

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

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

<u>Section Numbers:</u>	<u>Proposed Action:</u>
130.350	Amendment
130.351	Amendment
- 4) Statutory Authority: 20 ILCS 2505/2505-25
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends Sections 130.350 and 130.351 to reflect the retroactive reinstatement of the exemptions for coal and aggregate exploration, mining, off highway hauling, processing, maintenance, and reclamation equipment. This rulemaking adds language to show new kinds of exploration equipment, adds items that are commonly used as part of the coal and aggregate processes (e.g., generally newer technologies), and is updated to reflect equipment exempted in recent letter rulings (e.g., equipment used in blasting activities). This rulemaking specifies that roof bolts qualify for these exemptions and includes the statutory provision that the Department will not approve any claims or refunds on or after August 16, 2013, for taxes due or paid during the period beginning July 1, 2003 through August 16, 2013.

Language was added to these Sections to provide that beginning July 1, 2014, a purchaser may only earn Manufacturer's Purchase Credit (MPC) on purchases of qualifying Manufacturing Machinery and Equipment; purchasers claiming the aggregate or coal exemption cannot earn MPC.

This rulemaking points out that because these exemptions were not excepted from the sunset provisions of Section 2-70 of the Retailers' Occupation Tax Act, they will sunset by operation of law August 16, 2018.

Finally, changes were made to the heading of Section 130.351 to more accurately reflect the nature of the exemption. Currently, the heading of this Section is Aggregate Manufacturing. This rulemaking changes the heading to Aggregate Exploration, Mining, Off Highway Hauling, Processing, Maintenance, and Reclamation Equipment.
- 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. This exemption will terminate by operation of the sunset provisions of Section 2-70 of the Retailers' Occupation Tax Act.

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- 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>
130.120	Amendment	38 Ill. Reg. 1818, January 17, 2014
130.321	Amendment	38 Ill. Reg. 7555, April 4, 2014

- 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 proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

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

(217) 782-2844

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Suppliers of equipment to the coal and aggregate industries.
- B) Reporting, bookkeeping or other procedures required for compliance: Bookkeeping and recordkeeping.
- C) Types of professional skills necessary for compliance: Bookkeeping.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2014

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

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SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.350 Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

- a) General. ~~Notwithstanding any other provision of this Section, the~~ The exemption provided in this Section terminated on is effective through June 30, 2003, pursuant to P.A. 93-24. On and after July 1, 2003, P.A. 98-0456, effective August 16, 2013, reinstated the coal exemption retroactive to July 1, 2003. The Department, however, will not approve any claims or refunds on or after August 16, 2013, for taxes due or paid during the period beginning July 1, 2003 through August 16, 2013. The exemption for coal exploration, mining, off highway hauling, processing, maintenance, and reclamation equipment will terminate by operation of the sunset provisions of Section 2-70 of the Retailers' Occupation Tax Act on August 16, 2018. ~~Prior to June 24, 1996, notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax Act does not apply to sales of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment costing \$250 or more. The exemption also applies to individual replacement parts for coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment when the replacement part costs \$250 or more. Equipment and parts sold by the linear foot or similar measurement qualify for the exemption if the cost of the total length sold in an individual transaction or sale exceeds \$250. The exemption also applies to equipment and replacement parts costing \$250 or more purchased for lease if those items are used primarily (more than 50%) in the activities noted above. The exemption does not apply to motor vehicles required to be registered pursuant to the Illinois Vehicle Code [625 ILCS 5]. On and after June 24, 1996, the exemption is not conditioned upon the \$250 purchase threshold requirement.~~
- 4) This exemption applies only to equipment used primarily in coal exploration, mining, off highway hauling, processing, maintenance, and reclamation. Equipment used 50% or less in Use of the equipment in any other exploration, mining, off highway hauling, processing, maintenance, and or reclamation will not qualify for this exemption. Excluded from this exemption are motor vehicles required to be registered pursuant to the Illinois Vehicle Code. Special mobile equipment other than motor vehicles may qualify for the exemption if it is used primarily in coal exploration, mining, off highway hauling, processing, maintenance, and or reclamation. This exemption does not include supplies (such as chemicals, rust inhibitors, and adhesives and explosives), coolants, lubricants, inert limestone, magnetite and other materials added to the coal washing medium, reclamation materials (such as seed, plants and limestone), items of personal apparel (such as gloves, shoes, hats, helmets, coveralls, masks, mask air filters, belts, harnesses or holsters) or fuel of any type.

