax Act.

Section 150.310 is being further amended to describe the fly-away aircraft exemption for aircraft that is purchased in this State, temporarily located in this State for the purpose of a prepurchase evaluation, and temporarily located in this State for the purpose of a post-sale customization, which was created by Public Act 95-305, effective August 20, 2007. That Section is also amended to reference the ending date for the exemption for the temporary storage of property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois.

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

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

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

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

SUBPART A: NATURE OF THE TAX

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| 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

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|---------|---------------------|
| 150.201 | General Definitions |

SUBPART C: KINDS OF USES AND USERS NOT TAXED

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

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

SUBPART E: RECEIPT FOR THE TAX

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- 150.601 Requirements

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SUBPART F: SPECIAL INFORMATION FOR TAXABLE USERS

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150.701 When and Where to File a Return
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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
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SUBPART J: TRADED-IN PROPERTY

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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
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150.1410 Refunds
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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;

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emergency amendment at 16 Ill. Reg. 14889, effective September 9, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 1947, effective February 2, 1993; amended at 18 Ill. Reg. 1584, effective January 13, 1994; amended at 20 Ill. Reg. 7019, effective May 7, 1996; amended at 20 Ill. Reg. 16224, effective December 16, 1996; amended at 22 Ill. Reg. 21670, effective November 25, 1998; amended at 24 Ill. Reg. 10728, effective July 7, 2000; amended at 25 Ill. Reg. 953, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1821, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 5059, effective March 23, 2001; amended at 25 Ill. Reg. 6540, effective May 3, 2001; amended at 25 Ill. Reg. 10937, effective August 13, 2001; amended at 26 Ill. Reg. 971, effective January 15, 2002; amended at 26 Ill. Reg. 9902, effective June 24, 2002; amended at 27 Ill. Reg. 1607, effective January 15, 2003; emergency amendment at 27 Ill. Reg. 11209, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; emergency amendment at 28 Ill. Reg. 15266, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7079, effective April 26, 2005; emergency amendment at 32 Ill. Reg. 8806, effective May 29, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 17554, effective October 24, 2008.

SUBPART C: KINDS OF USES AND USERS NOT TAXED

Section 150.306 Interim Use and Demonstration Exemptions

a) Interim Use Exemption

- 1) Except as [otherwise](#) provided in [this subsection \(a\) and in](#) subsection (c) of this Section, tangible personal property purchased by a retailer for resale, and used by the retailer or his [or her](#) agents prior to its ultimate sale at retail, is exempt from Use Tax, provided that the tangible personal property is [of the same general type of property sold by that retailer and is carried as inventory on the books of the retailer or is otherwise available for sale during the interim use period. Beginning July 1, 2008, the following provisions apply to persons claiming the interim use exemption:](#)

[A\) The interim use exemption may not be claimed for any item if any of the following circumstances exist:](#)

- [i\) title to the item is held by any party other than the retailer, except that title may be held by the retailer, the manufacturer of the item, or a captive finance company;](#)

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vi) If the item is leased under a lease agreement for more than 30 days, the lease agreement must contain a provision that, if the retailer locates a buyer for the item, the lease may be terminated within 7 days or the lessee may receive comparable property substituted by the retailer for the item within 7 days.

C) If the item is not excluded from the exemption under subsection (a)(1)(A) and does not fall under the safe harbor provisions of subsection (a)(1)(B) and, if the item is leased, the retailer is primarily a retailer as provided by subsection (a)(3), then the Department shall review all applicable and available facts to determine if the interim use exemption applies, including, but not limited to:

i) The retail sales history or records of the type of items in question.

ii) Inventory records.

iii) Advertising of the item and, if the item is a vehicle, any advertisements on the vehicle and at the location of the vehicle.

iv) Manufacturer's contract terms, conditions, discounts and rebates.

v) Length and location of use or lease prior to sale.

vi) Whether depreciation under Internal Revenue Code section 167 was taken by the retailer.

vii) Ownership and control documents, including but not limited to books, records, titles and insurance documents.

viii) If the item is leased, whether the contracts signed by lessee indicate the vehicle is available for recall, substitution allowance and sale during the lease period.

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- D) For purposes of this subsection (a)(1), the term "captive finance company" means a wholly owned subsidiary of a manufacturing company that finances wholesale or retail purchases from that manufacturing company.
- 2) To the extent provided by and limited under subsections (a) and~~Except as limited in subsection~~ (c), the leasing of tangible personal property by persons who are primarily engaged in the business of selling such property at retail is within the interim use exemption if ~~thesueh~~ property is ~~carried as inventory on the books of the retailer or is otherwise~~ available for sale during the lease period. Except as to motor vehicles described in subsection (a)(4), the interim use exemption is not available to persons who purchase tangible personal property with the intent to engage in the business of leasing ~~thatsueh~~ property and who sell ~~thesueh~~ property only as an incident to their leasing activity. Persons who are primarily engaged in the business of leasing motor vehicles may not claim an interim use exemption when purchasing motor vehicles for use in their business even though ~~thesueh~~ lessors are subject to ~~Retailers'~~Retailer's Occupation Tax on the sale of used motor vehicles pursuant to 35 ILCS 120/1c. Motor vehicles of the first division, as defined in Section 1-146 of the Illinois Vehicle Code [625 ILCS 5/1-146], are exempt from Use Tax if the vehicles purchased are to be rented under lease terms of one year or less. (See 35 ILCS 105/3-5(10).)
- 3) In determining whether a taxpayer is "primarily" a retailer, the Department will examine only the activities of his Illinois operations. In addition, the Department will examine the activities of divisions of a corporate entity that are not separately registered with the Department. If divisions of a corporate entity are separately registered, however, their activities will not be examined in making this determination.
- 4) To the extent provided by and limited under subsection (a), the~~The~~ leasing of motor vehicles by motor vehicle dealers is within the interim use exemption if the leased motor vehicles are ~~carried as inventory on the books of the dealers or are otherwise~~ available for sale during the lease period. For example, many times motor vehicle dealers enter into leases of motor vehicles with lessees and simultaneously sell both those motor vehicles and leases to third parties. If a motor vehicle dealer enters into a lease of a motor vehicle with a lessee and simultaneously sells that motor

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vehicle to a third party, the interim use exemption is available to the dealer in regard to the purchase of the motor vehicle when it was purchased by the dealer for lease, provided that the motor vehicle is ~~carried as inventory on the books of the dealer or is otherwise~~ available for sale during the lease period. However, the dealer's sale of the motor vehicle, with or without the lease, to the third party is taxable and the third party incurs a Use Tax liability.

- 5) ~~Until June 30, 2008, the~~The leasing of motor vehicles by motor vehicle manufacturers to their employees is within the interim use exemption if the leased motor vehicles are carried as inventory on the books of the manufacturers or are otherwise available for sale during the lease period. Beginning on July 1, 2008 and thereafter, a manufacturer may claim the interim use exemption for tangible personal property leased to its employees, or otherwise used by its employees, only when the manufacturer is registered as a retailer and the use of that property would qualify under all of the requirements of this subsection (a) and subsection (c).

b) Demonstration Use Exemption

- 1) Except as provided in subsection (c), tangible personal property purchased for resale and used by its owner for demonstration purposes is not subject to Use Tax.
- 2) The leasing of tangible personal property by a retailer to prospective buyers for the purpose of allowing them to ascertain whether ~~or not~~ the property suits their particular needs and for the purpose of trying to induce them to buy ~~the~~ property is a use for demonstration purposes, except as provided in subsection (c).
- 3) The demonstration use exemption may not be claimed for tangible personal property purchased for resale ~~that~~which is consumed or destroyed in order to promote or demonstrate the product available for sale or is given away to a prospective customer as an inducement to make future purchases. For example, a retail grocer offering free samples of pizza to customers in his ~~or her~~ store in order to promote the sale of a new frozen pizza would not be able to claim a demonstration use exemption on his ~~or her~~ purchase price of the pizza consumed in the promotion.

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- 4) A vendor may not claim a demonstration use exemption on the use of a competing product, not available for sale by that vendor, even though the vendor uses the competing product to assist in the demonstration of the product ~~which~~ he or she sells. Nor may a vendor claim a demonstration use exemption on ancillary items used in the demonstration of a product (i.e., a microwave used to heat the pizza samples in the above example). The demonstration use exemption is available only to a vendor of the product being demonstrated.
- c) Aircraft and Watercraft
For watercraft or aircraft, if the period of demonstration use or interim use by the retailer exceeds 18 months, the retailer shall pay Use Tax on the original cost price of the aircraft or watercraft, and no credit for that tax is permitted if the aircraft or watercraft is subsequently sold by the retailer. For purposes of this Section, the term "watercraft" means a Class 2, Class 3 or Class 4 watercraft as defined in Section 3-2 of the Boat Registration and Safety Act [625 ILCS 45/3-2], a personal watercraft, or any boat equipped with an inboard motor.
- d) When the term "lease" is used in this Section, it is intended to also encompass the "rental" of tangible personal property.

