

2009

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



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May 22, 2009

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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 preemptory 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.].

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2009

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 22, 2008	January 2, 2009
2	December 29, 2008	January 9, 2009
3	January 5, 2009	January 16, 2009
4	January 12, 2009	January 23, 2009
5	January 20, 2009	January 30, 2009
6	January 26, 2009	February 6, 2009
7	February 2, 2009	February 13, 2009
8	February 9, 2009	February 20, 2009
9	February 17, 2009	February 27, 2009
10	February 23, 2009	March 6, 2009
11	March 2, 2009	March 13, 2009
12	March 9, 2009	March 20, 2009
13	March 16, 2009	March 27, 2009
14	March 23, 2009	April 3, 2009
15	March 30, 2009	April 10, 2009
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21	May 11, 2009	May 22, 2009
22	May 18, 2009	May 29, 2009
23	May 26, 2009	June 5, 2009

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24	June 1, 2009	June 12, 2009
25	June 8, 2009	June 19, 2009
26	June 15, 2009	June 26, 2009
27	June 22, 2009	July 6, 2009
28	June 29, 2009	July 10, 2009
29	July 6, 2009	July 17, 2009
30	July 13, 2009	July 24, 2009
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35	August 17, 2009	August 28, 2009
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38	September 8, 2009	September 18, 2009
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49	November 23, 2009	December 4, 2009
50	November 30, 2009	December 11, 2009
51	December 7, 2009	December 18, 2009
52	December 14, 2009	December 28, 2009

Editor's Note: The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from May 11 to July 1, 2009.

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Licensing of Radon Detection and Mitigation Services
- 2) Code Citation: 32 Ill. Adm. Code 422
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
422.20	Amendment
422.30	Amendment
422.45	Amendment
422.50	Amendment
422.60	Amendment
422.70	Amendment
422.75	New Section
422.80	Amendment
422.85	Amendment
422.90	Amendment
422.100	Amendment
422.110	Amendment
422.120	Amendment
422.130	Amendment
422.140	Amendment
422.150	Amendment
422. APPENDIX A	Amendment
422. APPENDIX B	Amendment
422. APPENDIX C	Amendment
422. APPENDIX E	New Section
- 4) Statutory Authority: Implementing and authorized by Section 20 of the Radon Industry Licensing Act [420 ILCS 44/20]
- 5) A Complete Description of the Subjects and Issues Involved: The Agency is proposing these amendments to change the title of the Part to more accurately describe the contents and applicability of the Part; two definitions are changed to match revisions that occurred in the Radon Industry Licensing Act (RILA); ten new definitions are added; clarification is made for the following: records must be maintained (for audit) after license expiration or termination for a specified time, licensed activities must cease at license expiration, and the licensee will be required to return a valid license to the Agency if the licensee ceased to perform such activities; delete obsolete provisions of the Part (including allowance of temporary installation) and obsolete technology devices that are no longer used; revise criteria for continuing education course approval and add a license

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termination process; add provisions for disciplinary action regarding material false statement, failure to maintain records, and failure to provide access for audit; and require the Licensed Radon Professional to be on-site to provide supervision of all radon activities at schools and commercial buildings. Add licensing provisions for measurement of multi-family buildings and indicate that mitigation licensing for homes will include multi-family buildings. Add a provision for laboratories to submit measurement reports. Delete requirement for licensees to maintain copies of USEPA publications. Clarify that connections and joints for metal downspouts used as vent pipes shall be permanently sealed. A fee increase aimed at recouping the current cost of the radon program is being added.

- 6) Any published studies or reports, along with the sources of underlying data, that were used when composing 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? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, expand, or modify their activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. The Agency will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments should be submitted to:

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

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217/524-0770 (voice)

217/782-6133 (TDD)

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities or not for profit corporations affected: Radon licensees are all individuals who are small businesses, except for a few radon measurement professionals who work for county health departments (small municipalities). The licensees who are employees of small municipalities are granted a waiver of fees by the regulations because they do not perform radon measurement services for remuneration.

Except as noted above, the radon service provider licensees will be impacted by the fee increase. The radon fees have not increased since the inception of the program. Currently, only approximately ten percent of the program cost is recovered from the licensees. The Radon Industry Licensing Act authorizes the Agency to recover the cost of the program from licensees.

- B) Reporting, bookkeeping or other procedures required for compliance: With only two exceptions, there are no additional reporting, record keeping or other procedures required for compliance. Except for the two items described below, the proposed amendments are clarifications that do not add new requirements. The two items that add new requirements are 1) the requirement for laboratories to report radon measurement data, which the 18 laboratories are already doing voluntarily and 2) radon measurement professionals who wish to provide services for multi-family building will have to submit a quality assurance plan for measurements in that type of building. The measurement considerations for such buildings are generally different than for single unit or duplex type homes and different than for schools and commercial building where OSHA standards for air quality apply.

- 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 begin on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 32: ENERGY

CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY
SUBCHAPTER b: RADIATION PROTECTION

PART 422

REGULATIONS FOR RADON SERVICE PROVIDERS LICENSING OF RADON
DETECTION AND MITIGATION SERVICES

Section

422.10	Purpose and Scope
422.15	Incorporations by Reference
422.20	Definitions
422.30	Exemptions from Requirements for a License
422.40	Categories of Licenses
422.45	Form, Location and Retention of Records
422.50	Application for Licenses
422.60	Requirements for Issuance or Renewal of Licenses
422.70	Conditions of Licenses
422.75	State Radon License Exam
422.80	Continuing Education Requirements
422.85	Agency Approval of Radon Courses
422.90	Renewal and Termination of Licenses
422.100	Fees
422.110	Reports to the Agency
422.120	Disciplinary Action by the Agency
422.130	Measurement Protocol
422.140	Device Protocol
422.150	Mitigation Standard
422.APPENDIX A	Recommended Testing Strategy for Home Environment Measurements (Buildings Not Involved in a Real Estate Transaction)
422.APPENDIX B	Recommended Testing Strategy for Measurements in Buildings Involved in Real Estate Transactions
422.APPENDIX C	Radon and Radon Decay Product Measurement Method Categories
422.APPENDIX D	Sample Notice
422.APPENDIX E	Diagram of Room Worksheet for Radon Measurements

AUTHORITY: Implementing and authorized by Section 20 of the Radon Industry Licensing Act [420 ILCS 44/20].

