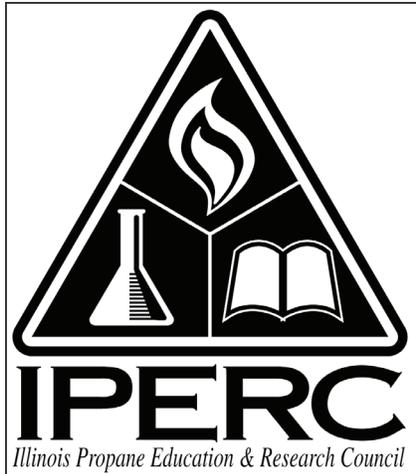




Manual of Assessment Procedures



Introduction and Explanation

This booklet explains the “Illinois Propane Education and Research Remittance Report”, and other responsibilities of those involved with the remittance of funds through the Illinois Propane Education and Research check-off program.

Under the provisions of the Illinois Propane Education and Research Act of 1997, an industry-wide referendum was passed in the Fall of 1997 by marketers and producers operating in Illinois authorizing the enactment of the check off program and the establishment of the Illinois Propane Education and Research Council (IL PERC).

The Illinois Propane Education and Research Act of 1997 (Act) provides that the Council be made up of 12 members with six members representing retail marketers, four members representing producers and two public mem-

bers. Council meetings are open to all interested parties.

IL PERC is mandated by law to establish programs for the advancement of Illinois’ propane industry in the areas of:

- Consumer and employee safety and training
- Public information and education about safety and other issues associated with the use of propane
- Research and development of clean, safe and efficient propane utilization equipment

This manual was developed by IL PERC pursuant to its authority under Illinois State law and should be used by industry members to report assessment payments. If you have any questions about the assessment process or the Council program, please contact the Illinois Propane Gas Association (ILPGA) at 800-727-6207. The ILPGA acts as the administrator for IL PERC and can handle your questions.

Remittance Requirements

The Act requires that “the owners of odorized propane at the time of odorization, or the time of import of odorized propane, shall make the assessment based on the volume of odorized propane sold and placed into commerce.” Placed into commerce is defined in the Act as “delivered, transported for storage, or sold within the State of Illinois.” Sold means ‘when the title to the propane is transferred.’ Under the Act all odorized propane transactions coming from a refinery or gas plant, when title is transferred at the refinery or gas plant or when odorized product is transported into Illinois for sale is subject, by law, to the assessment. The law further states “the assessment when made, shall be listed as a separate line item on the invoice labeled “Illinois Propane Education and Research Assessment.” Any and all subsequent transactions or transfers of odorized propane subject to the assessment of the Illinois Propane Education and Research Act shall also be included on the invoice and labeled “Illinois Propane Education and Research Assessment” until final distribution to the retail propane marketer.

The rate of assessment for the Illinois Propane Education and Research check-off program was established by the Illinois Propane Education and Research Council at 1/10th of 1 cent per gallon of propane, effective January 1, 1998. The Council then agreed that starting January 1, 2004, the assessment be increased to 2/10th’s of 1 cent per gallon of propane. The Act establishes that “assessments collected from purchasers of propane are to be paid to Illinois Propane Education and Research Council by the 25th of the month following the month of collection.” A penalty of 5% of the amount due will be assessed on all payments postmarked after the due date. If payment is not made within 30 days after the due date, interest will accrue on the unpaid balance at the rate of 1% per month. These penalty and interest assessments will not be applied if the minimum combined penalty and interest (if applicable) is less than \$5.00.

Conjunctive to antitrust laws, the Council can take no action, nor may any provision of the Act be interpreted as establishing an agreement to pass along to consumers the cost of the assessment. In all cases, market forces shall be the determining factor for the price of propane.

Remittance Reports

Compliance with the Act is mandatory. The Act provides the “Circuit Court is vested with the jurisdiction specifically to enforce this Act, and prevent or restrain any person from violating any provisions of this Act.”