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b) Definitions

- 1) "Coal" means a mineral deposit or finished product comprised of combustible, carbon based plant fossil matter used as fuel.
- 2) "Coal Exploration" means the search for coal. Exploration includes, but is not limited to, geophysical exploration, excavating and drilling to locate coal deposits.
- 3) "Kits" means commercially-packaged sets of parts which are ordered from a manufacturer, inventoried, and sold by a retailer as a single item. Prior to June 24, 1996, a kit will be treated as a single item for purposes of the \$250 per item limitation. The \$250 per item limitation is also satisfied when an item to be used primarily in a qualifying activity is assembled by the retailer at the time of sale from components selected by the purchaser and which is sold as a unit if the unit, as sold, costs \$250 or more. On and after June 24, 1996, there is no such limitation. An example would be a "tire assembly" comprised of the rim, tire, foam filling and valve stem.
- 4) "Maintenance" means keeping coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment in a state of repair and efficiency.
- ~~53)~~ "Mining" means the extraction of coal from the earth by underground and surface mining and includes the extraction of coal by the mine owner or operator, ~~or his nonpurchaser successors from the waste or residue of prior mining.~~
- ~~64)~~ "Off Highway Hauling" means carrying or transporting and would include transport of overburden, waste material, including gob from the processing facility for disposal, and coal from the coal seam to the processing facility by conveyors or unlicensed vehicles, and conveying coal from the beginning of the processing cycle through the last stage of coal production which ends at the time the coal is stored.
- ~~75)~~ "Processing" means preparation activities performed directly on the coal which are necessary for converting coal into a finished product so that it is ready for sale or the reprocessing of coal mine waste to extract and recycle coal from the waste by the mine owner, or operator or a third party contractor or successor. Processing includes, but is not limited to, sizing, crushing, drying and washing.
- 6) ~~"Maintenance" means keeping coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment in a state of repair and efficiency.~~

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- 87) "Reclamation" means conditioning areas affected by mining operations. Examples of reclamation activities include, but are not limited to, backfilling, grading, seeding and planting.
- 98) "Replacement Parts" means parts that are used to replace parts of qualifying equipment and that require periodic replacement. To be considered a replacement part, the part must be purchased for the purpose of being installed and must, in fact, become a physical component part of coal exploration, mining, off highway hauling, processing, maintenance or reclamation equipment. ~~Prior to June 24, 1996, there is a requirement that such replacement parts cost \$250 or more. On and after June 24, 1996, there is no such limitation.~~
- 10) "Used primarily" means equipment that is used more than 50% of the time in coal exploration, mining, off highway hauling, processing, maintenance, and reclamation.
- ~~9)~~ ~~"Kits" means commercially packaged sets of parts which are ordered from a manufacturer, inventoried, and sold by a retailer as a single item. Prior to June 24, 1996, a kit will be treated as a single item for purposes of the \$250 per item limitation. The \$250 per item limitation is also satisfied when an item to be used primarily in a qualifying activity is assembled by the retailer at the time of sale from components selected by the purchaser and which is sold as a unit if the unit, as sold, costs \$250 or more. On and after June 24, 1996, there is no such limitation. An exempt example would be a "tire assembly" comprised of the rim, tire, foam filling and valve stem.~~

cb) Exempt Activities

By way of illustration and not limitation, the following activities will be considered to constitute coal exploration, mining, off highway hauling, processing, ~~or maintenance, and~~ reclamation:

- 1) Coal is produced in a surface mining operation that begins with locating the coal deposit to be mined, ~~the~~ clearing of surface obstacles and overburden from the land above the coal deposit to be mined, continues with the removal of waste material and with the extraction of the coal, continues with the transportation from the coal seam to the processing facility, continues further with the refilling and grading of the mined area with overburden and waste material from a subsequently mined area, continues further with the processing of the coal, and ends with the stockpiling of the coal to allow moisture to drain and evaporate from the washed coal. By way of illustration and not limitation, the following equipment is exempt:

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- A) Geophysical surveying, excavating, dredging and drilling machinery and equipment used primarily to locate surface mine coal deposits (e.g., data logger transducer; photoionization detector; optical televiewer; acoustic televiewer; petrographic survey equipment; and inclinometer survey equipment).
- BA) Equipment used primarily to drill and load holes for blasting material to dislodge the overburden; blasting agents (such as ammonium nitrate and fuel oil or ANFO); equipment used primarily to ignite blasting agents including, but not limited to, high explosives, detonators, lead-in lines and blasting machines; and equipment used primarily and to transport the blasting material.
- C-B) Equipment used primarily to remove overburden and other waste materials from the pit to be mined.
- DC) Equipment used primarily to modify the energy purchased for the surface mining process if the equipment is used to modify the energy for use on exempt equipment (e.g., transformers, capacitors and other equipment used to reduce, increase, stabilize or otherwise control the amperage, voltage, or frequency of the electric current and transmit the electrical current to coal mining and processing equipment.
- ED) Pumps and hoses used primarily to remove water or to divert water from the active pit area.
- FE) Equipment used primarily to load the overburden, waste material or coal to be transported to the processing facility into off highway haulage trucks or onto a conveyor system.
- G) Equipment used primarily to extract coal from the earth.
- HF) Unlicensed off highway haulage trucks or a conveyor system to transport overburden, waste material or coal to the processing facility.
- IG) Equipment used primarily to backfill, grade, seed, plant, or otherwise reclaim previously mined land. Equipment used in grading, refilling and covering over a previously mined pit with the overburden removed from the next pit being mined.
- H) Tangible personal property used in or for the purpose of temporarily storing raw coal before processing is exempt if the raw coal is ultimately processed for resale and is in fact resold.