(Source: Amended at 32 Ill. Reg. 17554, effective October 24, 2008)

Section 150.310 Exemptions to Avoid Multi-State Taxation

- a) To prevent actual or likely multi-state taxation, the tax shall not apply to the use of tangible personal property in this State under the following circumstances:
- 1) The use, in this State, of tangible personal property acquired outside this State by a nonresident individual and brought into this State by ~~that~~ such individual for his or her own use while temporarily within this State or while passing through this State;
 - 2) the use, in this State, of tangible personal property by an interstate carrier for hire as rolling stock moving in interstate commerce; or by lessors under a lease of one year or longer executed or in effect at the time of purchase of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce, as long as so used by

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~~thesueh~~ interstate carriers for hire. When tangible personal property is purchased by a lessor; under a lease for one year or longer, executed or in effect at the time of purchase to an interstate carrier for hire; who did not pay Use Tax to the retailer, ~~thesueh~~ lessor (by the last day of the month following the calendar month in which ~~thesueh~~ property reverts to the use of ~~thesueh~~ lessor) shall file a return with the Department and pay the tax upon the fair market value of ~~thesueh~~ property on the date of ~~thesueh~~ reversion. For more details concerning this exemption, see 86 Ill. Adm. Code 130.340 of the Retailers' Occupation Tax ~~regulations~~Regulations; the same principles apply for Use Tax purposes;

- 3) *the use, in this State, of tangible personal property that is acquired outside this State and caused to be brought into this State by a person who has already paid a tax in another state in respect to the sale, purchase or use of that property, to the extent of the amount of the tax properly due and paid in the other state; for this purpose, "state" includes the District of Columbia [35 ILCS 105/3-55(d)];*
- 4) the temporary storage, in this State, of tangible personal property ~~which is~~ acquired outside this State ~~that and which~~, subsequent to being brought into this State and stored here temporarily, is used solely outside this State or is physically attached to or incorporated into other tangible personal property that is used solely outside this State, or is altered by converting, fabricating, manufacturing, printing, processing or shaping, and, as altered, is used solely outside this State;
- 5) the temporary storage in this State of building materials and fixtures ~~which are~~ acquired either in this State or outside this State by an Illinois registered combination retailer and construction contractor, and ~~that the which such~~ purchaser thereafter uses outside this State by incorporating ~~thesueh~~ property into real estate located outside this State;
- 6) *beginning on January 1, 2002 ~~and through June 30, 2011~~, the use of tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or for the purpose of being processed, fabricated, or manufactured into, attached to,*

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or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. [35 ILCS 105/3-55(j)]

- A) "Centralized purchasing" means the procurement of tangible personal property by persons who purchase tangible personal property solely for use or consumption outside Illinois, who take delivery of that tangible personal property in Illinois and who temporarily store that tangible personal property in Illinois prior to transporting it outside the State for use or consumption solely outside Illinois.
- i) For example, a business that maintains offices in several states and maintains storage facilities in Illinois purchases office equipment from an Illinois retailer, takes delivery of those items in Illinois and then stores them at its Illinois warehouse until they are shipped to its offices outside Illinois for use there can qualify for the exemption.
 - ii) For example, a lessor that purchases an item from an Illinois retailer specifically to fulfill its obligations under an existing lease with a lessee located outside Illinois, takes delivery of that item in Illinois and then stores that item at an Illinois warehouse until it is shipped to its lessee's out-of-State location can qualify for the exemption so long as the item is used solely outside Illinois.
 - iii) However, a lessor who purchases an item that is not dedicated to an existing lease with an out-of-State lessee, takes delivery of that item in Illinois and then places it in an Illinois rental inventory cannot qualify for the exemption even if the item is subsequently leased to an out-of-State lessee. This is true because, in Illinois, lessors are deemed to be the users of items purchased for rental inventories and placing an item in a rental inventory does not constitute storage.
- B) "Good standing" means the taxpayer has no final liability that the taxpayer is failing to pay. For purposes of this Section, final

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liability includes a notice of tax liability that has become final, an admitted liability, or a math error.

- C) Persons who wish to take advantage of this expanded temporary storage exemption must apply in writing to the Department to obtain an Expanded Temporary Storage Permit. Expanded Temporary Storage Permits cannot be assigned or transferred except when the holder of the permit is purchasing from an unregistered de minimis serviceman providing services as described in 86 Ill. Adm. Code 140.108. Other than this, only the person to whom the Expanded Temporary Storage Permit was issued by the Department may use that permit as described in this Section.
- D) Persons holding a valid Expanded Temporary Storage Permit may claim the expanded temporary storage exemption by providing their Illinois suppliers with a certification that the tangible personal property received in Illinois will be temporarily stored in Illinois for the purpose of being subsequently transported outside this State for use or consumption thereafter solely outside this State or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. ~~The~~[Such](#) certification must identify the seller, the purchaser, and the property, and include the purchaser's Expanded Temporary Storage Permit number and signature.
- i) If all of an Expanded Temporary Storage Permit holder's purchases qualify for the expanded temporary storage exemption, the Expanded Temporary Storage Permit holder may provide his [or her](#) supplier a blanket certificate of expanded temporary storage.
- ii) If an Expanded Temporary Storage Permit holder knows that a certain percentage of all his [or her](#) purchases from a given seller will qualify for the expanded temporary storage exemption, he [or she](#) may provide a blanket certificate of expanded temporary storage stating that a designated percentage of purchases qualify for the expanded

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temporary storage exemption.

- E) In the event that tangible personal property for which the expanded temporary storage exemption has been claimed is taken out of storage and not transported outside this State for use or consumption, but is instead used or consumed in Illinois, the purchaser shall pay the tax that would have been due, in the same form that the retailer would have paid the tax (i.e., Retailers' Occupation Tax and local Retailers' Occupation Tax, if applicable), at the rate applicable at the location of the retailer from which the tangible personal property was purchased. For example, if tangible personal property purchased from a retailer in Naperville is temporarily stored in Illinois, then, instead of being transported outside the State for use or consumption, is removed from inventory and used in Illinois, tax will be due at the retailer's rate applicable in Naperville. The permit holder must pay the tax directly to the Department on forms prescribed by the Department, not later than the twentieth day of the month following the month in which the property was removed from inventory.
- F) In the event that tangible personal property for which the expanded temporary storage exemption has been claimed is temporarily stored in Illinois and transported outside this State for use or consumption, but subsequently returned to Illinois and used here, the purchaser shall pay the tax that would have been due, in the same form that the retailer would have paid the tax (i.e., Retailers' Occupation Tax and local Retailers' Occupation Tax, if applicable), at the rate applicable at the location of the retailer from which the tangible personal property was purchased. For example, if tangible personal property purchased from a retailer in Naperville is temporarily stored in Illinois and transported outside this State for use or consumption, but subsequently returned to Illinois and used here, tax will be due at the retailer's rate applicable in Naperville. Depreciation will be allowed as provided in Section 150.105(a). Also, credit shall be given for tax paid in another state in respect to the sale, purchase or use of [thesueh](#) property, to the extent of the amount of the tax properly due and paid in the other state, as provided in subsection (a)(3) of this Section.

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- G) Permit holders who assume the liability for the Retailers' Occupation Tax and any applicable local Retailers' Occupation Tax are subject to the same rights, remedies, privileges, immunities, powers and duties, and are subject to the same conditions, restrictions, limitations, penalties, and definitions of terms and employ the same modes of procedures as are prescribed for retailers under the Retailers' Occupation Tax Act. For example, if a permit holder fails to timely file the proper return or make the proper payment of tax, that permit holder is not entitled to the 1.75% vendor discount applicable to the sales reported on that return and is subject to penalties and interest under the Uniform Penalty and Interest Act [35 ILCS 735].
- 7) the use, in this State, of a vehicle for which a drive-away decal has been issued under the provisions of 86 Ill. Adm. Code 130.605(b)(1). However, beginning July 1, 2008, if the purchaser of a motor vehicle claims the exemption provided in Section 130.605(b)(1) and the motor vehicle is then used in this State for 30 or more days in a calendar year, the purchaser is liable for Use Tax on the purchase price of that motor vehicle, subject to credit for tax properly due and paid to any other state as provided in subsection (a)(3) of this Section. The assessment of tax under this subsection (a)(7) by the Department is limited to the period for which it may issue a notice of tax liability under the Use Tax Act.
- 8) beginning July 1, 2007, the use, in this State, of an aircraft described in subsection (a)(8)(A), (B) or (C), as defined in Section 3 of the Illinois Aeronautics Act.
- A) If the aircraft is purchased in this State, all of the following three conditions must be met:
- i) the aircraft leaves this State within 15 days after the later of either the issuance of the final billing for the purchase of the aircraft or the authorized approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection as required by 14 CFR 91.407;

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- ii) *the aircraft is not based or registered in this State after the purchase of the aircraft; and*
 - iii) *the purchaser provides the Department with a signed and dated certification, on a form prescribed by the Department, certifying that the requirements of this subsection (a)(8)(A) are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require.*
 - B) *If the aircraft is temporarily located in this State for the purpose of a prepurchase evaluation, all of the following conditions must be met:*
 - i) *the aircraft is not based or registered in this State after the prepurchase evaluation; and*
 - ii) *the purchaser provides the Department with a signed and dated certification, on a form prescribed by the Department, certifying that the requirements of this subsection (a)(8)(B) are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require.*
 - C) *If the aircraft is temporarily located in this State for the purpose of a post-sale customization, all of the following conditions must be met:*
 - i) *the aircraft leaves this State within 15 days after the authorized approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection, as required by 14 CFR 91.407;*

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- ii) *the aircraft is not based or registered in this State either before or after the post-sale customization; and*
- iii) *the purchaser provides the Department with a signed and dated certification, on a form prescribed by the Department, certifying that the requirements of this subsection (a)(8)(C) are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require. [35 ILCS 105/3-55(h-2)]*

D) The exemption provided under subsections (a)(8)(B) and (C) does not apply to tax incurred on any service transactions performed on the aircraft.

E) For purposes of subsection (a)(8):

"Based in this State" means hangared, stored, or otherwise used, excluding post-sale customizations as defined in this subsection (a)(8)(E), for 10 or more days in each 12-month period immediately following the date of the sale of the aircraft.

"Post-sale customization" means any improvement, maintenance, or repair that is performed on an aircraft following a transfer of ownership of the aircraft.

"Prepurchase evaluation" means an examination of an aircraft to provide a potential purchaser with information relevant to the potential purchase.

"Registered in this State" means an aircraft registered with the Department of Transportation, Aeronautics Division, or titled or registered with the Federal Aviation Administration to an address located in this State.

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- F) *If tax becomes due under this subsection (a)(8) because of the purchaser's use of the aircraft in this State, the purchaser shall file a return with the Department and pay the tax on the fair market value of the aircraft. This return and payment of the tax must be made no later than 30 days after the aircraft is used in a taxable manner in this State. The tax is based on the fair market value of the aircraft on the date that it is first used in a taxable manner in this State. [35 ILCS 105/3-55(h-2)]*
- b) Since exemptions described in subsections (a)(1), (3) and (4) do not exist as far as the Retailers' Occupation Tax is concerned, and since it would therefore serve no purpose to say that the exemptions exist for Use Tax purposes insofar as the seller is merely collecting Use Tax to reimburse himself or herself for Retailers' Occupation Tax on the same transaction, the Department believes that the legislative intention in these references to the acquisition of tangible personal property outside this State was to make the references apply to cases in which the only tax liability that could be involved is Use Tax liability.
- c) Therefore, exemptions described in subsections (a)(1), (3) and (4) would not apply except when the tangible personal property is acquired outside Illinois by the purchaser in such a way that there is no Retailers' Occupation Tax liability on the part of the seller in the same transaction.
- d) For information as to when sellers do or do not incur Retailers' Occupation Tax liability when shipping the tangible personal property from outside Illinois, see 86 Ill. Adm. Code Section 130.610 of the Retailers' Occupation Tax regulationsRegulations.