The following rules have been adopted by IL PERC to efficiently implement remittance of the IL PERC fee:

- All forms submitted must be completely filled in.
- Remittance Reports RM0200 (included in this manual) must be submitted within 25 days after the end of each month for which the propane load was odorized and purchased. The party who had legal title to the product when the odorant was added is the party responsible for remitting the assessment to IL PERC with the Remittance Report.
- Electronic Remittance Reports for remittances exceeding \$50 must be submitted via email to krichardson@ilpga.org. The report must utilize the Microsoft Excel format established by IL PERC. The Excel remittance spreadsheet can be downloaded from www.il.propane.com. You can also call IL PERC at 800-727-6207 or email krichardson@ilpga.org.
- Manual Remittance Reports for remittances in the amount of \$0 to \$49 can be submitted manually using form RMWS0200 (also included in this manual) and attaching RM0200 as a cover sheet.
- A check or money order for the amount of the assessment is to be remitted to:
Illinois Propane Education and Research Council
PO Box 20963
Springfield, IL 62708
- **NOTE:** If a company is interested, electronic deposits/ACH/wire transfers will also be accepted, as long as there is no cost to IL PERC for these deposits, please contact IL PERC at 800-727-6207 for more information.
- Assessments shall be made on all gallons of odorized propane sold and placed into commerce or imported into Illinois. A late payment charge and interest is required under the Act and will be imposed and enforced by the Council. No assessment shall be made on un-odorized propane, propane loads destined for “Out of Illinois” or propane loads being transported via rail car.
- Together with the Illinois Department of Agriculture, the Illinois Propane Education and Research Council has the responsibility for monitoring compliance of this law. Failure to properly remit assessments could result in legal action by the Council to compel compliance. The Council will retain a law firm of its choice at the time, if needed, to handle any and all legal issues.
- All information submitted to IL PERC is treated as confidential by IL PERC Members, its administrative and accounting agents. Members of the Council will not have access to company specific data except for audit or enforcement purposes and only in such limited detail as required for decision making.

The Council has retained the accounting firm of RSM McGladrey of Springfield, Illinois who will be responsible for auditing assessments and refunds on an annual basis, on behalf of the Illinois Propane Education and Research Council.

Refunds

In the fall of 1997 the ‘Illinois Propane Industry’ overwhelmingly passed a referendum authorizing the initiation of the Illinois Propane Education and Research Act. Over 90% of the propane industry respondents voted in favor of the IL PERC program. The IL PERC check-off allows the industry to pool its resources to provide common goods to IL PERC participants. Illinois propane dealers experience a direct reduction in operating costs as IL PERC funds provide training and education for industry employees as well as product promotion. However, if an individual dealer does not wish to participate the ‘Act’ contains a provision for a marketer to request a refund of the assessed amounts. The ‘Act’ establishes that “a purchaser of propane who has an assessment added as a line item, in the sale price, may by application in writing to the Council, secure a refund in the amount added.” **However, a purchaser who obtains a refund is not eligible for any benefits provided under the Council’s programs.**

Refund requests

- Refund forms must be completely filled in (see Forms RQ0100 and RQ0200 in this manual)
- A request for refund must be made within 60 days from the date of assessment (or date on invoice). Request forms and necessary back up information must be received at the IL PERC office on or before the 60-day pe-

- riod.
- Copies of invoices showing the IL PERC assessment as a separate line item and a copy of the Bill Of Lading (BOL) for each load must be included with the completed forms.
- Failure to provide any of the required information will result in a denial of the request for refund until such time that all conditions are met.
- By law, IL PERC must respond within 90 days of receipt of the refund request, however, no refunds will be granted until the supplier has remitted the assessment for the corresponding BOL.
- If no assessment is received the BOL will be denied for refund due to lack of assessment being received.

Glossary of Terms

Assessment—The amount of money payable to IL PERC on sales of odorized propane pursuant to Public Act 909-0305. The assessment is 2/10 of 1 cent per gallon (\$.002) effective January 1, 2004.

Owner of Odorized Propane—The party who has legal title to the product at the time the odorant is added. The person/company is the party responsible for remitting the assessment to IL PERC. This party may be a producer, a wholesaler, a broker, or a retail propane marketer. *This also includes importers of odorized propane into the State of Illinois.*

Producer—The owner of propane at the time it is recovered at a gas processing plant or refinery.

Wholesaler—A person/company who purchases and re-sells propane not for their own use. A wholesaler may also be a broker or a wholesale propane marketer.

Marketer—A person/company engaged primarily in the sale of odorized propane to the ultimate consumer (i.e. a retail propane marketer).

Ultimate Consumer—The customer's location where the propane is ultimately consumed/used.