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- J) Equipment used primarily in a coal wash plant to clean the coal prior to sale to customers. Equipment used primarily in the cleaning, sizing, or grading of coal in a coal preparation plant may qualify as manufacturing machinery and equipment (see Section 130.330).
 - K) Equipment used primarily to blend different grades of coal together so that the final product meets customer specifications regarding quality and sulfur content.
 - L) Electrical cable that is part of an electrical distribution system supplying electricity to exempt equipment in the field (e.g., draglines and shovels that move and load overburden and shovels that load coal in the pit).
 - M) Computers and electrical control panels integral to and used primarily to operate exempt equipment used in coal exploration, mining, off highway hauling, processing, maintenance, and reclamation.
 - N) Remote audio visual equipment integral to and used primarily in connection with coal exploration, mining, off highway hauling, processing, maintenance, and reclamation.
 - O) Electric generators used primarily to power exempt coal exploration, mining, off highway hauling, processing, maintenance, and reclamation equipment.
 - P) Communication equipment integral to and used primarily in production and operation activities in connection with coal exploration, mining, off highway hauling, processing, maintenance, and reclamation equipment.
- 2) Coal is produced in an underground mining operation that begins with locating the coal deposit to be mined, continues with the boring of a shaft from the surface to the coal deposit to be mined, continues with the removal of waste material and the extraction of coal, continues further with the transportation from the coal seam to the processing facility, continues further with the installation of roof supports and the coating of walls with rock dust to prevent mine explosions and collapse, continues further with the processing of coal and disposal of waste material from the mine and processing facility, and ends with the stockpiling of coal to allow moisture to drain and evaporate from the washed coal. By way of illustration and not limitation, the following equipment is exempt:
- A) Geophysical surveying, excavating, and drilling machinery and equipment used primarily to locate underground mine coal deposits (e.g., data logger transducer; photoionization detector; optical televiewer; acoustic televiewer;

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petrographic survey equipment; and inclinometer survey equipment).
~~Continuous miners used to bore the shaft, cut the coal and load it into shuttle cars.~~

- B) Equipment used primarily to create access to the coal deposit (e.g., a rotary drill or a track drill), equipment used primarily to sever coal from the deposit (e.g., continuous miners and long wall mining equipment), and equipment used primarily to load coal onto conveyor belts, into trucks or other conveyances used to transport coal from the deposit to the processing operation (e.g., shuttle cars and battery powered haulers).
- ~~CB)~~ Shuttle cars used primarily to transport the coal from the point of severance ~~continuous miner~~ to the feeder-breaker at the end of a conveyor belt or other transportation system.
- ~~DG)~~ The feeder-breaker which breaks the large lumps of coal and feeds the coal onto the conveyor belt which carries the coal outside the mine where it is temporarily stockpiled or transported to the processing facility.
- ~~E D)~~ Equipment used primarily to modify the energy purchased for the underground mining process if the equipment is used to modify the energy for use on exempt equipment e.g., transformers, capacitors and other equipment used to reduce, increase, stabilize or otherwise control the amperage, voltage or frequency of the electrical current and transmit the electrical current to mining and processing equipment.
- ~~FE)~~ Pumps and hoses, pipng and discharge apparatus used primarily in the movement or to removal of water or to divert water from the underground mine area.
- ~~GF)~~ Equipment used primarily to install roof bolts, roof bolt supports and side rib bolt supports and in scaling (e.g., the removal of loose rock and slabs of rock) prior to roof bolting to prevent mine collapse.
- ~~H)~~ Roof bolts and plates, side rib bolts and plates, and epoxy resin cartridges used primarily to secure roof bolts and side rib bolts installed to prevent mine collapse.
- ~~IG)~~ Equipment used primarily to coat mine walls with inert limestone as the coal is removed to prevent explosions caused by the escape of volatile materials.

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- JH) Equipment installed as improvements to real estate in underground mining such as elevators, rail, ventilating and illuminating systems including the foundations for such equipment as long as those foundations are located within the underground mine.
- KI) ~~The use of equipment~~ Equipment used primarily in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of underground mine structures. Materials, such as lumber, steel, concrete, rock and other building materials, qualify for the exemption only when used in underground mine structures, including use as roof support to prevent mine collapse.
- LJ) Additions to exempt underground rail conveyors, ventilating and illumination systems due to the progression of mining ~~will be considered as exempt, as long as, prior to June 24, 1996, the addition is valued at \$250 or more. On and after June 24, 1996, there is no such limitation.~~
- MK) Longwall equipment consisting of shields, shearers, face conveyors and ~~related~~ equipment used primarily for recovery, handling and transportation of longwall equipment.
- N) Machinery and equipment used primarily to transport coal to above ground facilities.
- O) Machinery and equipment used primarily to convey coal from the beginning of the processing cycle through the last stage of coal production.
- L) ~~Tangible personal property used in or for the purpose of temporarily storing raw coal before processing is exempt if the raw coal is ultimately processed for resale and is in fact resold.~~
- PM) Equipment used primarily in a coal wash plant to clean the coal prior to sale to customers. Equipment used primarily in the cleaning, sizing, or grading of coal in a coal preparation plant may qualify as manufacturing machinery and equipment (see Section 130.330).
- QN) Equipment used primarily to blend different grades of coal together so that the final product meets customer specifications regarding quality and sulfur content.
- RO) Equipment, other than motor vehicles required to be registered pursuant to the Illinois Vehicle Code, used primarily to transport miners into and out of an