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SOURCE: Emergency rule adopted at 21 Ill. Reg. 1568, effective January 1, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 10499, effective June 1, 1998; recodified from the Department of Nuclear Safety to the Illinois Emergency Management Agency at 27 Ill. Reg. 13641; amended at 29 Ill. Reg. 3212, effective February 22, 2005; amended at 33 Ill. Reg. _____, effective _____.

Section 422.20 Definitions

As used in this Part:

"Act" means the Radon Industry Licensing Act [420 ILCS 44].

"Active Soil Depressurization" or "ASD" means a family of radon mitigation systems involving mechanically driven soil depressurization, including sub-slab depressurization (SSD), drain tile depressurization (DTD), block wall depressurization (BWD), and sub-membrane depressurization (SMD).

"Agency" means the Illinois Emergency Management Agency (IEMA).

"Altering" means to change or modify a building or building design, or to revise, rather than repair, a mitigation system or mitigation system design.

"As Low As Is Reasonably Achievable" or "ALARA" means making every reasonable effort to maintain exposures to radiation as far below the dose limits in 32 Ill. Adm. Code: Chapter II, Subchapters b and d as is practical consistent with the purpose for which the licensed or registered activity is undertaken, taking into account the state of technology, the economics of improvements in relation to the state of technology, the economics of improvements in relation to benefits to the public health and safety and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed or registered sources of radiation in the public interest.

"Backdrafting" means a condition where the normal movement of combustion products up a flue, resulting from the buoyant forces on the hot gases, is reversed, so that the combustion products can enter the house. Backdrafting of combustion appliances (such as fireplaces and furnaces) can occur when depressurization in the house overwhelms the buoyant force on the hot gases. Backdrafting can also be caused by high air pressures or blockage at the chimney or flue termination.

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"Backer Rod" means a semi-rigid foam material resembling a rope of various diameters used to fill around pipes, etc., and to assist in making a sealed penetration. For example, where a pipe is inserted through a concrete slab, a length of backer rod is jammed into the opening around the pipe. Caulking is then applied to the space above the backer rod and between the outside of the pipe and the slab opening. The purpose of the backer rod is to hold the semi-fluid caulk in place until it sets or hardens. It is most important that a sealant only adhere to the 2 sides of the joint and not the base of the joint (third side). Adhesion to all 3 sides will prevent the sealant from elongating properly and will cause sealant failure.

"Block Wall Depressurization" means a radon mitigation technique that depressurizes the void network within a block wall foundation by drawing air from inside the wall and venting it to the outside.

~~"Category I CE Credits" means those continuing education credits received for documented successful completion of Agency approved CE courses or for instructing an approved CE course.~~

~~"Category II CE Credits" means those continuing education credits received for documented participation in approved professional meetings, seminars and conferences.~~

"Client" means any person who contracts for measurement or mitigation services.

"Combination Foundations" means buildings constructed with more than one foundation type, e.g., basement/crawlspace or basement/slab-on-grade.

~~"Commercial Building" means a type of building that is designed for commercial use, including but not limited to office buildings, warehouses, retail facilities, schools, recreational facilities, assisted living facilities and buildings that combine these uses.~~

"Communication Test" means a diagnostic test designed to qualitatively measure the ability of a suction field and air flow to extend through the material beneath a concrete slab floor and thus evaluate the potential effectiveness of a sub-slab depressurization system. This qualitative test is commonly conducted by applying suction on a centrally located hole drilled through the concrete slab and simultaneously observing the movement of smoke downward into small holes

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drilled in the slab at locations separated from the central suction hole. (See also Pressure Field Extension.)

["Continuing Education Credits" or "CE Credits" means those continuing education credits received for documented successful completion of Agency-approved CE courses or for instructing an approved CE course.](#)

"Crawlspace Depressurization" means a radon control technique designed to achieve lower air pressure in the crawlspace relative to indoor air pressure by use of a fan-powered vent drawing air from within the crawlspace. (See also Mechanically Ventilated Crawlspace System.)

"Diagnostic Tests" means procedures used to identify or characterize conditions within buildings that may contribute to radon entry or elevated radon levels or may provide information regarding the performance of a mitigation system.

"Drain Tile Depressurization" or "DTD" means a type of active soil depressurization system where the suction point piping attaches to a drain tile or is located in the gas-permeable material near the drain tile. The drain tile may be inside or outside the footings of the building.

"Drain Tile Loop" means a continuous length of drain tile or perforated pipe extending around all or part of the internal or external perimeter of a basement or crawlspace footing.

"Dwelling" means a single family home or a single unit within a multiple family complex.

"Eave" means the border of a roof that overhangs any wall.

"Electret Ion Chamber" or "Electret" means an electrostatically charged piece – usually a disk – of Teflon, called an electret, located inside an electrically conducting plastic chamber of a known air volume. The electret serves as a source of high voltage needed for the chamber to operate as an ion chamber. It also serves as a sensor for the measurement of ionization in air. The ions produced inside the sensitive volume of the chamber are collected by the electret causing a depleted charge. The measurement of the depleted charge during the exposure period is a measure of integrated ionization during the measurement period. The electret charge is read before and after the exposure using a specially

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built non-contact electret voltage reader.

"Footprint" means each foundation type in direct contact with soil or other material.

"Foundation Type" means basement, crawlspace, slab-on-grade or any other construction technique approved by local building code.

"Government Entity" means the State, a State agency, a political subdivision, or any entity of local government.

"HVAC" means heating, ventilation and air conditioning.

"Home Environment Measurement" means a short term or long term measurement of radon in a single family home, duplex or condominium.

"Individual" means any human being.

"Interfere" means *to adversely or potentially adversely impact the successful completion of an indoor radon measurement by changing the radon or radon progeny concentrations or altering the performance of measurement equipment or an indoor radon mitigation system installation or operation.* [420 ILCS 44/15]

"Laboratory" means any organization that analyzes or calibrates radon or radon progeny measurement devices or detectors.