Retail Propane Dispenser—A person/company who sells odorized propane to the ultimate consumer but is not engaged primarily in the business of such sales (i.e. hardware stores, campgrounds, service stations).

Sold and Placed into Commerce—The sale of odorized propane destined for the ultimate consumer or retail propane dispenser. Sold by a producer, wholesaler or marketer.

Forms

The forms on the following pages are to be used for reporting assessments and for submitting requests for refunds. They can be removed from the manual and used as masters to make copies as needed. Additional masters are available from IL PERC upon request.

- **Form # RM0200**—is to be used for reporting all assessment activity, whether filing manually or electronically. This form should accompany each check made payable to the Illinois Propane Education and Research Council or IL PERC. Further this form can be used to report a zero remittance month. This form is also available electronically to be submitted via email, if payment is being sent via ACH/EFT/Wire.
- **Form # RMWS0200**—is to be used to report detail assessment activity when manually filing, \$49 or under manual remittance information.
- **Form # RQ0100**—is to be included with all requests for refunds. This form must be completely filled out and accompanied by the appropriate copies of invoices and Bill Of Ladings.
- **Form # RQ0200**—is the continuation of form RQ0100.

Frequently Asked Questions

- 1) Does a marketer who buys unodorized propane have to pay the assessment when he causes it to be odorized?**
 - Yes, if the load is destined for the State of Illinois. *The law places the obligation for payment of the assessment on the owner of the propane at the time it is odorized. If you now own unodorized propane and you have it odorized, either by yourself or by a storage cavern, terminal operator or loading rack, either for your own use or for sale to another, then you must pay the assessment to IL PERC.*
- 2) Does a chemical company or other end-user of unodorized propane have to pay if the company sells odorized propane to someone else?**
 - Yes. *Anyone who owns unodorized propane and then has it odorized and sells the odorized propane to another is responsible for reporting and remitting the assessment on the volume of that propane at the time that it is odorized.*
- 3) May I wait to pay the assessment until after I have collected the money from my customer?**
 - No. *The assessment is to be charged on all propane at the time it is odorized—or on odorized propane at the time that it is imported into Illinois—and the IL PERC assessment must be remitted by the 25th of the month following its odorization or import. Whether you are a producer, wholesale, marketer or an importer, if you own the propane at the time it is odorized, you are obligated by law to pay the assessment by the due date.*
- 4) May I pay electronically?**
 - Yes. *Payments may be deposited via ACH/EFT/Wire Transfer as long as there is no charge to the IL PERC bank account for these payments being made. Payments can also be submitted via check to the IL PERC lock box by mailing the check to: IL PERC, PO Box 20963, Springfield, IL 62708.*
- 5) What if I pay for a load of propane that eventually is exported to another State?**
 - *A refund is available for the assessment paid on that load. The refund is only available within 60 days from the date of assessment (invoice). All refund forms and information must be submitted completely for the refund request to be processed.*
- 6) May I be reimbursed for my administrative costs of compliance?**
 - No. *Since the payment is not required until the 25th of the month following the month in which the load of propane was odorized or imported. This allows collectors/remitters of the assessment the use of these funds for a period of 25 to 35 days. This “float” is intentional in order to help defray administrative expenses.*
- 7) What if I am a marketer located in another State that imports odorized propane into Illinois to service customers I have in Illinois?**
 - *You are required by law to self assess the fee for all the odorized propane you import into Illinois. You must also remit this assessment to IL PERC.*
- 8) If I am paying a check-off to another state program, may I deduct that amount from the IL PERC assessment or vice versa?**
 - No.
- 9) What are the penalties for a late remittance payment?**
 - *A penalty of 5% of the amount due is assessed on all payments postmarked after the due date (25th of the month following the assessment). If payment is not made within 30 days after the due date, interest will accrue at the rate of 1% each month thereafter. The penalty and interest assessments will not be applied if the minimum combined penalty and interest (if applicable) is less than \$5.00.*

Frequently Asked Questions

10) Is the Illinois Propane Education and Research Council restricted in how they may invest the funds they have collected?

- *Yes. Pending disbursement, IL PERC may invest available funds only in obligations of the U.S. or any government agency, in general obligations of any State or political subdivision, in any interest-bearing account or CD of a Federal Deposit Insurance Corporation (FDIC) member bank or in obligations fully guaranteed as to principal and interest by the U.S.*

11) As a marketer or supplier, may I serve on the Illinois Propane Education and Research Council?