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underground mine (e.g., mantrips, utility vehicles, mobile equipment and scoops). Roof bolt supports and side rib bolt supports to prevent mine collapse.

- S) Electrical cable that is part of an electrical distribution system supplying electricity to exempt equipment at the mine site (e.g., draglines and shovels that move and load overburden and shovels that load coal in the pit).
 - T) Computers and electrical control panels integral to and used primarily to operate exempt equipment used in coal exploration, mining, off highway hauling, processing, maintenance, and reclamation.
 - U) Remote audio visual equipment integral to and used primarily in connection with exempt coal exploration, mining, off highway hauling, processing, maintenance, and reclamation equipment.
 - V) Electrical generators used primarily to power exempt coal exploration, mining, off highway hauling, processing, maintenance, and reclamation equipment.
 - W) Communication equipment integral to and used primarily in production and operation activities in connection with exempt coal exploration, mining, off highway hauling, processing, maintenance, and reclamation equipment.
- 3) By way of illustration and not limitation, the following maintenance equipment is exempt:
- A) Unlicensed maintenance and welding trucks used primarily for field repair of exempt equipment.
 - B) Lathes, drill presses, air compressors and welders used primarily to build, modify or rework ~~work~~ exempt repair parts or equipment.
 - C) Mobile and overhead cranes and manlifts used primarily in connection with exempt coal exploration, mining, off highway hauling, processing, maintenance, and reclamation.
- 4) By way of illustration and not limitation, the following coal exploration equipment is exempt unless registered pursuant to the Illinois Vehicle Code:
- A) Drill rigs used primarily to drill exploration core holes.
 - B) Water trucks used primarily in the drilling process.

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C) Winch and casing trucks used primarily in the drilling process.

D) Field maintenance trucks used primarily to make repairs on exempt field equipment.

E) Air compressors used in connection with exempt coal exploration, mining, off highway hauling, processing, maintenance, and reclamation.

de) Nonexempt Activities

By way of illustration and not limitation, the following activities will not be considered to constitute coal exploration, mining, off highway hauling, processing, or maintenance, and reclamation:

- 1) The use of equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of real estate except for underground mine structures. Material, such as lumber, steel, concrete, rock and other building materials, will not qualify for the exemption except when used in underground mine structures, such as roof support to prevent mine collapse;
- 2) the use of equipment in research and development for new uses of coal;
- 3) the use of equipment, trailers, sheds or structures in management, sales or other nonproduction, nonoperational activities including production or extraction scheduling, purchasing, receiving, accounting, fiscal management, communications equipment (e.g., radios and phones), security, marketing, product exhibition and promotion, personnel recruitment, selection or training;
- 4) the use of equipment to prevent or fight fires or other mining hazards, protective supplies such as face masks, gas masks, helmets, gloves, coveralls, goggles, or first aid equipment and supplies, rescue chambers, self-rescuers, protective mine shelters or tracking devices (e.g., Global Positioning Systems or similar devices) even though such equipment and supplies may be required by law;
- 5) the use of equipment for general ventilation, heating, cooling, climate control or general illumination not specifically required for the exploration, mining, off highway hauling, processing, and or reclamation operation;
- 6) the use of facilities for storing coal after extraction and processing;
- 7) the use of front-end loaders, cranes, equipment used to load coal onto trucks, railcars or barges for delivery to customers;-

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- 8) the use of concrete foundations and support structures for ventilation equipment used above ground.
- ed) Sales to Lessors of Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

- 1) For the exemption to apply, the purchaser need not, himself, employ the equipment in coal exploration, mining, off highway hauling, processing, maintenance and ~~or~~ reclamation production. If the purchaser leases the equipment to a lessee who uses it primarily in a qualified manner, the sale to the purchaser-lessor will be eligible for the exemption.

A supplier may exclude such sales from his taxable gross receipts if the purchaser-lessor provides him with a properly completed certificate and the information contained therein would support an exemption ~~a reduction~~ if the sale were made directly to the lessee.