"Laboratory Analysis" means *the act of analyzing the determining radon or radon progeny concentrations within air, water, soil, or passive radon testing devices, or the act of calibrating radon or radon progeny measurement devices, or the act of exposing radon or radon progeny devices to known concentrations of radon or radon progeny as a compensated service.* [420 ILCS 44/15]

"Living Area" means any area in a building that is, or could be, adapted for human habitation whether the area is located in a basement, over a crawlspace, or situated on a slab-on-grade.

"Long Term Measurement" means measurements lasting 91 days or more; closed building conditions are not required, but are recommended. Long term measurements are not time-sensitive and, therefore, real estate testing options do

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[not apply.](#)

"Measurement" means any radon or radon progeny tests, laboratory analysis, or exposure in a known radon or radon progeny environment, as in a radon chamber.

"Mechanically Ventilated Crawlspace System" means a radon control technique designed to increase ventilation within a crawlspace, achieve higher air pressure in the crawlspace relative to air pressure in the soil beneath the crawlspace, or achieve lower air pressure in the crawlspace relative to air pressure in the living spaces, by use of a fan. (See also Crawlspace Depressurization.)

"Mitigation" means *the act of repairing or altering a building or building design for the purpose in whole or in part of reducing the concentration of radon in the indoor atmosphere.* [420 ILCS 44/15]

"Mitigation System" means any system or steps designed to reduce radon concentrations in the indoor air of a building.

["Multi-Family Building" means a building, 3 stories or less, designed to house more than 4 families in separate units that do not have a common HVAC system for multiple units.](#)

"NIST" means the United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (formerly National Bureau of Standards).

"Passive New Construction System" means a system installed in new construction that relies solely on the convective flow of air upward in the vent pipe for sub-slab depressurization and consists of a vertical vent pipe routed through conditioned space from the suction pit to at least 12 inches above the roof.

"Passive Monitor" means a measurement tool that does not require external power or batteries to operate, such as charcoal detectors or alpha track detectors.

"Perimeter Channel Drain" means a system for collecting water in a basement by means of a large gap or channel between the concrete floor and the wall. Collected water may flow to aggregate beneath the slot ("French Drain") or to a sump where it can be drained or pumped away.

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"Person" means an entity including, but not limited to, *an individual*, company, corporation, *firm, group, association, partnership, joint venture, trust, or government agency or subdivision*. [420 ILCS 44/15]

"Pecocurie Per Liter" or "pCi/L" means 2.2 disintegrations per minute of radioactive material per liter of air.

"Pressure Field Extension" means the distance that a pressure change is induced in the sub-slab area, measured from a single or multiple suction points. (See also Communication Test.)

"QAP" means Quality Assurance Program.

"Radon" means a *gaseous radioactive decay product of uranium or thorium*. [420 ILCS 44/15]

"Radon Chamber" means a facility in which radon measurement devices or detectors are exposed to known radon concentrations.

"Radon Contractor" or "Contractor" means a *person licensed to perform radon or radon progeny mitigation or to perform measurements of radon or radon progeny in an indoor atmosphere*. [420 ILCS 44/15]

"Radon Progeny" means any *combination of the radioactive decay products of radon*. [420 ILCS 44/15]

"Radon Resistant New Construction" or "RRNC" means construction techniques that have been demonstrated to limit the amount of radon gas that enters from surrounding soil into the indoor environment. These techniques include passive and skeletal new construction systems.

"Radon Service Provider" means a radon contractor, laboratory, or person who performs laboratory analysis.

"Real Estate Testing" means short-term measurements that may be requested by a party not residing in the dwelling and that are performed in, or as a result of, or in expectation of, a real estate transaction and are time-limited due to this transaction.

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"Re-Entrainment" means the unintended re-entry into a building of radon that is being exhausted from the vent of a radon mitigation system.

"Renewal" means issuance of a license that is expiring, has expired or has been previously terminated.

"Research" means Agency-approved scientific investigation by testing and/or mitigating for radon or radon progeny.

"Residential Real Estate Measurement" means a measurement of radon in a single family home, duplex or condominium involved in a real estate transaction. Based on the time sensitive nature of real estate transactions, only short term measurements are appropriate and specific protocols are required.

"Sealing and Caulking" means to plug and make tight to reduce the passage of gas. Sealing and caulking enhances radon reduction techniques; however, sealing and caulking alone has not been shown to lower radon levels significantly or consistently.

"Short Term Measurement" means measurements conducted for at least 48 hours and up to 90 days; closed building conditions are required for measurements lasting seven days or less and recommended throughout.

"Skeletal New Construction System" means a system installed in new construction that is designed for the installation of a vent fan and may consist of multiple vent pipes, including vertical and angled runs not necessarily routed through conditioned space, that may be joined to a single termination above the roof or may terminate separately above the roof.

"Soil Gas" means the gas mixture present in soil ~~that~~which may contain radon.

"Soil Gas Retarder" means a continuous membrane or other comparable material used to retard the flow of soil gases into a building.

"Stack Effect" means the overall upward movement of air inside a building that results from heated air rising and escaping through openings in the building envelope, thus causing indoor air pressure in the lower portions of a building to be lower than the pressure in the soil beneath or surrounding the building foundation.

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"Sub-Membrane Depressurization" or "SMD" means a radon control technique designed to achieve lower air pressure in the space under a soil gas retarder membrane laid on the crawlspace floor and sealed, relative to air pressure in the crawlspace, by use of a fan-powered vent drawing air from beneath the membrane.

"Sub-Slab Depressurization (Active)" or "SSD (Active)" means a radon control technique designed to achieve lower sub-slab pressure relative to indoor air pressure by use of a fan-powered vent drawing air from beneath the concrete slab.

"Sub-Slab Depressurization (Passive)" or "SSD (Passive)" means a radon control technique designed to achieve lower sub-slab air pressure relative to indoor air pressure by use of a vent pipe (without a fan) routed through the conditioned space of a building and connecting the sub-slab area to the outdoor air. This system relies primarily on the convective flow of warmed air upward in the vent to draw air from beneath the concrete slab.

"Suitable for Occupancy" means a structural area in a home currently lived in or an area not currently used for occupancy, such as a basement, that an occupant or homeowner could use for living space without renovations. This includes an unfinished basement that could be used regularly as, for example, a recreation room, playroom, exercise room or workshop.