(Source: Amended at 32 Ill. Reg. 17554, effective October 24, 2008)

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- 1) Heading of the Part: Cigarette Tax Act
- 2) Code Citation: 86 Ill. Adm. Code 440
- 3) Section Number: 440.30 Adopted Action:
Amendment
- 4) Statutory Authority: PA 82-593; PA 95-462; 35 ILCS 130/1
- 5) Effective Date of Rulemaking: October 27, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 32 Ill. Reg. 9109; June 27, 2008
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? There were no agreements.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The adopted amendments to 86 Ill. Adm. Code 440.30 add language to the rules implementing the Cigarette Tax Act to incorporate two statutory exclusions to the definition of "retailer" contained in the Cigarette Tax Act and to incorporate one statutory exclusion to the definition of "distributor" contained in the Act. Two of the exclusions were added by PA 82-593 effective September 24, 1981; one of them excludes from the definition of "retailer" a person who transfers to residents

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incarcerated in penal institutions or resident patients of a State-operated mental health facility ownership of cigarettes made, manufactured, or fabricated as part of a correctional industries program; the second one excludes from the definition of "distributor" a person who makes, manufactures or fabricates cigarettes for sale to residents incarcerated in penal institutions or resident patients or a State-operated mental health facility. The third exclusion was required by PA 95-462, effective August 27, 2007, and excludes from the definition of "retailer" a person who transfers cigarettes to a not-for-profit research institution that conducts tests concerning the health effects of tobacco products and who does not offer the cigarettes for resale.

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

Richard S. Wolters
Associate Counsel
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

217/782-2844

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

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

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

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

SOURCE: Filed and effective June 17, 1958; amended at 6 Ill. Reg. 2831 and 2834, effective March 3, 1982; codified at 8 Ill. Reg. 17912; amended at 13 Ill. Reg. 10678, effective June 16,

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1989; amended at 14 Ill. Reg. 6794, effective April 19, 1990; amended at 15 Ill. Reg. 117, effective December 24, 1990; emergency amendment at 23 Ill. Reg. 9541, effective July 29, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 14748, effective December 8, 1999; amended at 24 Ill. Reg. 9903, effective June 23, 2000; emergency amendment at 24 Ill. Reg. 10752, effective July 6, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 17793, effective November 28, 2000; amended at 25 Ill. Reg. 933, effective January 8, 2001; emergency amendment at 26 Ill. Reg. 9021, effective June 10, 2002, for a maximum of 150 days; emergency expired November 5, 2002; amended at 27 Ill. Reg. 1618, effective January 15, 2003; emergency amendment at 27 Ill. Reg. 10524, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; amended at 28 Ill. Reg. 3906, effective February 13, 2004; amended at 32 Ill. Reg. 17575, effective October 27, 2008.

Section 440.30 Tax – Who Liable For

- a) All retailers of cigarettes as defined in Section 1 of the Act are liable for the tax therein imposed. Distributors of cigarettes are required to prepay the tax and to collect it as a separate item from retailers.
- b) The Act defines "retailer" as follows:
 - 1) *"Retailer" means any person who engages in the making of transfers of the ownership of, or title to, cigarettes to a purchaser for use or consumption and not for resale in any form, for a valuable consideration.*
 - 2) *"Retailer" shall be construed to include any person who engages in the making of transfers of the ownership of, or title to, cigarettes to a purchaser, for use or consumption by any other person to whom such purchaser may transfer the cigarettes without a valuable consideration.*
 - 3) *"Retailer" does not include a person:*
 - A) *Who transfers to residents incarcerated in penal institutions or resident patients of a State-operated mental health facility ownership of cigarettes made, manufactured, or fabricated as part of a correctional industries program; or*
 - B) *beginning August 27, 2007, who transfers cigarettes to a not-for-profit research institution that conducts tests concerning the health*

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effects of tobacco products and who does not offer the cigarettes for resale.

- c) *The Act defines "distributor" as meaning any and each of the following:*
- 1) *Any person engaged in the business of selling cigarettes in this State who brings or causes to be brought into this State from without this State any original packages of cigarettes, on which original packages there is no authorized evidence underneath a sealed transparent wrapper showing that the tax liability imposed by this Act has been paid or assumed by the out-of-State seller of such cigarettes, for sale or other disposition in the course of such business.*
 - 2) *Any person who makes, manufactures or fabricates cigarettes in this State for sale in this State, except a person who makes, manufactures or fabricates cigarettes as a part of a correctional industries program for sale to residents incarcerated in penal institutions or resident patients of a State-operated mental health facility.*
 - 3) *Any person who makes, manufactures or fabricates cigarettes outside this State, which cigarettes are placed in original packages contained in sealed transparent wrappers, for delivery or shipment into this State, and who elects to qualify and is accepted by the Department as a distributor under Section 4b of the Act.*

(Source: Amended at 32 Ill. Reg. 17575, effective October 27, 2008)

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- 1) Heading of the Part: Cigarette Use Tax Act
- 2) Code Citation: 86 Ill. Adm. Code 450
- 3) Section Number: 450.10 Adopted Action:
Amendment
- 4) Statutory Authority: PA 95-462; 35 ILCS 135/1
- 5) Effective Date of Amendment: October 27, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 32 Ill. Reg. 9114; June 27, 2008
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: The adopted amendment to 86 Ill. Adm. Code 450.10 adds language to the rules implementing the Cigarette Use Tax Act to incorporate a statutory exclusion to the definition of "distributor" contained in the Cigarette Use Tax Act. This exclusion was required by PA 95-462 and excludes from the definition of "distributor" any person who transfers cigarettes to a not-for-profit research institution

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that conducts tests concerning the health effects of tobacco products and who does not offer the cigarettes for resale.

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

Richard S. Wolters
Associate Counsel
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

217/782-2844

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

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

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

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

SOURCE: Filed and effective June 17, 1958; codified at 8 Ill. Reg. 13838; amended at 13 Ill. Reg. 10687, effective June 16, 1989; amended at 14 Ill. Reg. 6804, effective April 19, 1990; amended at 15 Ill. Reg. 122, effective December 24, 1990; amended by emergency rulemaking at 23 Ill. Reg. 9546, effective July 29, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 14753, effective December 8, 1999; amended at 24 Ill. Reg. 9909, effective June 23, 2000; emergency amendment at 24 Ill. Reg. 10759, effective July 6, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 17800, effective November 28, 2000; amended at 25 Ill. Reg. 937, effective January 8, 2001; emergency amendment at 26 Ill. Reg. 9027, effective June 10, 2002, for a maximum of 150 days; emergency expired November 5, 2002; amended at 27 Ill. Reg. 1647, effective January 15, 2003; emergency amendment at 27 Ill. Reg. 10529, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; amended at 28 Ill. Reg. 3911, effective February 13, 2004; amended at 32 Ill. Reg. 17580, effective October 27, 2008.

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Section 450.10 Nature and Rate of Tax

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

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been removed, mutilated, obliterated, or altered in any manner. (Section 3 of the Cigarette Use Tax Act)

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

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any other federal law or implementing federal regulations;

- D) *the person affixing the stamp or imprint otherwise knows or has reason to know the manufacturer did not intend to be sold, distributed, or used in the United States;*
- E) *for which there has not been submitted to the Secretary of the U.S. Department of Health and Human Services the list or lists of the ingredients added to tobacco in the manufacture of the cigarettes required by the federal Cigarette Labeling and Advertising Act, 15 USC 1335a; or*
- F) *has been altered, prior to sale or distribution to the ultimate consumer, so as to remove, conceal, or obscure:*
- i) *any statement, label, stamp, sticker, or notice described in 86 Ill. Adm. Code 440.50(k)(1); or*
 - ii) *any health warning that is not specified in, or does not conform with the requirements of, the federal Cigarette Labeling and Advertising Act, 15 USC 1333 (Section 3-10 of the Act).*
- 5) On and after July 15, 2000, packages of cigarettes, cigarette papers, wrappers, or tubes stamped or imprinted in a manner not in accordance with subsection (c)(4) of this Section and found in the possession of a distributor create a rebuttable presumption that the packages of cigarettes, cigarette papers, wrappers or tubes were stamped or imprinted in violation of the Cigarette Use Tax Act.
- 6) On and after July 31, 2000, packages of cigarettes, cigarette papers, wrappers or tubes stamped or imprinted in a manner not in accordance with subsection (c)(4) of this Section and found in the possession of a retailer create a rebuttable presumption that the packages of cigarettes, cigarette papers, wrappers or tubes were stamped or imprinted by the distributor from whom they were obtained in violation of the Cigarette Use Tax Act.
- 7) *On and after June 13, 2000, on the first business day of each month, each*

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person licensed to affix the State tax stamp to cigarettes shall file with the Department, for all cigarettes imported into the United States to which the person has affixed the tax stamp in the preceding month.