- 2) Should a purchaser-lessor subsequently lease the equipment to a lessee who does not use it primarily in a way that would qualify for the exemption ~~reduction~~, the purchaser-lessor will become liable for the tax which he previously did not pay.

fe) Purchaser Certification

Certificates must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily for coal exploration, mining, off highway hauling, processing, maintenance, and ~~or~~ reclamation. If a purchaser can claim either the exemption under this Section or the Manufacturing Machinery and Equipment exemption, the purchaser must specify on the certificate which exemption the purchaser is claiming. Manufacturer's Purchase Credit can only be earned on purchases of qualifying Manufacturing Machinery and Equipment (see 86 Ill. Adm. Code 130.330 and 130.331). Purchasers claiming the exemption under this Section cannot earn Manufacturer's Purchase Credit. Sellers may accept blanket certificates, but have the responsibility to obtain and keep all certificates as part of their books and records. If a retailer accepts the certificate and the purchaser does not, in fact, use the equipment in a qualifying manner, the purchaser will be liable to the Department for the tax. Equipment which is initially used primarily in a qualifying manner and, having been so used for less than one-half of its useful life, is converted to nonqualified uses, will become subject to tax at the time of conversion. Replacement parts purchased initially for use in a qualifying manner and used in a nonqualifying use will become subject to tax at the time of use.

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(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 130.351 Aggregate Exploration, Mining, Off Highway Hauling, Processing, Maintenance, and Reclamation Equipment Aggregate Manufacturing

- a) General. The exemption provided in this Section terminated on Through June 30, 2003, pursuant to P.A. 93-24. P.A. 98-0456, effective August 16, 2013, reinstated the aggregate exemption retroactive to July 1, 2003. The Department, however, will not approve any claims or refunds on or after August 16, 2013, for taxes due or paid during the period beginning July 1, 2003 through August 16, 2013. The exemption for aggregate exploration, mining, off highway hauling, processing, maintenance, and reclamation equipment will terminate by operation of the sunset provisions of Section 2-70 of the Retailers' Occupation Tax Act on August 16, 2018. Notwithstanding notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax Act does not apply to sales of aggregate exploration, mining, off highway hauling, processing, maintenance, and reclamation equipment used primarily for the exploration and mining of mineral deposits and for the manufacture of resultant aggregate products. The exemption also applies to individual replacement parts for exempt aggregate exploration, mining, off highway hauling, processing, maintenance, and reclamation equipment. The exemption also applies to equipment and replacement parts purchased for lease if those items are used primarily (more than 50%) in the activities noted above. The exemption does not apply to motor vehicles required to be registered pursuant to the Illinois Vehicle Code [625 ILCS 5].
- 1) ~~"Aggregate" shall mean any mineral deposit or finished product including but not limited to sand, gravel, stone, clay, industrial minerals, composites or other mineral solids, except coal.~~
- 2) This exemption applies only to equipment used primarily in aggregate exploration, mining, off highway hauling, processing, maintenance, and reclamation. Use of the equipment in any other exploration, mining, off highway hauling, processing, maintenance, and or reclamation will not qualify for this exemption. Excluded from this exemption reduction are motor vehicles required to be registered pursuant to the Illinois Vehicle Code. Special mobile equipment other than motor vehicles may qualify for the exemption if it is used primarily in aggregate exploration, mining, off highway hauling, processing, maintenance, and or reclamation. This exemption does not include supplies (such as chemicals, rust inhibitors, and adhesives and explosives), coolants, lubricants, reclamation materials (such as seed, plants, and limestone), items of personal apparel (such as gloves, shoes, hats, helmets, coveralls, masks, mask air filters, belts, harnesses or holsters) or fuel of any type.

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b) Definitions

- 1) "Aggregate" means any mineral deposit or finished product including but not limited to sand, gravel, stone, clay, industrial minerals, composites or other mineral solids, except coal.
- ~~2~~3) "Aggregate Exploration" means the search for aggregate. Exploration includes, but is not limited to, geophysical exploration, excavating, dredging, and drilling to locate aggregate deposits.
- 3) "Kits" means commercially-packaged sets of parts that are ordered from a manufacturer, inventoried, and sold by a retailer as a single item. An example would be a "tire assembly" comprised of the rim, tire, foam filling and valve stem.
- 4) "Maintenance" means keeping aggregate exploration, mining, off highway hauling, processing, maintenance, and reclamation equipment in a state of repair and efficiency.
- ~~5~~4) "Mining" means the extraction of aggregate from the earth by underground and surface mining and includes the extraction of aggregate by the mine owner or operator, ~~or his nonpurchaser successors from the waste or residue of prior mining.~~
- ~~6~~5) "Off Highway Hauling" means carrying or transporting and would include transport of overburden or waste material, including byproduct materials from the processing facility for disposal, transporting and aggregates from the aggregate deposit to the processing facility by conveyors or unlicensed vehicles, and conveying aggregates from the beginning of the processing cycle through the last stage of aggregate production which ends at the time the aggregate is ready for sale.
- ~~7~~6) "Processing" means preparation activities performed directly on the aggregate that are necessary for converting aggregate into a finished product so that it is ready for sale or the reprocessing of aggregate fines to extract and recycle construction aggregates by the mine owner, or operator, or third party contractor or successor. Processing includes, but is not limited to, sizing, crushing, drying and washing.
- ~~7~~) ~~"Maintenance" means keeping aggregate exploration, mining, off highway hauling, processing, maintenance, and reclamation equipment in a state of repair and efficiency.~~
- 8) "Reclamation" means conditioning areas affected by mining operations. Examples of reclamation activities include, but are not limited to, backfilling, grading, seeding and planting.