"USEPA" means the United States Environmental Protection Agency.

"Working Level" or "WL" means any combination of short-lived radon progeny in 1 liter of air that will result in the ultimate emission of 1.3×10^5 MeV of potential alpha particle energy. The short-lived radon progeny for radon-222 are: polonium-218, lead-214, bismuth-214 and polonium-214.

"Working Level Month" or "WLM" means a unit of exposure used to express the accumulated human exposure to radon decay products. It is calculated by multiplying the average working level to which a person has been exposed by the number of hours exposed and dividing the product by 170.

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

Section 422.30 Exemptions from Requirements for a License

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The Agency shall, upon application therefor, grant such exemptions or exceptions from the requirements of this Part as it determines are authorized by law and will not result in a hazard to public health and safety. The following persons are exempt from the licensing requirements of this Part:-

- a) A person performing radon measurements or mitigation on a dwelling in which the person resides.
- b) A person temporarily practicing in Illinois who possesses a license granted by another state's regulatory authority ~~that~~^{which} is recognized by this State under principles of mutual reciprocity.
- c) Retail stores that only sell or distribute radon sampling devices but are not engaged in a relationship with the client for other services such as home inspection or representation as in a real estate transaction and that do not perform laboratory analysis, measurement or mitigation services.
- d) Persons who do not perform radon measurements or mitigation, but who are employed for the purpose of disseminating beneficial information to the public for agencies that the USEPA considers to be partners in providing accurate radon information to the public, such as educational institutions, the American Lung Association, the National Safety Council, and the National Association of City and County Governments and State and local public health officials who ~~disseminated~~^{disseminate} radon measurement devices to the public.
- e) A person performing diagnostic tests for the purpose of assessing site decontamination in accordance with a radioactive materials license granted by the Agency. Diagnostic tests shall not be used as a basis for a decision to, or not to, mitigate the radon level within a building.
- f) Employees of the Agency performing measurements or mitigations as part of their official duties.

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

Section 422.45 Form, Location and Retention of Records

- a) Each record required by this Part and other applicable Parts of Title 32 shall be

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legible throughout the specific retention period. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of reproducing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate and complete records during the required retention period. Records such as letters, drawings and specifications shall include all pertinent information, stamps, initials and signatures. Adequate~~The licensee shall maintain adequate~~ safeguards against tampering with and loss of records shall be maintained throughout the retention period, even if the license expires or is terminated.

- b) Copies~~Each licensee shall maintain copies~~ of records required by this Part and other applicable Parts of Title 32 shall be maintained at the locations~~location(s)~~ specified in Section 422.50(i) or an alternate location approved by the Agency that shall be in Illinois or within 50 miles of the Illinois border~~of this Part.~~
- c) Records required by this Part or other Parts of Title 32, including but not limited to records of radon measurements, mitigations, Quality Assurance Programs, calibration measurements, equipment repairs and worker protection plans, shall be retained by the licensee for at least 5 years or the length of time of any warranty or guarantees, whichever is longer.

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

Section 422.50 Application for Licenses

- a) Any person applying to the Agency for a new license or a renewal of a license to perform radon-related measurement, mitigation or laboratory analysis services shall:
- 1) Submit a complete and legible application form;
 - 2) Pay the appropriate non-refundable fee prescribed in Section 422.100 ~~of this Part~~; and
 - 3) Meet the licensing requirements, as applicable, and as set forth in Section 422.60 ~~of this Part~~.
- b) Any person who anticipates conducting radon-related measurement, mitigation, or

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laboratory analysis services shall receive the license prior to providing such services in Illinois.

- c) The Agency may at any time after the filing of the original application, and before the expiration or termination of the license, require further statements in order to enable the Agency to determine whether the application should be granted or denied or whether an existing license should be modified or revoked.
- d) An application for renewal of a license shall be submitted at least 30 days prior to the expiration date of the license. An application shall be deemed filed on the date that it is received by the Agency. [A radon service provider shall not provide radon services after the expiration date of a license.](#)
- e) The application for renewal shall demonstrate successful completion of continuing education requirements as specified in Section 422.80 ~~of this Part~~, as applicable, satisfactory inspection or audit results, submittal of a complete and accurate application form for renewal and the payment of the appropriate fee as specified in Section 422.100 ~~of this Part~~.
- f) The Agency shall deny a license to any person if the Agency has evidence that the applicant has engaged in any of the acts listed in Section 422.120 ~~of this Part~~ unless the condition listed in Section 422.120 ~~of this Part~~ no longer exists and the applicant submits documentation that the applicant satisfies the requirements of Section 422.120 ~~of this Part~~.
- g) *The Agency shall deny an original or renewal license to a person who has defaulted on an educational loan guaranteed by the Illinois Student Assistance Commission. However, the Agency may issue an original or renewal license if the person in default has established a satisfactory repayment record as determined by the Illinois Student Assistant Commission. [420 ILCS 44/45]*
- h) The Agency shall refuse to issue or renew a license to any individual if the Agency has received evidence from the Department of Public Aid that the applicant is delinquent in the payment of child support orders, pursuant to the provisions and procedures set forth in 5 ILCS 100/10-65(c).
- i) The person applying for a license or renewal of a license shall specify, for Agency approval, a location where records required by this Part and other applicable Parts of Title 32 Ill. Adm. Code shall be maintained for inspection by the Agency. This

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location shall be in Illinois or within 50 miles of the Illinois border and at the location where the licensed professional who ensures the Quality Assurance Program is implemented is located.