- 8) *A copy of:*

 - A) *the permit issued pursuant to the Internal Revenue Code, 26 USC 5713, to the person importing the cigarettes into the United States allowing the person to import the cigarettes; and*
 - B) *the customs form containing, with respect to the cigarettes, the internal revenue tax information required by the U.S. Bureau of Alcohol, Tobacco and Firearms.*

- 9) *A statement, signed by the person under penalty of perjury, which shall be treated as confidential by the Department and exempt from disclosure under the Freedom of Information Act, identifying the brand and brand styles of all such cigarettes, the quantity of each brand style of such cigarettes, the supplier of such cigarettes, and the person or persons, if any, to whom such cigarettes have been conveyed for resale.*
- 10) *In addition to the statement required in subsection (c)(9) of this Section, a separate statement, signed by the individual under penalty of perjury, which shall not be treated as confidential or exempt from disclosure, separately identifying the brands and brand styles of such cigarettes.*
- 11) *In addition to the statement required in subsection (c)(9) and (c)(10) of this Section, a separate statement, signed by an officer of the manufacturer or importer under penalty of perjury, certifying that the manufacturer or importer has complied with:*

 - A) *the package health warning and ingredient reporting requirements of the federal Cigarette Labeling and Advertising Act, 15 USC 1333 and 1335a, with respect to such cigarettes; and*
 - B) *the provisions of Exhibit T of the Master Settlement Agreement entered in the case of People of the State of Illinois v. Philip Morris, et al. (Circuit Court of Cook County, No. 96-L13146), including a statement indicating whether the manufacturer is, or is*

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not, a participating tobacco manufacturer within the meaning of Exhibit T.

- 12) *The Department may revoke or suspend the license or licenses of any distributor, in the manner provided in Section 6 of the Cigarette Use Tax Act, if the Department determines that the distributor knew or had reason to know that the distributor was committing any of the acts prohibited in subsection (c)(4) of this Section or had failed to comply with any of the requirements of subsection (b) of Section 3-10 of the Cigarette Use Tax Act. In addition, the Department may impose on the distributor a civil penalty in an amount not to exceed the greater of 500% of the retail value of the cigarettes involved or \$5,000. Cigarettes acquired, held, owned, possessed, transported in, imported into, or sold or distributed in this State in violation of subsection (c)(4) of this Section shall be subject to seizure and forfeiture whether the violation is knowing or otherwise. (Section 3-10 of the Act)*
- d) At the time of purchasing stamps from the Department or any person authorized by the Department, when purchase of the stamps is required by the Cigarette Use Tax Act or at the time when the tax that he or she has collected is remitted by a distributor to the Department without the purchase of stamps from the Department or any person authorized by the Department when that method of remitting the tax that has been collected is required or authorized by the Act, the distributor will be allowed a discount during any year commencing July 1 and ending the following June 30. The discount shall be equal to 1.75% of the amount of the tax payable under the Act up to and including the first \$3,000,000.00 paid by the distributor to the Department during any year and 1.5% of the amount of any additional tax paid by the distributor to the Department during that any such year.
- e) This discount is to cover the distributor's cost of collecting the tax.
- f) Two or more distributors that use a common means of affixing revenue tax stamps or that are owned or controlled by the same interests shall be treated as a single distributor for the purpose of computing the discount.
- g) *On and after December 1, 1985 and until July 1, 2003, the Department shall allow a distributor 30 days in which to make final payment of the amount to be paid for such stamps, by allowing the distributor to make payment for the stamps at the time of purchasing them with a draft which shall be in such form as the*

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Department prescribes (i.e. a standard bank draft which the distributor may post-date), and which shall be payable within 30 days thereafter: Beginning January 1, 2003, such draft shall be payable by means of electronic funds transfer, as provided in 86 Ill. Adm. Code 750. A distributor's failure to pay any such draft, when due, shall also make such distributor automatically liable for a penalty equal to 25% of the amount of such draft. (Section 3 of the Act)

- h) *On and after December 1, 1985 and until July 1, 2003, distributors making payment for stamps at the time of purchase by draft as explained in subsection (g) shall first file with the Department, and receive the Department's approval of, a bond (in a form provided for in this subsection), which is in addition to the bond required under Section 4 of the Act, payable to the Department in an amount equal to 100% of such distributor's average monthly tax liability under the Act during the preceding calendar year or \$750,000, whichever is less. The bond shall be joint and several and shall be in the form of a surety company bond or it may be in the form of a bank certificate of deposit or bank letter of credit. The bond shall be conditioned upon the distributor's payment of the amount of any 30-day draft which the Department accepts from that distributor for the delivery of stamps to that distributor under the Act. Prior continuous compliance taxpayers, as defined in Section 1 of the Act, are exempt from the bond requirements noted in this subsection. (Section 3 of the Act) For additional information concerning the exemption for prior continuous compliance taxpayers, see Section 3 of the Act.*
- i) *Beginning January 1, 2003 and through June 30, 2003, any taxpayer choosing not to make payment of tax by means of a draft payable within 30 days as provided for in subsection (g) and who has an annual tax liability of \$200,000 or more shall make all payments of that tax by means of electronic funds transfer, as provided in 86 Ill. Adm. Code 750. On and after July 1, 2003, all payment for revenue tax stamps must be made by means of electronic funds transfer. (Section 3 of the Act)*
- j) The Cigarette Use Tax collected by a distributor who is liable to collect and remit a like amount of tax with respect to the same cigarettes under the Cigarette Tax Act need not be remitted to the Department under the Cigarette Use Tax Act. In other words, the amount ~~that~~^{which} the distributor is liable to collect and remit under the Cigarette Tax Act with respect to particular cigarettes is offset against the amount collected from the purchaser by the distributor under the Cigarette Use Tax Act with respect to the same cigarettes. Sections 3 and 10 of the Cigarette

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Use Tax Act permit this offset in order to avoid the double remittance of tax to the State on the same transactions in the case of sales of cigarettes in Illinois.

- k) In those instances in which a distributor is required to affix tax stamps or meter impressions to original packages of cigarettes under the Cigarette Use Tax Act, rather than under the Cigarette Tax Act, the provisions of the Part relating to the Cigarette Tax Act (86 Ill. Adm. Code 440) shall apply and are incorporated herein by reference.
- l) Where cigarettes are acquired for use in this State without Illinois tax stamps being affixed to the original packages ~~thereof~~ and without authorized tax imprints placed underneath the sealed transparent wrapper of the original packages, the user is required to remit the amount of the Cigarette Use Tax directly to the Department. Before January 1, 2002, the tax shall be remitted to the Department by the user within 3 days after he acquires the cigarettes. On and after January 1, 2002, the tax shall be remitted to the Department by the user within 30 days after he acquires the cigarettes.
- m) *The Department may refuse to sell cigarette stamps to any person who does not comply with the provisions of the Cigarette Use Tax Act. (Section 3 of the Act)*
- n) Beginning August 27, 2007, the Cigarette Use Tax Act provides that the term "distributor" does not include any person who transfers cigarettes to a not-for-profit research institution that conducts tests concerning the health effects of tobacco products and who does not offer the cigarettes for resale.

(Source: Amended at 32 Ill. Reg. 17580, effective October 27, 2008)

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- 1) Heading of the Part: Certificates of Title, Registration of Vehicles
- 2) Code Citation: 92 Ill. Adm. Code 1010
- 3) Section Number: 1010.245 Adopted Action: Amendment
- 4) Statutory Authority: Implementing Chapter 3 and authorized by Section 2-104(b) of the Illinois Vehicle Title & Registration Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 3 and 2-104(b)]
- 5) Effective Date of Amendment: October 16, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposed Published in the Illinois Register: 32 Ill. Reg. 833; January 18, 2008
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: No substantive changes made between proposal and adoption. All non-substantive technical changes recommended by JCAR were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This rulemaking amends the provisions of the Electronic Registration and Titling (ERT) program. This program permits the sale of vehicle registration plates and stickers by retail vendors, such as vehicle dealerships. ERT service providers administer the distribution of the plates and stickers, collection of fees and sales taxes, and electronic communications between the retail vendors and the

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Secretary of State's office. This rulemaking clarifies the responsibilities of the ERT service providers and the retail vendors.

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

Secretary of State
Nathan Maddox, Senior Legal Advisor
298 Howlett Building
Springfield, IL 62701

217/785-3094

- 17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? [30 ILCS 50/5-25] No

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

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1010
CERTIFICATES OF TITLE, REGISTRATION OF VEHICLES

SUBPART A: DEFINITIONS

| | |
|---------|-----------------------------|
| Section | |
| 1010.10 | Owner – Application of Term |
| 1010.20 | Secretary and Department |

SUBPART B: TITLES

| | |
|----------|---|
| Section | |
| 1010.110 | Salvage Certificate – Additional Information Required to Accompany Application for a Certificate of Title for a Rebuilt or a Restored Vehicle Upon Surrendering Salvage Certificate |
| 1010.120 | Salvage Certificate – Assignments and Reassignments |
| 1010.130 | Exclusiveness of Lien on Certificate of Title |
| 1010.140 | Documents Required to Title and Register Imported Vehicles Not Manufactured in Conformity with Federal Emission or Safety Standards |
| 1010.150 | Transferring Certificates of Title Upon the Owner's Death |
| 1010.160 | Repossession of Vehicles by Lienholders and Creditors |
| 1010.170 | Junking Notification |
| 1010.180 | Specially Constructed Vehicles – Defined |
| 1010.185 | Specially Constructed Vehicles – Required Documentation for Title and Registration |
| 1010.190 | Issuance of Title and Registration Without Standard Ownership Documents – Bond |

SUBPART C: REGISTRATION

| | |
|----------|---|
| Section | |
| 1010.210 | Application for Registration |
| 1010.220 | Vehicles Subject to Registration – Exceptions |
| 1010.230 | Refusing Registration or Certificate of Title |
| 1010.240 | Registration Plates To Be Furnished by the Secretary of State |
| 1010.245 | Electronic Registration and Titling (ERT) Program Provisions |
| 1010.250 | Applications For Reassignment |

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SUBPART D: REVOCATION, SUSPENSION AND CANCELLATION OF REGISTRATION

Section

- 1010.300 Operation of Vehicle after Cancellation, Suspension, or Revocation of any Registration
- 1010.310 Improper Use of Evidences of Registration
- 1010.320 Suspension, Cancellation or Revocation of Illinois Registration Plates and Cards and Titles
- 1010.330 Operation of Vehicle Without Proper Illinois Registration
- 1010.350 Suspension or Revocation
- 1010.360 Surrender of Plates, Decals or Cards