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- 9) "Replacement Parts" means parts that are used to replace parts of qualifying equipment that require periodic replacement. To be considered a replacement part, the part must be purchased for the purpose of being installed and must, in fact, become a physical component part of aggregate exploration, mining, off highway hauling, processing, maintenance, and ~~or~~ reclamation equipment.
- 10) "Used primarily" means that the equipment and replacement parts must be used more than 50% of the time in aggregate exploration, mining, off highway hauling, processing, maintenance, and reclamation.
- ~~10) "Kits" means commercially packaged sets of parts that are ordered from a manufacturer, inventoried, and sold by a retailer as a single item. An exempt example would be a "tire assembly" comprised of the rim, tire, foam filling and valve stem.~~
- cb) Exempt Activities. By way of illustration and not limitation, the following activities will be considered to constitute aggregate exploration, mining, off highway hauling, processing, ~~or~~ and reclamation:
- 1) Aggregate is produced in a surface mining operation that begins with locating the aggregate deposit to be mined, the clearing of surface obstacles and overburden from the land above the aggregate deposit to be mined, continues with the removal of waste material and with the extraction of the aggregate, continues with the transportation from the aggregate deposit to the processing facility, continues further with the refilling and grading of the mined area with overburden and waste material, continues further with the processing of the aggregate, and ends with the stockpiling of the aggregate. By way of illustration and not limitation, the following equipment is exempt:
- A) Geophysical surveying, excavating, dredging and drilling machinery and equipment used primarily to locate surface mine aggregate deposits (e.g., data logger transducer; photoionization detector; optical televiewer; acoustic televiewer; petrographic survey equipment; and inclinometer survey equipment. Equipment used to drill and load holes for blasting material used to fracture aggregate for extraction and to transport the blasting material.
- B) Equipment used primarily to remove overburden and other waste materials from the deposit to be mined.
- C) Equipment used primarily to drill and load holes for blasting material used to fracture aggregate for extraction; blasting agents used primarily for surface

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aggregate mine blasting including, but not limited to, ammonium nitrate and fuel oil or ANFO; equipment used primarily to ignite blasting agents including, but not limited to, high explosives, detonators, lead-in lines and blasting machines; and equipment used primarily to transport the blasting material. Equipment used to modify the energy purchased for the surface mining process if the equipment is used to modify the energy for use on exempt equipment.

- D) Equipment used primarily to modify the energy purchased for the surface mining process if the equipment is used to modify the energy for use on exempt equipment (e.g., transformers, capacitors and other equipment used to reduce, increase, stabilize or otherwise control the amperage, voltage, or frequency of the electric current and transmit the electrical current to aggregate surface mining and processing equipment).
- E) Pumps, hoses, piping and discharge apparatus, used primarily in the movement or removal of water or to divert water from the active mine area.
- F) Equipment used primarily to load the overburden, waste material or aggregate to be transported to the processing facility into off highway haulage trucks or onto a conveyor system.
- G) Equipment used primarily to extract aggregate from the earth.
- H) Unlicensed off highway haulage trucks or a conveyor system used primarily to transport overburden, waste material or aggregate to the processing facility.
- I) Equipment used primarily to backfill, grade, seed, plant or otherwise reclaim previously mined land.
- J) Crushing, screening and other equipment used primarily to beneficiate and size aggregate products.
- J) ~~Tangible personal property used in or for the purpose of temporarily storing aggregate before processing is exempt if the aggregate is ultimately processed for resale and is in fact resold.~~
- K) Equipment used primarily in an aggregate wash plant to clean the aggregate prior to sale to customers.
- L) Equipment used primarily to blend different grades of aggregate together so that the final product meets customer specifications.