- *Yes. The Illinois marketers that serve on the Council are chosen by the Illinois Propane Gas Association Board of Directors. The producer/wholesaler/broker Council members are chosen by the Illinois Petroleum Council. If you are an Illinois marketer or an Illinois producer/wholesaler/broker and are interested in applying for a seat on IL PERC, contact the Illinois Propane Gas Association (ILPGA) at (800)-727-6207 for further information.*

12) How is State government involved in this program?

- *The Director of Agriculture is granted oversight authority under the "Act". The Director may recommend (but not mandate) programs and activities for funding and will receive reports on compliance, violations and complaints regarding the law's implementation.*

13) Who do I contact for further information or questions?

- *You may contact the Illinois Propane Gas Association (ILPGA) at (800) 727-6207 or email questions to kritchardson@ilpga.org. The ILPGA has an administrative agreement with IL PERC to manage all of IL PERC's administrative affairs, between IL PERC meetings. You may also fax information to 217-529-8482.*

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Illinois Propane Education and Research Council

Remittance Report

Report for

A verification of assessments due on sales of odorized propane. This form is required to be filed with IL PERC within 25 days after the end of the reporting month. A 5% penalty will be due on payments received after the due date. Interest of 1% will be assessed monthly on payments overdue by 30 days or more.

____ / ____
Month / Year

Company: _____ Address: _____ City: _____ State: _____ Zip: _____ Contact Person: _____ Phone: _____ Fax: _____ Email: _____ I, the undersigned, certify that the above named company was the owner of the stated volumes of propane at the time they were odorized or imported and that the information contained in this report is true and accurate.	<p style="text-align: center;"><u>Electronically Filed (\$50 or over)</u></p> Total number of odorized gallons reported _____ Assessment due @\$.002 per gallon \$ _____ Penalties/Interest (if applicable) \$ _____ Total Amount Enclosed /Submitted \$ _____ <p style="text-align: center;"><u>Manually Filed (\$49 or under)</u></p> Total number of odorized gallons reported _____ Assessment due @\$.002 per gallon \$ _____ Penalties/Interest (if applicable) \$ _____ Total Amount Enclosed \$ _____ Mail all necessary forms and information and make check payable to: Illinois Propane Education and Research Council P.O. Box 20963 Springfield, IL 62708
Signature of Corporate Officer or Authorized Person _____	Date _____
Printed Name and Title _____	_____



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Illinois Propane Education and Research Act of 1997

(430 ILCS 27)

(430 ILCS 27/1)

Sec. 1. Short title. This Act may be cited as the Illinois Propane Education and Research Act of 1997. (Source: P.A. 90-305, eff. 1-1-98.)

(430 ILCS 27/5)

Sec. 5. Definitions. In this Act, unless the context otherwise requires:

“Council” means the Propane Education and Research Council created pursuant to Section 10 of this Act;

“Director” means Director of Agriculture or his or her designee;

“Education” means any action to provide information regarding propane, propane equipment, mechanical and technical practices, and propane uses to consumers and members of the propane industry;

“Industry” means those persons involved in the production, transportation, and sale of propane, and the manufacture and distribution of propane utilization equipment;

“Industry Trade Association” means an organization exempt from tax, under Section 501(c)(3), or (6) of the Internal Revenue Code of 1986, representing the propane industry;

“Odorized Propane” means propane which has an odorant added to it;

“Placed into Commerce” means delivered, transported for storage, or sold within the State of Illinois;

“Producer” means the owner of propane at the time it is recovered at a gas processing plant or refinery; irrespective of the state where production occurs;

“Propane” means hydrocarbon whose chemical composition is predominately C₃H₈, whether recovered from natural gas or crude oil, and includes liquefied petroleum gases and mixtures thereof;

“Public Member” means a member of the Council other than a representative of producers or retail marketers representing significant users of propane, public safety officials, state regulatory officials, or other groups knowledgeable about propane;

“Qualified Industry Organization” means the Illinois Propane Gas Association, the National Propane Gas Association, the Gas Processors Association, a successor association of these associations, or any other propane industry organization;

“Research” means any type of study, investigation or other activities designed to advance the image, desirability, usage, marketability, efficiency, and safety of propane and to further the development of such information;

“Retail Marketer” means a person engaged primarily in the sale of odorized propane to the ultimate consumer or to retail propane dispensers; and

“Retail Propane Dispenser” means a person who sells odorized propane to the ultimate consumer but is not engaged primarily in the business of such sales.