SUBPART E: SPECIAL PERMITS AND PLATES

Section

- 1010.410 Temporary Registration – Individual Transactions
- 1010.420 Temporary Permit Pending Registration In Illinois
- 1010.421 Issuance of Temporary Registration Permits by Persons or Entities Other Than the Secretary of State
- 1010.425 Non-Resident Drive-Away Permits
- 1010.426 Five Day Permits
- 1010.430 Registration Plates for Motor Vehicles Used for Transportation of Persons for Compensation and Tow Trucks
- 1010.440 Title and Registration of Vehicles with Permanently Mounted Equipment
- 1010.450 Special Plates
- 1010.451 Purple Heart License Plates
- 1010.452 Special Event License Plates
- 1010.453 Retired Armed Forces License Plates
- 1010.454 Gold Star License Plates
- 1010.455 Collectible License Plates
- 1010.456 Sample License Plates For Motion Picture and Television Studios
- 1010.457 Korean War Veteran License Plates
- 1010.458 Collegiate License Plates
- 1010.460 Special Plates for Members of the United States Armed Forces Reserves
- 1010.470 Dealer Plate Records
- 1010.480 State of Illinois In-Transit Plates

SUBPART F: FEES

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Section

| | |
|----------|---------------------------------------|
| 1010.510 | Determination of Registration Fees |
| 1010.520 | When Fees Returnable |
| 1010.530 | Circuit Breaker Registration Discount |
| 1010.540 | Fees |

SUBPART G: MISCELLANEOUS

Section

| | |
|----------|------------------------------------|
| 1010.610 | Unlawful Acts, Fines and Penalties |
| 1010.620 | Change of Engine |

SUBPART H: SECOND DIVISION VEHICLES

Section

| | |
|----------|--|
| 1010.705 | Reciprocity |
| 1010.710 | Vehicle Proration |
| 1010.715 | Proration Fees |
| 1010.720 | Vehicle Apportionment |
| 1010.725 | Trip Leasing |
| 1010.730 | Intrastate Movements, Foreign Vehicles |
| 1010.735 | Interline Movements |
| 1010.740 | Trip and Short-term Permits |
| 1010.745 | Signal 30 Permit for Foreign Registration Vehicles (Repealed) |
| 1010.750 | Signal 30-Year-round for Prorated Fleets of Leased Vehicles (Repealed) |
| 1010.755 | Mileage Tax Plates |
| 1010.756 | Suspension or Revocation of Illinois Mileage Weight Tax Plates |
| 1010.760 | Transfer for "For-Hire" Loads |
| 1010.765 | Suspension or Revocation of Exemptions as to Foreign Registered Vehicles |
| 1010.770 | Required Documents for Trucks and Buses to detect "intrastate" movements |
| 1010.775 | Certificate of Safety |

| | |
|-----------------|--|
| 1010.APPENDIX A | Uniform Vehicle Registration Proration and Reciprocity Agreement |
| 1010.APPENDIX B | International Registration Plan |

AUTHORITY: Implementing Chapter 3 and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 3 and 2-104(b)].

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SOURCE: Filed and effective December 15, 1970; emergency amendment at 2 Ill. Reg. 25, p. 119, effective June 14, 1978, for a maximum of 150 days; amended at 3 Ill. Reg. 12, p. 76, effective March 23, 1979; amended at 3 Ill. Reg. 29, p. 123, effective July 20, 1979; amended at 4 Ill. Reg. 17, p. 247, effective April 11, 1980; emergency amendment at 4 Ill. Reg. 21, p. 99, effective May 14, 1980, for a maximum of 150 days; amended at 6 Ill. Reg. 2241, effective February 1, 1982; amended at 6 Ill. Reg. 11076, effective August 26, 1982; codified at 6 Ill. Reg. 12674; amended at 7 Ill. Reg. 1432, effective January 21, 1983; amended at 7 Ill. Reg. 1436, effective January 21, 1983; amended at 8 Ill. Reg. 5329, effective April 6, 1984; amended at 9 Ill. Reg. 3358, effective March 1, 1985; amended at 9 Ill. Reg. 9176, effective May 30, 1985; amended at 9 Ill. Reg. 12863, effective August 2, 1985; amended at 9 Ill. Reg. 14711, effective September 13, 1985; amended at 10 Ill. Reg. 1243, effective January 6, 1986; amended at 10 Ill. Reg. 4245, effective February 26, 1986; amended at 10 Ill. Reg. 14308, effective August 19, 1986; recodified at 11 Ill. Reg. 15920; amended at 12 Ill. Reg. 14711, effective September 15, 1988; amended at 12 Ill. Reg. 15193, effective September 15, 1988; amended at 13 Ill. Reg. 1598, effective February 1, 1989; amended at 13 Ill. Reg. 5173, effective April 1, 1989; amended at 13 Ill. Reg. 7965, effective May 15, 1989; amended at 13 Ill. Reg. 15102, effective September 15, 1989; amended at 14 Ill. Reg. 4560, effective March 1, 1990; amended at 14 Ill. Reg. 6848, effective April 18, 1990; amended at 14 Ill. Reg. 9492, effective June 1, 1990; amended at 14 Ill. Reg. 19066, effective November 15, 1990; amended at 15 Ill. Reg. 12782, effective August 15, 1991; amended at 16 Ill. Reg. 12587, effective August 1, 1992; amended at 19 Ill. Reg. 11947, effective August 1, 1995; amended at 19 Ill. Reg. 16289, effective November 27, 1995; amended at 20 Ill. Reg. 11349, effective August 1, 1996; amended at 21 Ill. Reg. 8408, effective June 23, 1997; amended at 21 Ill. Reg. 13372, effective September 17, 1997; amended at 22 Ill. Reg. 8521, effective April 28, 1998; amended at 22 Ill. Reg. 22059, effective January 1, 1999; amended at 25 Ill. Reg. 7731, effective June 6, 2001; emergency amendment at 25 Ill. Reg. 14201, effective October 22, 2001, for a maximum of 150 days; emergency expired March 20, 2002; amended at 26 Ill. Reg. 14282, effective September 16, 2002; amended at 27 Ill. Reg. 4790, effective February 27, 2003; amended at 29 Ill. Reg. 8915, effective June 10, 2005; amended at 31 Ill. Reg. 2668, effective January 29, 2007; amended at 32 Ill. Reg. 17253, effective October 15, 2008; amended at 32 Ill. Reg. 17590, effective October 16, 2008.

SUBPART C: REGISTRATION

Section 1010.245 Electronic Registration and Titling (ERT) Program Provisions

- a) The Secretary may, in his or her discretion, establish a program for the electronic registration and titling (ERT) of motor vehicles. Transactions that may be conducted pursuant to an ERT program may include transmitting applications for titles and registration of motor vehicles, renewal of motor vehicle registrations, creating and removing liens from motor vehicle records, applying for salvage or

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junking certificates, and issuing registration plates and stickers by motor vehicle dealers, financial institutions and retail merchants, except that licensees under the Sales Finance Agency Act [205 ILCS 660] and the Consumer Installment Loan Act [205 ILCS 670] shall only be authorized to apply for titles and create and remove liens from motor vehicle records. Insurance companies shall only be permitted to apply for salvage or junking certificates and retail merchants shall only be authorized to issue registration renewal stickers.

- b) Upon the establishment of an ERT program, the Secretary may enter into agreements with ERT service providers to serve as intermediaries between the Secretary of State's office and motor vehicle dealers, financial institutions and retail merchants (collectively referred to in this Section as "vendors"). For the purposes of this Section, the term "financial institution" shall mean any federal or state chartered bank, savings and loan, credit union, and armored carrier, and any currency exchange, either directly or indirectly through an armored carrier. The term shall also include insurance companies and licensees under the Sales Finance Agency Act and the Consumer Installment Loan Act. The term "retail merchant" shall mean a business that is engaged in the sale of goods or services to the general public and that has one or more permanently established places of business in Illinois.
- c) The ERT service provider shall be responsible for the following:
- 1) establishing a computerized communication link between the vendors and the Secretary of State for the transmission of titling, registration, registration renewal and lien information, in compliance with all specifications of the Secretary of State's office;
 - 2) transmitting all fees associated with the title and registration transactions to the Secretary of State and transmitting all sales taxes due and owing for the sales of motor vehicles to the Illinois Department of Revenue;
 - 3) maintaining an inventory of registration plates and stickers, ~~and~~ distributing those plates and stickers to vendors as necessary, receiving unused, expired, damaged and voided plates and stickers and reports of lost or stolen plates and stickers from vendors, and forwarding those reports and returning those unused, expired, damaged and voided plates and stickers to the Secretary of State warehouse monthly. For purposes of this Section, the term "plates" shall mean vehicle registration license plates, and the term "sticker" shall mean the adhesive sticker affixed to

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license plates and the form, with a pre-printed control number and barcode, to which the sticker is attached when shipped and printed. When this Section provides for shipping, inventory, accounting or reconciliation of, or credit for returned, stickers, the sticker must be attached to the original form or affixed to a plate and recorded as issued with that plate.

- A) The inventory control system shall accurately track all registration plates and stickers shipped to the service provider by the Secretary, those distributed by the provider to vendors (including tracking which specific plates and stickers were shipped to individual vendors), those returned by vendors to the provider, and those returned by the provider to the Secretary. The inventory yet to be shipped and the returned inventory shall be stored separately. In addition, the inventory system shall comply with one of the following:;
- i) All inventory shall be maintained in sequential order, according to document number, including inventory being held for shipping to vendors and inventory returned by vendors.
 - ii) The computerized inventory control system must utilize barcode readers that enable the service provider or Secretary of State employees to scan and accurately record inventory items yet to be shipped and returned inventory. Secretary of State employees must have access to a computer terminal at the service provider's site during inventory and reconciliation procedures, and the system must allow the printing of necessary inventory reports during these procedures.
- B) Real-time access to the inventory control system shall be provided to Secretary of State staff, auditors and Secretary of State Police for review, reconciliation, auditing and inventory verification to ensure compliance with rules, policies and regulations, and for locating individual registration plates and stickers and determining to which vendor the individual registration plates and stickers were issued. All electronic information shall be maintained for not less than five years after receipt of the inventory by the service provider.