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- M) Electrical cable that is part of an electrical distribution system supplying electricity to exempt equipment in the field (e.g., draglines and shovels that move and load overburden and shovels that load aggregate in the pit).
 - N) Computers and electrical control panels integral to and used primarily to operate exempt equipment used primarily in aggregate exploration, mining, off highway hauling, processing, maintenance, and reclamation.
 - O) Remote audio visual equipment integral to and used primarily in connection with exempt aggregate exploration, mining, off highway hauling, processing, maintenance, and reclamation.
 - P) Electrical generators used primarily to power exempt aggregate exploration, mining, off highway hauling, processing, maintenance, and reclamation equipment.
 - Q) Communication equipment integral to and used primarily in production and operation activities in connection with exempt aggregate exploration, mining, off highway hauling, processing, maintenance, and reclamation equipment.
- 2) Aggregate is produced in an underground mining operation that begins with locating the aggregate deposit to be mined, creating access from the surface to the aggregate deposit to be mined, continues further with the installation of roof supports, continues with the removal of waste material and the extraction of aggregate, continues further with the transportation from the aggregate deposit to the processing facility, continues further with the processing of aggregate and disposal of waste material from the mine and processing facility, and ends with the stockpiling of aggregate. By way of illustration and not limitation, the following equipment is exempt:
- A) Geophysical surveying, excavating, and drilling machinery and equipment used primarily to locate underground mine aggregate deposits (e.g., data logger transducer; photoionization detector; optical televiewer; acoustic televiewer; petrographic survey equipment; and inclinometer survey equipment). ~~Equipment used to create access to the aggregate deposit and load aggregate into conveyor belts, trucks or other conveyances used to transport aggregate from the deposit to the processing operation.~~
 - BA) Equipment used primarily to create access to the aggregate deposit (e.g., drills, equipment to deliver blasting agents, excavators, loaders and tunnel boring equipment) and equipment used primarily to load aggregate on to conveyor

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belts, trucks or other conveyances used primarily to transport aggregate from the deposit to the processing operation (e.g., loaders).

- C) Equipment used primarily to drill and load holes for blasting material used to fracture aggregate for extraction; blasting agents (such as ammonium nitrate and fuel oil or ANFO) used for underground aggregate mine blasting; equipment used primarily to ignite blasting agents including, but not limited to, high explosives, detonators, lead-in lines and blasting machines; and equipment used primarily to transport the blasting material. The feeder and crusher used to break large pieces of aggregate.
- D) Equipment, other than motor vehicles required to be registered pursuant to the Illinois Vehicle Code, used primarily to transport miners into and out of an underground mine (e.g., mantrips, utility vehicles, mobile equipment, and scoops).
- EB) Conveyor belts, trucks or other conveyances used primarily to transport aggregate from the deposit to the processing operation.
- EG) The feeder and crusher used primarily to break large pieces of aggregate.
- GD) Equipment used primarily to modify the energy purchased for the underground mining process if the equipment is used to modify the energy for use on exempt equipment (e.g., transformers, capacitors and other equipment used to reduce, increase, stabilize or otherwise control the amperage, voltage or frequency of the electric current and transmit the electrical current to aggregate underground mining and processing equipment).
- HE) Pumps, hoses, piping and discharge apparatus, used primarily in the movement or removal of water or to divert water from the underground mine area.
- IF) Equipment used primarily to install roof bolts, roof bolt supports and side rib bolt supports, and scaling prior to roof bolting, to prevent mine collapse.
- J) Roof bolts and plates, side rib bolts and plates, and epoxy resin cartridges used primarily to secure roof bolts and side rib bolts installed to prevent mine collapse.
- KG) Equipment used primarily to coat mine walls with inert material for loose rock safety.

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- LH) Equipment installed as improvements to real estate for mining, such as elevators and rail, ventilating and illuminating systems, including the foundations for such equipment as long as those foundations are located within the underground mine.
- MI) Additions to exempt underground rail conveyors and ventilating and illumination systems due to the progression of mining.
- ~~J~~) ~~Equipment used to drill and load holes for blasting material used to fracture aggregate for extraction and to transport the blasting material.~~
- ~~K~~) ~~Equipment used for transporting aggregate to above-ground facilities.~~
- N) Crushing, screening and other equipment used primarily to beneficiate and size aggregate products.
- O) Machinery and equipment used primarily to convey aggregates from the beginning of the processing cycle through the last stage of aggregate production which ends at the time the aggregate is ready for sale.
- ~~L~~) ~~Tangible personal property used in or for the purpose of temporarily storing aggregate before processing if the aggregate is ultimately processed for resale and is in fact resold.~~
- PM) Equipment used primarily in an aggregate wash plant to clean the aggregate prior to sale to customers.
- QN) Equipment used primarily to blend different grades of aggregate together so that the final product meets customer specifications.
- RQ) Electrical cable that is part of an electrical distribution system supplying electricity to exempt equipment in the field (e.g., draglines and shovels that move and load overburden and shovels that move and load aggregate in the pit.)
- ~~P~~) ~~Roof bolt supports and side rib bolt supports to prevent mine collapse.~~
- S) Computers and electrical control panels integral to and used primarily to operate exempt equipment used in aggregate exploration, mining, off highway hauling, processing, maintenance, and reclamation.