(Source: P.A. 90-305, eff. 1-1-98; 91-484, eff. 1-1-00)

(430 ILCS 27/10)

Sec. 10. Referendum; creation and termination of a program.

(a) Qualified industry organizations shall conduct at their own expense, a referendum among producers and retail marketers for the creation of an Illinois Propane Education and Research Council. The Council, if established, shall reimburse the qualified industry organizations for the cost of the referendum accounting and documentation. The referendum shall be conducted by an independent auditing firm agreed to by the qualified industry organizations. The results, as certified by an independent auditing firm, shall be submitted to the Director within 30 days of certification. Voting rights in the referendum shall be based on the volume of propane produced or odorized propane sold in the previous calendar year. Upon approval of those persons representing two-thirds of the total volume of propane voted in the retail marketer class and two-thirds of all propane voted in the producer class, the Council shall be established, and shall be authorized to levy an assessment on odorized propane in accordance with Section 20. All persons voting in the referendum shall certify to the independent auditing firm the volume of propane represented by their vote.

(b) On the Council’s own initiative, or on petition to the Council by producers and retail marketers representing 35% of the volume of propane in each class, the Council shall, at its own expense, hold a referendum to be conducted by an independent auditing firm selected by the Council, to determine whether the industry favors termination or suspension of the Council. Termination or suspension shall not take effect unless it is approved by persons representing more than one-half of the total volume of odorized propane in the retail marketer class and

more than one-half the total volume of propane in the producer class. (Source: P.A. 90-305, eff. 1-1-98.)
(430 ILCS 27/15)

Sec. 15. Illinois Propane Education and Research Council

(a) The qualified industry organizations shall select all retail marketers, public, and producer members of the Council. The producer organizations shall select the producer members of the Council, the retail marketer organizations shall select retail marketer members, and all qualified industry organizations shall jointly select the public members. Vacancies in the unfinished terms of Council members shall be filled in the same manner as were the original appointments.

(b) In selecting members of the Council, the qualified industry organizations shall give due regard to selecting a Council that is representative of the industry, including representation of:

- (1) gas processors and oil refiners among producers;
- (2) interstate and intrastate operators among retail marketers;
- (3) large and small companies among producers and retail marketers, including agricultural cooperatives;

and

- (4) diverse geographic regions of the State.

(c) The Council shall consist of 12 members, with 6 members representing retail marketers, 4 members representing producers, and 2 public members. Other than the public members, Council members shall be full-time employees or owners of businesses in the industry or representatives of agricultural cooperatives. No employee of a qualified industry organization or other trade association. Only one person at a time from any company or its affiliate may serve on the Council. The Director may serve as an ex-officio non-voting member of the Council.

(d) Council members shall receive no compensation for their services. Council members may be reimbursed for reasonable expenses directly related to their participation in Council meetings.

(e) Council members shall serve terms of 3 years. The Council shall notify the Director of the name, address, and propane-related affiliation, if any, of a Council member within 30 days after the appointment of the member to the Council.

(f) The Council shall develop programs and projects and enter into contracts or agreements for implementing this Act, including programs to enhance consumer and employee safety and training, to provide for research and development of clean and efficient propane utilization equipment, to inform and educate the public about safety and other issues associated with the use of propane, and to provide for the payment of the costs thereof with funds collected pursuant to this Act. The Council shall coordinate its activities with industry trade associations and others as appropriate to provide efficient delivery of services and to avoid unnecessary duplication of activities.

(g) Issues related to research and development, safety, education, and training shall be given priority by the Council in the development of its programs and projects.

(h) The Council shall select from among its members a Chairperson and other officers as necessary, may establish committees and subcommittees of the Council, and shall adopt rules and bylaws for the conduct of business and the implementation of this Act. The Council shall establish procedures for the solicitation of industry comment and recommendations on any significant plans, programs, and projects to be funded by the Council. The Council may establish advisory committees of persons other than Council members.