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- C) Bulk inventories of registration plates and stickers will be delivered by the Secretary to the service provider as needed. The service provider shall acknowledge receipt of the inventory in a manner approved by the Secretary and is responsible for the inventory upon receipt. The service provider shall store the inventory within the State of Illinois. The service provider shall distribute registration plates and stickers to vendors, as necessary, and shall accept returns from the vendors of unused, expired, damaged and voided plates and stickers.
- D) Vendors shall not return unused, expired, damaged or voided plates and stickers directly to the Secretary. The Secretary shall not be responsible for inventory incorrectly returned.
- E) Vendors who have inventory that is damaged, voided, missing, lost or stolen during a given month shall report those occurrences to the service provider not later than the final day of the following month. (Example: Inventory items damaged during August must be reported and returned to the service provider not later than the following September 30.) Credit for returned plates will only be granted when both plates in the set have been returned or accounted for, if the plates were of the type issued as a pair. All or as much as possible of the damaged or voided stickers must be returned to receive credit for returned inventory. When it is not possible to return any portion of a damaged or voided plate or sticker, an explanation as to the circumstances causing the plate or sticker to be voided or damaged, and the reasons no portion can be returned, must be provided. The Secretary shall have the right to determine whether the explanation will be accepted and whether inventory credit will be given for the plates or stickers not returned in whole or in part. In making this determination, the Secretary shall consider whether the vendor is able to retain and return the form on which the sticker is issued; whether matters beyond the control of the vendor may have contributed to the complete loss of the stickers (e.g., fires or industrial accidents that are accompanied by police reports, fire reports or insurance claims); and the history of the individual vendor with regard to the loss of stickers.

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- F) Service providers may be relieved of responsibility for payment for plates and stickers reported as stolen only if a copy of a police report concerning the theft is provided to the Secretary.
- G) Not later than March 31 of each calendar year, vendors shall return to service providers all remaining stickers in their possession of the type and color that expire during that calendar year. (Example: During 2007, vendors sell stickers that expire during 2008, such that a sticker sold in March 2007 expires in March 2008. As of January 2008, vendors will be selling stickers of the type and color that expire in 2009. Therefore, not later than March 31, 2008, vendors shall return to the service provider all remaining stickers in their possession of the type and color that expire during 2008).
- H) On a periodic basis, but not less than monthly, the Secretary and the service provider shall reconcile their records of plates and stickers shipped by the Secretary to the service provider, plates and stickers issued by vendors to vehicle owners and for which the appropriate documentation and fees were received by the Secretary, plates and stickers returned by vendors to the service provider as unused, expired, damaged or voided, explanations provided by vendors for damaged or voided stickers and plates that have not been returned in whole or in part, and plates and stickers still in the actual possession of the service providers and vendors. The review and accounting of inventory and returned items shall be conducted in the manner prescribed by the Secretary. After these periodic reconciliations, the unused, expired, damaged or voided plates and stickers shall be returned to the Secretary and the Secretary shall issue the service provider a receipt for the returned inventory. A preliminary report of missing billable inventory for the preceding month shall be provided after these periodic reconciliations.
- I) Following the reconciliation after March 31, June 30, September 30 and December 31, the Secretary shall invoice the service provider for all plates or stickers unaccounted for during the preceding quarter. These reconciliations will be based on the reported inventory still in the possession of vendors. Service providers shall not receive credit for unaccounted for inventory items that are located after this quarterly reconciliation and billing.

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- J) The unaccounted for inventory shall be invoiced at the following rates. For unaccounted for stickers, the rate shall be \$100 per sticker. For unaccounted for plates that are intended to be sold as a set (e.g., passenger vehicle or truck plates) the rate shall be \$100 per set of plates. For unaccounted for plates that are intended to be sold individually (e.g., motorcycle or trailer plates) the rate shall be \$100 per plate. Payment in full must be made to the Secretary within 45 days after receipt of the notice from the Secretary of the amount due. Service providers may recover such payments from vendors pursuant to the contracts between the service providers and the vendors.
- K) Certain types of registration stickers are sold outside of the one-year process noted in subsection (c)(3)(G) (e.g., registrations of fleet vehicles). To accommodate these sales, after the return and reconciliation of all inventory as provided in subsections (c)(3)(H) and (I), the Secretary may re-issue preceding year stickers to service providers for the use of vendors engaging in sales of vehicles requiring these registrations. These re-issued stickers shall be tracked separately in the service provider's inventory control system. Not less than three months after these re-issued stickers may no longer be legally sold, all remaining inventory of these stickers shall be returned to the service provider by the vendor, and the stickers shall be subject to the final reconciliation and billing process set forth in subsection (c)(3)(I).
- L) The Secretary shall have the right to conduct physical inspections of the inventory of service providers and vendors during normal business hours.
- M) The Secretary shall have the right to suspend or revoke the right of service providers and/or vendors to participate in the ERT program for failure to comply with the inventory control provisions set forth in this subsection (c)(3), or for excessive or repeated incidents of unaccounted for inventory;
- 4) complying with all requirements of the Secretary of State and the Department of Revenue concerning the security of the electronic information and funds transmissions, the security of the registration plates

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and stickers, and maintaining an electronic inventory control system for the registration plates and stickers;

~~5) providing real-time access to the inventory control system by Secretary of State staff, auditors and Secretary of State Police for review, auditing, and inventory verification to ensure compliance with rules, policies and regulations, and for locating individual registration plates and stickers and determining to which vendor the individual registration plates and stickers were issued;~~

56) retaining records of all ERT transactions as directed by the Secretary;

67) posting a performance bond in an amount set by the Secretary, not to exceed \$1,000,000;

78) registering as a remittance agent pursuant to 625 ILCS 5/Ch. 3, Art. IX; and

89) complying with all other terms and conditions set forth in the agreement between the Secretary of State and the ERT service provider.

d) The ERT service provider shall enter into agreements with vendors for participation in the ERT program.

1) All vendors must be currently licensed and in good standing with their regulatory agencies before being selected to participate in this program.

2) The Secretary shall have the sole discretionary right to review and approve these agreements and shall have the right to approve, deny or revoke the right to participate in the ERT program by individual vendors. Retail merchants wishing to serve as vendors must be approved in advance by the Secretary. Any decision to deny or revoke an individual vendor's right to participate in the ERT program shall be based on:

A) the vendor's prior compliance with or violations of applicable statutes, rules and regulations;

B) the vendor's participation in the Secretary's temporary registration permit program and any violations of the rules and regulations of

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the temporary registration permit program found in Section 1010.421;

- C) violations by the vendor of this Section or violations of the terms of agreements entered into by the vendor in the ERT program;
 - D) the benefit to the public to be derived by the vendor's participation in the program; ~~and~~
 - E) the resources of the Secretary of State's office to support the vendor's participation in the program; ~~and~~.
 - F) The factors set forth in Section 1010.240(b)(2)(E)-(J).
 - 3) Vendors shall inform customers that utilizing the electronic registration and titling system is optional.
 - 4) The ERT program shall not be used to request or obtain specialty, vanity or personalized registration plates.
 - 5) Fees collected for ERT transactions are nonrefundable by the Secretary.
 - 6) Registration plates and stickers may only be issued at the time an ERT transaction is processed.
 - 7) Title, registration and registration renewal applications and other required documents shall be delivered to the Office of the Secretary of State within 20 days after vehicle sale, registration or registration renewal.
- e) Except as permitted by the Secretary during a transition period, no vendor may simultaneously participate in the ERT program and the Over-the-Counter Sales Program (see Section 1010.240).

(Source: Amended at 32 Ill. Reg. 17590, effective October 16, 2008)

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- 1) Heading of the Part: School Food Service
- 2) Code Citation: 23 Ill. Adm. Code 305
- 3)

| | |
|-------------------------|------------------------|
| <u>Section Numbers:</u> | <u>Adopted Action:</u> |
| 305.5 | Amendment |
| 305.10 | Amendment |
| 305.15 | Amendment |
- 4) Statutory Authority: 105 ILCS 125
- 5) Effective Date of Amendments: October 23, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? The rules do contain an incorporation by reference pursuant to Section 5-75 of the Illinois Administrative Procedure Act; see Section 305.15(a)(1)(F).
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: April 4, 2008; 32 Ill. Reg. 4692
- 10) Has JCAR issued a Statement of Objections to these amendments? No
- 11) Differences between proposal and final version: Proposed new Section 305.17, new Section 305.Appendix, A, and new Section 305.Appendix B were eliminated from the adopted amendments. In addition, other text that directly related to the imposition of new standards for food and beverage sales also was deleted in Section 305.5 (definition of à la carte entrée) and Section 305.15 (definition of school year).
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? All of the agreements issued by JCAR have been made in the rulemaking.
- 13) Will these amendments replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No

STATE BOARD OF EDUCATION

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- 15) Summary and Purpose of Amendments: The amendments, as originally proposed, responded to Section 305.15(f) of the rules governing School Food Service that directed the State Board of Education to initiate a revision to these rules following the release of the report of the School Wellness Policy Task Force recommending statewide nutrition requirements. The report was completed January 1, 2007. Based on the public comment received, the agency has determined that it is not appropriate to go forward with more stringent nutrition standards at this time. The proposed changes in the adopted rules that remain address public notification of the Illinois Free Lunch and Breakfast Programs and include other nonsubstantive, technical changes.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Chris Schmitt
Nutrition Programs
Illinois State Board of Education
100 North First Street, W-270
Springfield, Illinois 62777-0001

217/782-2491

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

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER i: FOOD PROGRAMS

PART 305

SCHOOL FOOD SERVICE

Section

| | |
|--------|--|
| 305.5 | Definitions |
| 305.10 | Illinois Free Lunch and Breakfast Programs |
| 305.15 | Sale of Foods and Beverages in Participating Schools |
| 305.20 | Student Workers |
| 305.30 | Government-Donated Commodities |

AUTHORITY: Implementing and authorized by the Richard B. Russell National School Lunch Act (42 USC 1751 et seq.), Child Nutrition Act of 1966 (42 USC 1771 et seq.), and the School Breakfast and Lunch Program Act [105 ILCS 125].

SOURCE: Peremptory rule adopted at 2 Ill. Reg. 45, p. 83, effective October 25, 1978; codified at 7 Ill. Reg. 14743; amended at 30 Ill. Reg. 17475, effective October 17, 2006; amended at 32 Ill. Reg. 17603, effective October 23, 2008.