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

Section 422.60 Requirements for Issuance or Renewal of Licenses

- a) The Agency shall issue a Radon Measurement Professional license to any individual who fulfills the following requirements:
 - 1) Is at least 18 years of age.
 - 2) Provides evidence of relevant work experience and education that meets any one of the following criteria:
 - A) Documented work history approved by the Agency demonstrating completion of 50 radon measurements; or
 - B) No experience. A new license performance audit will be performed by the Agency.
 - 3) Provides proof of successful completion of the USEPA Radon Measurement Operators Course, or an equivalent indoor radon and radon progeny measurement course approved by the Agency.
 - 4) Has successfully completed a USEPA Radon Measurement Examination, or an equivalent examination approved by the Agency.
 - 5) Submits a complete and accurate application form prescribed by the Agency that includes:
 - A) A description of all types of indoor radon measurements performed and any other related services offered;
 - B) A description of all measurement devices the applicant or licensee plans to use;
 - C) A worker protection program description acceptable to the Agency

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that includes, but is not limited to, methods to reduce or minimize the radon or radon progeny exposures in the work area; and

- D) A Quality Assurance Program description acceptable to the Agency that includes, but is not limited to:
- i) A policy statement committing to provide quality work;
 - ii) A description of management and structure of the organization;
 - iii) A listing of personnel, their qualifications and training;
 - iv) Procedures for procurement of items and services;
 - v) Procedures for maintaining documents and records;
 - vi) A description of relevant computer hardware and software;
 - vii) A planning process for radon and radon progeny services;
 - viii) Procedures for calibration and testing of instruments;
 - ix) A corrective action program; and
 - x) Standard operating procedures.

6) ~~Submits~~ AGENCY NOTE: Professional licensees shall submit standard operating procedures for the performance of radon or radon progeny measurements in each of the following categories for which they offer services: home, multi-family building, or school ~~School and commercial building measurements~~ Commercial Measurements unless the business will be limited to homes.

7)6) An individual requesting renewal shall submit evidence of meeting the continuing education requirements in Section 422.80 ~~of this Part.~~

- b) The Agency shall issue a Radon Measurement Technician license to any individual authorizing work under the general supervision of a Radon

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Measurement Professional licensee, if the applicant meets the following requirements:

- 1) Is at least 18 years of age.
 - 2) Provides proof of successful completion of the USEPA Radon Measurement Operators Course, or an equivalent indoor radon and radon progeny measurement course approved by the Agency.
 - 3) Has successfully completed a USEPA Radon Measurement Examination, or an equivalent examination approved by the Agency.
 - 4) An individual requesting renewal shall submit evidence of meeting the continuing education requirements in Section 422.80 ~~of this Part~~.
- c) The Agency shall issue a Radon Mitigation Professional license to any individual who fulfills the following requirements:
- 1) Is at least 18 years of age.
 - 2) Provides evidence of relevant work experience and education that meets any of the following criteria:
 - A) At least 4 years of design and construction of buildings, or associated heating, ventilation and air conditioning (HVAC), or closely related activities approved by the Agency;
 - B) Documented work history approved by the Agency demonstrating completion of 50 radon mitigation installations; or
 - C) No experience. A new license performance audit will be performed by the Agency.
 - 3) Provides proof of successful completion of the USEPA Radon Mitigation Course, or an equivalent indoor radon and radon progeny mitigation course approved by the Agency.
 - 4) Has successfully completed a USEPA Radon Mitigation Examination, or an equivalent mitigation examination approved by the Agency.

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- 5) Submits a complete and accurate application form prescribed by the Agency that includes:
- A) A description of all diagnostic tests that may be performed to determine the mitigation strategy and any other radon related services offered;
 - B) A description of all mitigation system designs or strategies offered. Materials and design controls shall be included in the professional licensees' Quality Assurance Program description;
 - C) A worker protection program description acceptable to the Agency, to be followed when performing mitigation installations, that includes, but is not limited to, methods to reduce or minimize the radon or radon progeny concentrations in the work area.
 - D) A Quality Assurance Program description acceptable to the Agency that includes, but is not limited to:
 - i) A policy statement committing to provide quality work;
 - ii) A description of management and structure of the organization;
 - iii) A listing ~~of personnel of personnel~~, their ~~qualifications and qualifications and~~ training;
 - iv) Procedures for procurement of items and services;
 - v) Procedures for maintaining documents and records;
 - vi) A description of relevant computer hardware and software;
 - vii) A planning process for radon and radon progeny services;
 - viii) Procedures for calibration and testing of instruments;
 - ix) A corrective action program; and

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- x) Standard operating procedures.
- 6) [Provides proof of insurance as specified in Section 422.70\(q\).](#)
 - 7) [Submits](#)~~AGENCY NOTE: Professional licensees shall submit~~ standard operating procedures for the performance of [mitigations in each of the following categories for which they offer services: home, multi-family building, or school](#)~~School~~ and [commercial building mitigations](#)~~Commercial Mitigations unless the business will be limited to homes.~~
 - 8) ~~6)~~ An individual requesting renewal shall submit evidence of meeting the continuing education requirements in Section 422.80 ~~of this Part.~~
- d) The Agency shall issue a Radon Mitigation Technician license to any individual authorizing work under the general supervision of a Radon Mitigation Professional licensee, if the applicant meets the following requirements:
- 1) Is at least 18 years of age.
 - 2) Provides proof of successful completion of the USEPA Radon Mitigation Operators Course, or an equivalent indoor radon and radon progeny mitigation course approved by the Agency.
 - 3) Has successfully completed a USEPA Radon Mitigation Examination, or an equivalent examination approved by the Agency.
 - 4) An individual requesting renewal shall submit evidence of meeting the continuing education requirements in Section 422.80 ~~of this Part.~~
- e) The Agency shall issue a Laboratory Analysis license to any person who submits a complete and accurate application form prescribed by the Agency that includes:
- 1) The name of one individual who is responsible for the laboratory radon analytical activities;
 - 2) A description of all measurement devices used and services offered; and

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- 3) Documentation of a Quality Assurance Program that meets one of the following:
- A) A quality assurance program description consistent with ISO/IEC 17025, General Requirements for the Competence of Testing and Calibration Laboratories Compliance published December 15, 1999, exclusive of subsequent amendments or editions; or
 - B) Is successfully enrolled in an independent third party accreditation/certification program consistent with national laboratory accreditation and certification standards, or an equivalent program approved by the Agency, for the devices listed in subsection (e)(2) of this Section.