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- T) Remote audio visual equipment integral to and used primarily in connection with exempt aggregate exploration, mining, off highway hauling, processing, maintenance, and reclamation.
 - U) Electrical generators used primarily to power exempt aggregate exploration, mining, off highway hauling, processing, maintenance, and reclamation equipment.
 - V) Communication equipment integral to and used primarily in production and operation activities in connection with exempt aggregate exploration, mining, off highway hauling, processing, maintenance, and reclamation equipment.
- 3) By way of illustration and not limitation, the following maintenance equipment is exempt:
- A) Unlicensed maintenance and welding trucks used primarily for field repair of exempt equipment.
 - B) Lathes, drill presses, air compressors and welders used primarily to build, modify or rework exempt attach repair parts or equipment.
 - C) Mobile and overhead cranes and manlifts used primarily in connection with exempt aggregate exploration, mining, off highway hauling, processing, maintenance, and reclamation.
 - D) Equipment used primarily for dust suppression.
 - E) Equipment and machinery used primarily to clean areas around off-highway conveying and processing machinery and equipment.
- 4) By way of illustration and not limitation, the following aggregate exploration equipment is exempt unless registered pursuant to the Illinois Vehicle Code:
- A) Drill rigs used primarily to drill exploration core holes.
 - B) Water trucks used primarily in the drilling process.
 - C) Winch and casing trucks used primarily in the drilling process.
 - D) Field maintenance trucks used primarily to make repairs on exempt field equipment.

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- E) Air compressors used primarily in connection with exempt aggregate exploration, mining, off highway hauling, processing, maintenance, and reclamation.
- de) Nonexempt Activities. By way of illustration and not limitation, the following activities will not be considered to constitute aggregate exploration, mining, off highway hauling, processing, or maintenance, and reclamation:
- 1) The use of equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of real estate except for underground mine structures. Material, such as lumber, steel, concrete, rock and other building materials, will not qualify for the exemption except when used in underground mine structures, such as roof support to prevent mine collapse;
 - 2) the use of equipment in research and development for new uses of aggregate;
 - 3) the use of equipment, trailers, sheds or structures in management, sales or other nonproduction, nonoperational activities including production of extraction scheduling, purchasing, receiving, accounting, fiscal management, communications equipment (e.g., radios and phones), security, marketing, product exhibition and promotion, and personnel recruitment, selection or training;
 - 4) the use of equipment to prevent or fight fires or other mining hazards and protective supplies such as face masks, gas masks, helmets, gloves, coveralls, goggles, or first aid equipment and supplies, rescue chambers, self-rescuers, protective mine shelters or tracking devices (e.g., Global Positioning Systems or similar devices) even though such equipment and supplies may be required by law;
 - 5) the use of equipment for general ventilation, heating, cooling, climate control or general illumination not specifically required for the exploration, mining, off highway hauling, processing, and ~~or~~ reclamation operation;
 - 6) the use of facilities for storing aggregate after extraction and processing;
 - 7) the use of front-end loaders, cranes, conveyors, and equipment used primarily to load aggregate onto trucks, railcars or barges for delivery to customers;-
 - 8) the use of concrete foundations and support structures for ventilation equipment used above ground.
- ed) Sales to Lessors of Aggregate Exploration, Mining, Off Highway Hauling, Processing, Maintenance, and Reclamation Equipment

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- 1) For the exemption to apply, the purchaser need not, himself, employ the equipment in aggregate exploration, mining, off highway hauling, processing, maintenance, and reclamation ~~or production~~. If the purchaser leases the equipment to a lessee who uses it primarily in a qualified manner, the sale to the purchaser-lessor will be eligible for the exemption. A supplier may exclude such sales from his taxable gross receipts if the purchaser-lessor provides him with a properly completed certificate and the information contained therein would support an exemption ~~a reduction~~ if the sale were made directly to the lessee.
 - 2) Should a purchaser-lessor subsequently lease the equipment to a lessee who does not use it primarily in a way that would qualify for the exemption ~~reduction~~, the purchaser-lessor will become liable for the tax that he previously did not pay. The tax will be assessed upon the fair market value of the equipment at the time of conversion.
- f) **Purchaser Certification**
- Certificates must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily for aggregate exploration, mining, off highway hauling, processing, maintenance, and ~~or~~ reclamation. If a purchaser can claim either the exemption under this Section or the Manufacturing Machinery and Equipment exemption, the purchaser must specify on the certificate which exemption the purchaser is claiming. Manufacturer's Purchase Credit can only be earned on purchases of qualifying Manufacturing Machinery and Equipment (see 86 Ill. Adm. Code 130.330 and 130.331). Purchasers claiming the exemption under this Section cannot earn Manufacturer's Purchase Credit. Sellers may accept blanket certificates, but have the responsibility to obtain and keep all certificates as part of their books and records. If a retailer accepts the certificate and the purchaser does not, in fact, use the equipment in a qualifying manner, the purchaser will be liable to the Department for the tax. Equipment which is initially used primarily in a qualifying manner and, having been so used for less than one-half of its useful life, is converted to nonqualified uses, will become subject to tax at the time of conversion. Replacement parts purchased initially for use in a qualifying manner and used in a nonqualifying use will become subject to tax at the time of use.

(Source: Amended at 38 Ill. Reg. _____, effective _____)