Section 305.5 Definitions

"Eligible student" means a student eligible for free or reduced price meals under the School Breakfast Program (42 USC 1771 et seq.) and/or the National School Lunch Program (42 USC 1751 et seq.) in accordance with federal regulations found at 7 CFR 245.3 ([20082006](#)).

"Food service area" means any area on school premises where reimbursable meals are served and/or eaten.

"Meal period" means the period of time during which breakfast or lunch is regularly served and the time scheduled for the students to eat the meal.

"Participating school" means any public or nonpublic school that participates in the School Breakfast Program or the National School Lunch Program.

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"Reimbursable meal" means a meal meeting the definition of a "federal reimbursable meal", as set forth in regulations governing the School Breakfast Program (7 CFR 220.8 (~~20082006~~)) or the National School Lunch Program (7 CFR 210.10 (~~20082006~~)).

(Source: Amended at 32 Ill. Reg. 17603, effective October 23, 2008)

Section 305.10 Illinois Free Lunch and Breakfast Programs

- a) In accordance with Section 4 of the School Breakfast and Lunch Program Act [105 ILCS 125/4], every public school shall provide free lunches to students eligible to receive free meals in accordance with 7 CFR 245.3 (~~20082006~~).
- b) Every public school that offers a free breakfast program as defined in 105 ILCS 125/1 shall provide free breakfasts to students eligible to receive free meals in accordance with 7 CFR 245.3 (~~20082006~~).
- c) Every public school, at the beginning of each school year, must publicly announce the availability of free lunches and, as applicable, free breakfasts. This public notice may be published in a newspaper of general circulation for the school district, made available on the school district's website, provided in a school newsletter, or included with registration materials. The notice shall at least include the criteria used to determine eligibility for free meals, the process for applying for a free meal, and the name and telephone number of a contact person for the program. Copies of the notice also shall be made available upon request to any interested person.
- d) Public and nonpublic schools may claim State reimbursement for each reimbursable meal provided to students eligible to receive free meals in accordance with 7 CFR 245.3 (~~20082006~~).
- e) An accurate record of the actual number of free breakfasts and lunches served to children each day must be maintained.

(Source: Amended at 32 Ill. Reg. 17603, effective October 23, 2008)

Section 305.15 Sale of Foods and Beverages in Participating Schools

- a) Each~~Commencing on the first day of the 2006-07 school year, all~~ participating

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[schools](#) shall adhere to the following requirements for the sale of foods and beverages to students in grade 8 or below before school and during the regular school day.

- 1) Beverages sold to students shall include only:
 - A) flavored or plain whole, reduced fat (2 percent), low-fat (1 percent), or nonfat fluid milk that meets State and local standards for pasteurized fluid milk;
 - B) reduced fat and enriched alternative dairy beverages (i.e., rice, nut, or soy milk, or any other alternative dairy beverage approved by the U.S. Department of Agriculture (USDA));
 - C) fruit and vegetable drinks containing 50 percent or more fruit or vegetable juice;
 - D) water (non-flavored, non-sweetened, and non-carbonated);
 - E) fruit smoothie (yogurt or ice based) that contains less than 400 calories and no added sugars, and is made from fresh or frozen fruit or fruit drinks that contain at least 50 percent fruit juice; and
 - F) any beverage exempted from the USDA's list of Foods of Minimal Nutritional Value (see 7 CFR 210.11(a)(2) and 220.2(i-1) ([20082006](#))). The State Board of Education shall notify participating schools of these exemptions in January of each year; updates to the exemption list shall be provided within 10 calendar days after the State Board receives notification of any updates from USDA.
- 2) Food sold to students outside of food service areas or within food service areas other than during meal periods shall include only:
 - A) nuts, seeds, nut butters, eggs, cheese packaged for individual sale, fruits or non-fried vegetables, or low-fat yogurt products; or
 - B) any food item whose:

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- i) total calories from fat do not exceed 35 percent;
 - ii) total calories from saturated fat do not exceed 10 percent;
 - iii) total amount of sugar by weight does not exceed 35 percent; and
 - iv) calories do not exceed 200.
- 3) ~~During the 2006-07 school year only, a participating school may apply for an exemption from the requirements of this subsection (a) by submitting its request on a form prescribed by the State Board of Education. If the participating school is part of a public school district, then the school district shall submit the request.~~
- A) ~~A request for an exemption may be submitted for a participating school's vending machines or school stores in cases in which the participating school can demonstrate that its existing food or beverage contract does not allow the participating school to offer only foods or beverages meeting the requirements.~~
- i) ~~The request shall include a copy of the existing contract with the food service vendor.~~
 - ii) ~~The State Superintendent of Education shall approve a request provided that the application and existing contract demonstrate that, under the terms of the contract, the participating school would be unable to offer only foods and beverages meeting the requirements of this subsection (a).~~
- B) ~~A request for an exemption may be submitted for a participating school that includes both grades 8 and below and grades 9 and above in cases in which the participating school's food service facilities do not allow the participating school to distinguish between food and beverage sales to students in grades 8 and below and to students in grades 9 and above. The State Superintendent of Education shall approve a request provided that the participating school has demonstrated that accommodations (e.g., different~~

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~~schedules, separate food service lines, restricted access to vending machines) cannot be implemented to distinguish between the food and beverage sales to students in grades 8 and below and to students in grades 9 and above.~~

- b) None of the requirements of subsection (a) of this Section shall apply to any food or beverage item sold to students as part of a reimbursable meal or to foods sold within food service areas during meal periods.
- c) None of the requirements of subsection (a) of this Section shall apply to any food or beverage item sold to a student who presents a written recommendation for that food or beverage item signed by a physician licensed under the Medical Practice Act of 1987 [225 ILCS 60] to practice medicine in all of its branches.
- d) If a participating school serves students in both grades 8 and below and students in grades 9 and above, then the participating school shall ensure that food and beverage sales to students in grades 8 and below meet the requirements of this Section, ~~except as otherwise provided in subsection (a)(3) of this Section.~~
- e) All revenue from the sale of any food or beverage sold in competition with the School Breakfast Program or National School Lunch Program to students in the food service areas during the meal period shall accrue to the nonprofit school lunch program account.
- f) ~~During the month of January 2007, or immediately following the release of the report of the School Wellness Policy Task Force (should it be after January 2007), the State Board of Education shall initiate a revision to the food and beverage standards set forth in this Part that responds to the statewide nutrition standards recommended by the Task Force in accordance with Section 2-3.137 of the School Code [105 ILCS 5/2-3.137] (see P.A. 94-199).~~
- f)g) Any participating schools in which classes of grades 5 and below are operating shall prohibit the sale to students of all confections, candy and potato chips during meal periods.

(Source: Amended at 32 Ill. Reg. 17603, effective October 23, 2008)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of October 21, 2008 through October 27, 2008 and have been scheduled for review by the Committee at its November 18, 2008 meeting. 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> |
|------------------------------|---|----------------------------------|---------------------|
| 12/3/08 | <u>Department of Natural Resources</u> , Late-Winter Deer Hunting Season (17 Ill. Adm. Code 680) | 8/22/08 32 Ill. Reg. 13832 | 11/18/08 |
| 12/3/08 | <u>Department of Natural Resources</u> , Special White-Tailed Deer Season for Disease Control (17 Ill. Adm. Code 675) | 8/22/08 32 Ill. Reg. 13827 | 11/18/08 |
| 12/5/08 | <u>Department of Natural Resources</u> , The Taking of Wild Turkeys – Spring Season (17 Ill. Adm. Code 710) | 9/5/08 32 Ill. Reg. 14378 | 11/18/08 |
| 12/5/08 | <u>Department of Natural Resources</u> , Special Wildlife Funds Grant Program (17 Ill. Adm. Code 3060) | 9/5/08 32 Ill. Reg. 14413 | 11/18/08 |
| 12/6/08 | <u>State Board of Education</u> , Incentive Grants for Agricultural Science Teacher Education (23 Ill. Adm. Code 75) | 9/5/08 32 Ill. Reg. 14489 | 11/18/08 |
| 12/7/08 | <u>Department of Employment Security</u> , Claims, Adjudication, Appeals and Hearings (56 Ill. Adm. Code 2720) | 7/18/08 32 Ill. Reg. 10693 | 11/18/08 |
| 12/7/08 | <u>Department of Employment Security</u> , Payment of Benefits (56 Ill. Adm. Code 2830) | 7/18/08 32 Ill. Reg. 10751 | 11/18/08 |

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

| | | | |
|---------|--|----------------------------------|----------|
| 12/7/08 | <u>Department of Employment Security</u> , Determination of Unemployment Contributions (56 Ill. Adm. Code 2770) | 7/18/08 32 Ill. Reg. 10738 | 11/18/08 |
| 12/7/08 | <u>Department of Employment Security</u> , Recovery of Benefits (56 Ill. Adm. Code 2835) | 7/18/08 32 Ill. Reg. 10758 | 11/18/08 |
| 12/7/08 | <u>Department of Employment Security</u> , Claimant's Availability for Work, Ability to Work and Active Search for Work (56 Ill. Adm. Code 2865) | 7/18/08 32 Ill. Reg. 10768 | 11/18/08 |
| 12/7/08 | <u>Department of Financial and Professional Regulation</u> , Consumer Installment Loan Act (38 Ill. Adm. Code 110) | 8/8/08 32 Ill. Reg. 13127 | 11/18/08 |

ILLINOIS ATTORNEY GENERAL

NOTICE OF PUBLIC INFORMATION

NOTICE OF LODGING OF PARTIAL CONSENT DECREES PURSUANT TO THE
COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY
ACT

In accordance with 42 U.S.C. 9622(d)(2)(A) and (B), notice is hereby given that, in the case of People of the State of Illinois, *ex rel.*, Lisa Madigan, Attorney General of the State of Illinois v. Pharmacia Corporation, *et al.*, Civil Action No. 05-CV-197 (S.D. Illinois), on May 10, 2008, two proposed Partial Consent Decrees were lodged with the United States District Court for the Southern District of Illinois and on June 17, 2008, a third proposed Partial Consent Decree was also lodged with the Court.