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

Section 422.70 Conditions of Licenses

- a) Any person licensed by the Agency to perform radon measurement shall perform in accordance with the measurement protocol provided in Section 422.130 ~~of this Part~~ as applicable to the measurement type performed and the ~~devices~~ device(s) used.
- b) Any person licensed by the Agency to perform radon measurements shall use devices approved by USEPA, prior to the retirement of the USEPA Radon Proficiency Program, or the Agency to measure radon and radon progeny.
- c) No unlicensed individual shall perform radon measurement or mitigation activities without the direct on-site supervision of a licensed individual.
- d) Within 45 days after providing radon measurements, the individual providing the service shall report the results in picocuries per liter (pCi/L) to the occupant, the owner of the building, his/her representatives or the client.
- e) Licensees shall comply with 32 Ill. Adm. Code 340. This means that the radiation exposure shall not exceed 30 pCi/L or 0.3 WL, based on continuous workplace exposure for 40 hr/week, 52 weeks per year and shall not exceed 4 working level months (WLM) over a 12 month period, using an equilibrium ratio of 50 percent to convert radon exposure to WLM.

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- f) Records of radon measurements, mitigations, Quality Assurance Programs, calibration measurements, equipment repairs and worker protection plans shall be retained by the licensee for a least 5 years or the length of time of any warranty or guarantees, whichever is longer.
- g) No person shall interfere with, or cause another to interfere with, the successful completion of a radon measurement or the installation or operation of a radon mitigation.
- h) The radon laboratory licensee shall notify the Agency in writing within 5 working days when it loses or replaces the individual named pursuant to Section 422.60(e)(1) ~~of this Part~~.
- i) [A licensee shall return the original license document to the Agency within 15 days after ceasing to provide licensed services, unless the license has expired.](#)
- ii) Mitigators who are also licensed to perform measurements shall not perform radon measurements before or after the installation of a mitigation system at the same address as the mitigation installation, unless a measurement has been made by another independent person in accordance with this Part.
- kj) Licensees shall inform the Agency of changes in biographical information, such as addresses and telephone numbers, within 10 days after the change is effective.
- lk) Substantive changes to license application representations require an amendment to the license and Agency approval. Licensees shall request amendments to documents at least 30 days prior to the effective date of the desired revision.
- m) [The licensee shall comply with all the applicable provisions of this Part.](#)
- nl) The licensee shall comply with the Agency-approved Quality Assurance Program.
- om) Professional licensees shall be located in Illinois or within 50 miles of the Illinois border. Professional licensees shall provide general supervision of technician licensees working under their Quality Assurance Program.
- pn) Contractors installing research or innovative radon techniques or otherwise deviating from the standards in this Part shall notify the Agency in writing.

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Approval from the Agency in writing must be received prior to the commencement of work. ~~7 working days prior to the commencement of work.~~

When such research is conducted, a performance standard shall be applied, for example, post-mitigation radon levels shall be below USEPA's action level (4.0 pCi/L). Written notification to the Agency shall include:

- 1) Written acknowledgement signed by the client stating that the client understands the reasons the contractor plans to deviate from the standards of this Part;
- 2) The technical bases for the measurement or mitigation technique and description of the functional accomplishments that will be achieved; and
- 3) The identity of the client and the address of the building, including the zip code.

q) A Radon Mitigation Professional engaged in the business of radon mitigation shall obtain and maintain in full force and effect during the operation of the business public liability and property damage insurance that meets the requirements of the Home Repair and Remodeling Act [815 ILCS 513]. The licensee or applicant for a license shall provide proof of this insurance to the Agency.

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

Section 422.75 State Radon License Exam

- a) Any person applying to the Agency to take the measurement or mitigation Radon License Exam shall:
- 1) Submit a complete and legible application form;
 - 2) Provide proof of successful completion of the USEPA Radon Measurement Operators Course, or an equivalent indoor radon and radon progeny measurement course approved by the Agency.
- b) No person shall take the Radon License Exam more than once in any 28 day period.

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c) Persons who have a physical or mental disability that requires reasonable accommodation in accordance with the Americans With Disabilities Act (42 USC 101 et seq.) shall, in addition to subsection (a):

- 1) Submit a complete and legible application form 30 days prior to the exam date;
- 2) Provide a physician's statement of the disability that includes a list of accommodations that are needed to take the exam.

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

Section 422.80 Continuing Education Requirements

All applicants for renewal of individual licenses shall provide evidence of having participated in an Agency-approved program of continuing education as indicated in this Section:

a) ~~The Effective July 1, 2005, the~~ required continuing education per year for categories of licenses issued pursuant to this Part is as follows:

- | | | |
|----|--------------------------------|-----------|
| 1) | Radon Measurement Professional | 6 credits |
| 2) | Radon Measurement Technician | 6 credits |
| 3) | Radon Mitigation Professional | 6 credits |
| 4) | Radon Mitigation Technician | 6 credits |

AGENCY NOTE: ~~An Effective July 1, 2005, the~~ individual who is licensed for both Measurement and Mitigation needs 6 credits per year for each license (i.e., 12 credits per year).

b) ~~Until July 1, 2005, the individual may choose to meet the continuing education criteria that becomes effective July 1, 2005 or the required continuing education per year period for the category of license issued pursuant to the following:~~

- | | | |
|----|---|---------------------------------------|
| 1) | Radon Measurement Professional | 16 credits (8 Category II) |
| 2) | Radon Measurement Technician | 8 credits |

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- | | | |
|----|--|---------------------------------------|
| 3) | Radon Mitigation Professional | 16 credits (8 Category II) |
| 4) | Radon Mitigation Technician | 8 credits |

~~AGENCY NOTE: All applicants for individual licenses shall provide evidence of participating in an approved program of continuing education as indicated in subsections (a) and (b) of this Section. All credits are Category I, unless otherwise noted. Category I can be substituted for Category II.~~

- ~~be) Continuing~~Effective July 1, 2005, ~~continuing~~ education (CE) credits may be obtained via participation in courses or teaching approved courses. ~~Until July 1, 2005, the individual may choose to meet the criteria that becomes effective July 1, 2005 or continuing education credits may be obtained via participation in courses, teaching approved courses, and by documented attendance at seminars or meetings of professional organizations. To obtain credit for attendance at seminars and meetings, licensees shall submit a copy of the agenda and the sign-in sheet or other similar proof of attendance.~~
- ~~cd) Licensed~~Effective July 1, 2005, ~~licensed~~ individuals shall receive ~~CE~~continuing education credits (~~CECs~~) for an approved radon course only once during a 5 year interval.~~Until July 1, 2005, the individual may choose to meet the criteria that becomes effective July 1, 2005, or for Radon Measurement Professionals and Radon Mitigation Professionals, at least 8 of the required 16 CECs shall be in approved radon courses.~~
- ~~de) The basis for a unit of continuing education credit shall be the contact hour (50 minutes) of lecture. Activity other than lecture shall be submitted to the Agency for evaluation in accordance with Section 422.85~~of this Part.
- ~~ef) Licensees shall submit required documentation for~~ ~~CECECs~~ as part of the application for renewal.
- ~~fg) CE~~Continuing education credit ~~for courses~~ shall be given for courses approved by the Agency in accordance with the procedures specified in Section 422.85 ~~of this Part.~~
- ~~gh) For courses not approved by the Agency, a licensee may submit the information required by Section 422.85~~ of this Part to the Agency for approval. The documentation shall be submitted at least 180 days prior to license expiration.