(i) At the beginning of each fiscal period, the Council shall prepare a budget plan for the next fiscal period, including the probable cost of all programs, projects and contracts and a recommended rate of assessment sufficient to cover such costs. The Council shall submit the proposed budget to the Director for review and comment. The Director may recommend programs and activities considered appropriate.

(j) The Council shall keep minutes, books and records that clearly reflect all of the acts and transactions of the Council and make public such information. The books of the Council shall be audited by a certified public accountant at least once each fiscal year and at such other times as the Council may designate. The expense of the audit shall be the responsibility of the Council. Copies of such audit shall be provided to all members of the Council, all qualified industry organizations, and to other members of the industry upon request. (Source: P.A. 90-305, eff. 1-1-98, eff. 1-1-05.)

(430 ILCS 27/20)

Sec. 20. Assessments

(a) The Council shall set the initial assessment at no greater than 1/10 of 1 cent per gallon of odorized propane. Thereafter, annual assessments shall be sufficient to cover the costs of plans and programs developed by the Council. The assessment shall not be greater than 1/2 cent per gallon of odorized propane, unless approved by the majority of those voting in a referendum in both the producer and retail marketer class. In no case may the assessment

be raised by more than 1/10 of 1 cent per gallon of odorized propane annually.

(b) The owner of odorized propane at the time of odorization, or the time of import of odorized propane shall make the assessment based on the volume of odorized propane sold and placed into commerce. The assessment, when made, shall be listed as a separate line item on the bill labeled "Illinois Propane Education and Research Assessment". Assessments collected from purchasers of propane are payable to the Council on a monthly basis by the 25th of the month following the month of collection. If payment is not made to the Council by the due date under this subsection, an interest penalty of 1% of any amount unpaid shall be added for each month or fraction of a month after the due date, until final payment is made.

(c) The Council may establish an alternative means of collecting the assessment if another means is found to be more efficient and effective. The Council may establish a late payment charge and rate of interest to be imposed on any person who fails to remit or pay to the Council any amount due under this Act.

(d) Pending disbursement pursuant to a program, plan, or project, the Council shall invest funds collected through assessments, and any other funds received by the Council, only in obligations of the United States or any agency thereof, in general obligations of any State or political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States. (Source: P.A. 90-305, eff. 1-1-98.)

(430 ILCS 27/25)

Sec. 25. Refunds. A purchaser of propane who has an assessment added as a line item to the sale price may, by application in writing to the Council, secure a refund in the amount added. The refund shall be payable when the application has been made to the Council within 60 days after the assessment. Interest shall be allowed and paid at the rate of 6% per annum upon the total amount of such assessment imposed by this Act, except that if any such assessment is refunded within 90 days after an application for refund has been made within the required 60 days after assessment or within 90 days after the seller of the propane remits the assessments collected to the Council, whoever is later, no interest shall be allowed on such assessment. Each application for refund by a purchaser of propane shall have attached thereto proof of assessment charged. A purchaser who obtains a refund is not eligible for any benefits provided under the Council's programs. (Source: P.A. 90-305, eff.1-1-98.)

(430 ILCS 27/30)

Sec. 30. Compliance. The circuit court is vested with the jurisdiction specifically to enforce this Act, and prevent or restrain any person from violating any provisions of this Act. A successful action for compliance under this Section may also require payment by the defendant of the costs incurred by the Council in bringing the action. (Source: P.A. 90-305, eff.1-1-98.)

(430 ILCS 27/35)

Sec. 35. Lobbying restrictions. No funds collected by the Council shall be used in any manner for influencing legislation or elections, except that the Council may recommend to the Director changes in this Act or other statutes that would further the purpose of this Act.

(430 ILCS 27/40)

Sec. 40. Pricing. In all cases, the price of propane shall be determined by market forces. Consistent with the antitrust laws, the Council may take no action, nor may any provision of this Act be interpreted as establishing an agreement to pass along to consumers the cost of the assessment provided for in Section 20. (Source: P.A. 90-305, eff.1-1-98.)

(430 ILCS 27/45)

Sec. 45. Relation to other programs. Nothing in this Act may be construed to preempt or supersede any other program relating to propane education and research organized and operated under the laws of the State of Illinois. (Source: P.A. 90-305, eff.1-1-98.)



Manual of Assessment Procedures
June 23, 2010