This action under Section 107(a) of the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. 9607(a), involves Superfund Sites in Sauget, Cahokia, and East St. Louis, Illinois, commonly known as the Sauget Area Sites. Under the Amended Complaint, Illinois seeks recovery of past costs from a number of Defendants.

One Partial Consent Decree is with Cyprus Amax Minerals Company, the second with the Village of Sauget and the third is with ExxonMobil Oil Corporation and Cerro Flow Products, Inc. Under these Partial Consent Decrees, the Settling Defendants agree to reimburse the Illinois Environmental Protection Agency for a portion of its past costs incurred with regard to the Sauget Area Sites and covenant not to sue the State for any costs relating to the Site.

The Illinois Attorney General's Office will accept, for a period of thirty days from the date of publication of this Notice, comments relating to the Partial Consent Decrees. Comments should be addressed to James L. Morgan, Senior Assistant Attorney General, Environmental Bureau, 500 South Second Street, Springfield, Illinois, 62706, and should refer to case of People of the State of Illinois, *ex rel.*, Lisa Madigan, Attorney General of the State of Illinois v. Pharmacia Corporation, *et al.*, Civil Action No. 05-CV-197. A copy of each Partial Consent Decree may be obtained by mailing a request to James Morgan at the address in the paragraph above, by faxing the request to 217-524-7740, or by e-mailing the request to jmorgan@atg.state.il.us. The Partial Consent Decrees may also be examined at the Office of the Attorney General, 3000 Montvale Avenue, Springfield, Illinois.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLIC MEETING

There will be a special JCAR meeting held on November 12, 2008 at 11:00 a.m. in the Stratton Office Bldg., Room A-1 to discuss the suspensions on the Department of Healthcare and Family Services peremptory rulemakings titled "Medical Assistance Programs" (89 Ill. Adm. Code 120; 32 Ill. Reg. 7212) and "Medical Payment" (89 Ill. Adm. Code 140; 32 Ill. Reg. 6743).

PROCLAMATIONS

2008-411**Steve Burke Day**

WHEREAS, head men's soccer coach Steve Burke of Judson University in Elgin entered the 2008 season needing just seven wins to surpass Rockhurst College's Tony Tocco to become the National Association of Intercollegiate Athletics (NAIA) all-time career wins leader for men's soccer with 438 wins; and

WHEREAS, on October 1, 2008, Burke tied the record of 437 career wins with a 1-0 win over Trinity Christian College in Palos Heights, Illinois; and

WHEREAS, on October 4, 2008 Burke became the NAIA all-time career wins leader with 438 wins in his 25th season at Judson University with a 1-0 win over Trinity International University, coached by former Judson men's soccer player Patrick Gilliam; and

WHEREAS, Burke's outstanding record as head men's soccer coach now takes its place among the most notable athletic achievements in the history of both Judson University and the State of Illinois; and

WHEREAS, on Saturday, October 25, Judson University will honor Steve Burke for his accomplishment and his career with the Steve Burke Celebration Day:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 25, 2008, as **STEVE BURKE DAY** in Illinois, in recognition of this outstanding athletic achievement and join former players, alumni, and friends of Judson University in congratulating Steve Burke on his major accomplishment of 438 wins.

Issued by the Governor October 17, 2008

Filed by the Secretary of State October 24, 2008.

2008-412**Edward M. Smith Day**

WHEREAS, Edward M. Smith is a Southern Illinois native, Shawnee High School graduate, Shawnee Community College Alumnus and Olive Branch resident; and

WHEREAS, Smith was a 6'2" member of Shawnee Community College's inaugural basketball team, where he was a pure shooter who had great confidence in his jump shot, and he was a Southern Illinois "Pistol" Pete Maravich for the 1973 sectional champions; and

PROCLAMATIONS

WHEREAS, he used the relationships, skill and dedication that he gained from his experience as a Shawnee Community College Saint to improve the lives of working men and women throughout America and Canada; and

WHEREAS, since joining the Laborer's International Union of North America at the age of 13, Smith has devoted decades to fighting tirelessly for broader rights, better healthcare, improved education and training, and stronger organization for working men and women; and

WHEREAS, Smith is all about the average working person, because that is his life's story, his life's work, his life's fight, and that is the person who motivates everything he does; and

WHEREAS, Smith has worked tirelessly for the public good, and served in critical leadership positions with the Illinois State Board of Investment, Illinois Department of Labor Advisory Board, and the National Alliance for Fair Contracting; and

WHEREAS, he has also dedicated his life to his children Jordan and Matt, who have gone on to continue his fight for better conditions, healthcare, rights, organization and education for people who work to get things done; and

WHEREAS, Smith is a shining example and testament to the heights one can reach with the experience, knowledge, and purpose gained at Shawnee Community College; and

WHEREAS, in light of his lifetime of achievements for working people, Shawnee Community College has decided to name the school's gymnasium as the Edward M. Smith Center; and

WHEREAS, while naming a public edifice is a greater and more lasting testament to Edward M. Smith than any honor the State of Illinois can bestow, the State still wishes to honor his tireless service to the working people throughout Southern Illinois and all of Illinois:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 18, 2008 as **EDWARD M. SMITH DAY** in Illinois, in honor of the hard working men and women across the state.

Issued by the Governor October 17, 2008

Filed by the Secretary of State October 24, 2008.

PROCLAMATIONS

2008-413**Latino Mental Health Awareness Day**

WHEREAS, the Latino Mental Health Conference was created in 1992 in response to the lack of resources and information available for Spanish-speaking residents suffering from mental health problems and substance abuse. Latinos are identified as a high-risk group for depression, anxiety and substance abuse; and

WHEREAS, this year's conference will be held on October 30 and features two keynote speakers, one panel and eleven workshops focused on issues impacting the Latino community. Special consideration has been taken to provide the theoretical and practical tools on topics and issues relevant to mental health professionals, social service workers and educators; and

WHEREAS, the 2008 Latino Mental Health Conference is a collaborative effort by the Latino Mental Health Conference Task Force: Illinois Department of Human Services, Pilsen Wellness Center Inc., Mercy Home for Boys and Girls, Boys Town Chicago Inc., Illinois Migrant Council, Chicago Commission on Human Relations, Northern Illinois University and their sponsors; and

WHEREAS, the conference strives to increase awareness, knowledge and skills on mental health and substance abuse treatment needs of Latinos, to increase access to bicultural and bilingual treatment, and to increase the competence of professionals in the treatment of Latinos through lectures and workshops:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 30, 2008 as **LATINO MENTAL HEALTH AWARENESS DAY** in Illinois, and encourage all citizens to unite to improve the quality of life for people in Illinois suffering from mental health problems and substance abuse.

Issued by the Governor October 20, 2008
Filed by the Secretary of State October 24, 2008.

2008-414**Slovenian Cultural Center Day**

WHEREAS, thousands of people of Slovenian heritage have chosen Illinois as their home and have contributed much to the progress and development of the State; and

WHEREAS, the Slovenian Cultural Center in Lemont, Illinois is a non-profit organization with over 600 members; and

PROCLAMATIONS

WHEREAS, the Slovenian Cultural Center is celebrating its 13th anniversary by setting aside time to enhance cultural awareness and to encourage Slovenian Americans of all ages to work together toward common goals; and

WHEREAS, the Slovenian Cultural Center includes all age groups, provides educational programs strengthening cultural and spiritual roots, sponsors workshops, organizes youth activities, and offers cultural events in the arts; and

WHEREAS, Slovenian-Americans living in Illinois, joined in spirit by Slovenian-Americans living nationwide, and by numerous persons with a mien toward Slovenian traditions and values, will celebrate the 13th anniversary of the founding of the Slovenian Cultural Center in Lemont, Illinois, on November 9, 2008:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 9, 2008 as **SLOVENIAN CULTURAL CENTER DAY** in Illinois, and encourage all citizens to join in celebration of the rich Slovenian culture and heritage.

Issued by the Governor October 21, 2008

Filed by the Secretary of State October 24, 2008.

2008-415**Cancer Awareness Day**

WHEREAS, the State of Illinois has the 14th highest overall cancer incidence rate and will have more than 62,010 cancer diagnoses among Illinois residents this year; and

WHEREAS, more than 10 million Americans are currently living with, through or beyond cancer; more than 1.4 million people in the United States will be diagnosed with cancer this year; and more than 565,000 Americans will die of cancer, equaling more than 1,500 people every day; and

WHEREAS, increased public awareness and knowledge of healthy lifestyles, including good nutrition, daily exercise, the regular use of sunscreen, and the elimination of tobacco use and exposure to second-hand smoke may lead to a reduced risk of cancer; and

WHEREAS, continued research is needed to understand the causes, discover possible prevention strategies, develop effective screening methods, and find improved treatment options and an eventual cure for all forms of cancer:

PROCLAMATIONS

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim December 1, 2008 as **CANCER AWARENESS DAY** in Illinois, and encourage all citizens to work together to increase awareness of all forms of cancer and to promote continued research into the causes of and cures for cancer.

Issued by the Governor October 21, 2008
Filed by the Secretary of State October 24, 2008.

2008-416**Sgt. John M. Penich**

WHEREAS, on Thursday, October 16, Army Sergeant John M. Penich from Beach Park died at age 25 of injuries sustained from indirect fire in Karangol Village, Afghanistan, where Sgt. Penich was serving in support of Operation Enduring Freedom; and

WHEREAS, Sgt. Penich, an avid outdoorsman and a 2001 graduate of Zion-Benton Township High School, told his family he wanted to serve his country and joined the Army in part due to the events of September 11, 2001; and

WHEREAS, assigned to B Company, 1st Battalion, 26th Infantry Regiment, 1st Infantry Division, based in Fort Hood, Texas, Sgt. Penich was on his first overseas deployment since his enlistment two years ago; and

WHEREAS, a funeral will be held on Tuesday, October 28 for Sgt. Penich, who is survived by his mother and father:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby order all State facilities to fly their flags at half-staff from sunrise on October 26, 2008 until sunset on October 28, 2008 in honor and remembrance of Sgt. Penich, whose selfless service and sacrifice is an inspiration.

Issued by the Governor October 23, 2008
Filed by the Secretary of State October 24, 2008.

ILLINOIS ADMINISTRATIVE CODE

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