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

Section 422.85 Agency Approval of Radon Courses

- a) Persons offering continuing education for a licensed individual may apply for approval by submitting to the Agency, 90 days prior to the start of the course, the following:
- 1) A completed application on a form prescribed by the Agency that shall include, but not be limited to, the following information:
 - A) Name, business address, telephone number, fax number and e-mail address of the person providing the training;
 - B) Type of course and title; and
 - C) Total hours of supervised instruction within the course;
 - 2) Copies of the syllabus and all training materials to be used in the training course;
 - 3) Pertinent biographical information or credentials of all individuals instructing the training course participants; and
 - 4) Criteria for course approval upon which successful completion of the course by participants will be judged pursuant to subsection (e) of this Section, ~~such as the test and the correct answers; and~~
 - 5) ~~A sample copy of a course completion certificate.~~

AGENCY NOTE: Operators of training courses shall submit a separate application for each course, but if a single course will provide instruction for more than one type of licensed individual, only one application is required.

- b) To maintain approval of a training course, the course operator shall do all of the following:
- 1) Issue a certificate of completion to each individual who successfully completes the course;

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- 2) Submit to the Agency a list of all individuals who successfully completed the course within 30 days after completion of the course. The list shall include name, business address, telephone number and radon license number;
 - 3) Request, in writing, the Agency's approval of any changes that would render the information contained in the application for approval inaccurate; and
 - 4) For a revised course, submit within 30 days before first teaching the revised course, an informational copy of the complete revised course, whether or not the revisions render the information contained in the application for approval inaccurate.
- c) The Agency may refuse to issue an approval and may revoke or suspend an approval issued pursuant to this Part if the operator of the course fails to meet the criteria specified in subsections (a) or (b) of this Section or if the course is not updated to incorporate new information pertinent to licensed activities.
- d) Approval of a training course shall be valid until the course is revised.

e) Criteria for CE Course Approval

1) General Format for Course Approval

A) Opening pages/introduction of the course shall include the following:

- i) Name of the sponsor/course provider.
- ii) Name of the course developer, if different than the sponsor/provider.
- iii) Name/title of the course. The title shall be the same as approved by the Agency.
- iv) Course description.

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- v) Course objectives.
- vi) Other references or source materials required for the course (e.g., textbook).
- vii) Course instructions shall include the following statements:
- "In order to receive CE credit, you shall first complete the course content. When completed, go to the last page of the course to access the post-test."
 - "Submit the completed answers to determine if you have passed the post-test assessment. You must obtain a score of at least 70% to receive the CE credit. You will have no more than 3 attempts to successfully complete the post-test."
- viii) CE credits: Number of CE credits awarded for successful completion of the course.
- ix) Approving organization statement: "Approved by Illinois Emergency Management Agency, Radon Program" and the course number.
- x) Statement about seeking CE credit for repeating a course: "This course may be available in multiple formats or from different sponsors. The Illinois Emergency Management Agency, Radon Program, does not allow CE courses such as Internet courses, home study programs or directed reading to be repeated for CE credit in the same 5 year period."

AGENCY NOTE: The Illinois Emergency Management Agency, Radon Program, will approve CE credits for courses that have similar content. However, the credits cannot be for the same course completed from different formats. For example, two different courses on Radiation Protection would be acceptable. Two courses, one on CD and one as a home study, with the same

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content would not be acceptable.

xi) Statement concerning a course awarded multiple CE course numbers. Depending on the situation, a course may be awarded credit through multiple evaluation programs for use by different credentialing organizations. Different course numbers are then awarded to the same course. In such situations, each course number and the approving authority for each course number shall be listed.

xii) CE sponsor contact information shall be provided for participants who have questions regarding the CE course.

B) Additional Requirements for an Online CE Course

i) Hardware and software requirements for the course.

ii) Access options (for example, dial-up, broadband, cable, DSL).

2) Agency Approval for Number of CE Credits

A) Evaluation of Content

i) For an original approval, the course title shall match the title that was submitted on the CE credit application form.

ii) For renewal applications, the title shall match the title approved by the Agency.

iii) The content shall support the stated objectives.

iv) The content shall be current and accurate.

v) The content shall provide sufficient depth and scope of the subject matter.

vi) Content taken from other copyrighted materials shall be appropriately identified as such and referenced.

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- vii) Documentation of appropriate permissions for use of reprinted materials shall be clearly referenced.
 - viii) All supporting materials (e.g., images, photos, diagrams, charts, tables and text) shall be legible and labeled correctly.
 - ix) Acronyms shall be spelled out with the first use or a glossary of terms shall be provided.
 - x) Credit requested to be awarded for the course shall be determined by the length of time it takes to complete the course. Time utilized to complete the post-test may be considered part of learning the course information.
 - xi) The CE application materials shall include a description of the grading and documentation process. A copy of the certificate to be awarded and the post-test, with correct answers indicated, shall be included.
 - xii) CE sponsors for courses that were developed by others (i.e., individuals or organizations) shall indicate the following information on the application for the CE credit: The name of the individual or organization that developed the course and an affirmation statement that the developer of the course has granted the CE sponsor permission to use and distribute the course.
 - xiii) For all formats of any course and at all sites, the Agency shall be provided with access (i.e., user ID and password) in order to evaluate the course in the manner that it is being presented. For electronic courses, access shall be provided prior to the course being made available for use by customers.
- 3) Assessment (Post-Test)
- A) Possible Uses for the Post-Test

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- i) Post-Test Used to Assess Participation. Multiple choice questions shall be provided to help determine if a person has participated in the course. Answers do not need to be provided to the participant.
- ii) Post-Test Used as a Learning Tool. Multiple choice questions shall be provided to help determine a level of learning. If a question is answered incorrectly, detailed information is provided to explain the questions and answers.

B) Format Evaluation

- i) Post-tests shall have a minimum number of questions based upon the number of CE credits requested to be awarded to the course (i.e., 5 questions for each credit hour).
- ii) When submitted for evaluation, the correct answers to the post-test questions shall be referenced (with paragraph and page numbers) in the content of the course.
- iii) Additionally, for online courses:
 - The participant shall not be able to go directly to the post-test from the introductory page without at least "paging" or "scrolling" through the content. (This may be accomplished by requiring the participant to page through the content before reaching the post-test. For example, do not place access to the post-test at the beginning of the course.)
 - The CE course content may be printed for review; however, the post-test shall not be available to print.
 - If the sponsor is using a test item, all questions and answers that a participant might see shall be provided to the Agency for review.

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C) Scoring

- i) A maximum of three attempts to pass the post-course assessment is allowed. No CE credit will be awarded if there are three failed attempts. (See subsection (e)(1)(A)(viii) of this Section.)
- ii) If a participant fails to score at least 70% on the post-test, the number of incorrect answers or the percent correct may be provided, but the individual questions answered incorrectly shall not be identified. Post-test question security shall be maintained.

4) Certificates of ParticipationA) Certificate Format

- i) Certificates shall contain the participant name, course, date completed, credits earned, approving organization (i.e., IEMA, Radon Program), reference number, sponsor name and/or logo and signature of the sponsor or its authorized representative. (The same certificate information is required for all formats of a course, i.e., Internet, print, live, etc.)
- ii) The certificate shall reflect the "date of completion" as the date the sponsor received the completed post-test.
- iii) All post-tests received shall be date/time stamped (or date collected and recorded) for verification purposes.

B) Certificate Distribution

- i) The certificate shall be awarded only after successful completion of the course.
- ii) The participant shall not be able to alter the information for the on-line certificate in any way before printing.

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iii) Duplicate on-line certificates may be made available by the CE sponsor for re-printing.

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

Section 422.90 Renewal and Termination of Licenses

- a) Licenses shall be renewed in accordance with Section 422.60 of this Part.
- b) All applicants seeking renewal shall complete the continuing education requirements in Section 422.80, except, when the license has been expired or terminated, the person may take the appropriate qualification course and State Licensing Examination as an alternative to the required CE of this Part.
- c) Licensees shall notify the Agency when they wish the Agency to terminate the license. The request to terminate the license shall be signed by the licensee and shall include the following:
 - 1) The license; and
 - 2) The location where records will be maintained in compliance with Section 422.45.
- d) The licensee shall allow the Agency to perform an audit that was scheduled before the licensee submitted a request to terminate the license.

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

Section 422.100 Fees

- a) The annual fee in all categories ~~shall be non-refundable and~~ shall be as follows:

Beginning March 1, 2009:

Radon Measurement Professional license – Individual	\$ <u>500</u> 200
Radon Measurement Technician license – Individual	\$ <u>250</u> 125
Radon Mitigation Professional license – Individual	\$ <u>500</u> 200
Radon Mitigation Technician license – Individual	\$ <u>250</u> 125
Laboratory Analysis	\$ <u>500</u> 250

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b) An individual license application fee of \$125~~The appropriate fees~~ shall accompany a new application when filed with the Agency. A laboratory application fee of \$500 shall accompany a new application when filed with the Agency.

c) All fees assessed in accordance with this Section are non-refundable.

~~AGENCY NOTE: When the first annual fee statement is mailed, a licensee who has a full year or more remaining before expiration of the license shall be given a credit of one half the amount of the 2-year fee paid.~~

AGENCY NOTE: A local government or school employee may, upon application for a Radon Measurement Professional license, have the fees waived if his/her practice is limited to his/her official duties~~employer's facilities~~ and is not charging a fee for this service.

de) The appropriate fees shall be paid within 60 days after~~of~~ the date on the statement issued by the Agency.

e) Effective October 1, 2009, the fee for an Illinois Mitigation System Tag will be \$50. Illinois Mitigation System Tags shall be purchased from the Agency in amounts not less than 5 per transaction.

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

Section 422.110 Reports to the Agency

a) All individuals licensed to perform radon measurements and former licensees shall submit to the Agency the results and the address of all radon and radon progeny measurements on an annual basis. The file submitted to the Agency shall be an ASCII, comma delimited file.~~In general, this type of file can be generated by most spreadsheet and database software. Instructions for the specific information and formatting are available from the Agency or on the Agency website.~~

b) All individuals licensed to perform radon mitigations and former licensees shall submit to the Agency the address of all radon and radon progeny mitigations on an annual basis. The file submitted to the Agency shall be an ASCII, comma

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delimited file. ~~In general, this type of file can be generated by most spreadsheet and database software. Instructions for the specific information and formatting are available from the Agency or on the Agency website.~~

- c) All individuals licensed to perform laboratory analysis who report results to home occupants, owners or their representative shall submit to the Agency the complete addresses and radon concentration and progeny measurements concentrations and laboratory reports on an annual basis. The files submitted to the Agency shall be an ASCII, comma delimited file.

AGENCY NOTE: In general, this type of file can be generated by most spreadsheet and database software. Instructions for the specific information and formatting are available from the Agency or on the Agency website.

- de) All licensees shall report apparent non-compliances with either the Radon Industry Licensing Act or this Part to the professional licensee upon discovery; then to the Agency in writing within 45 days upon discovery unless appropriate corrective action has been performed within 30 days ~~after~~ discovery.

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

Section 422.120 Disciplinary Action by the Agency

- a) The Agency may act to suspend or revoke a person's license, may issue a civil penalty, or may issue a civil penalty in addition to suspending or revoking a person's license for any one or a combination of the following causes:
- 1) Knowingly causing a material misstatement or misrepresentation to be made in the application for a license, if such misstatement or misrepresentation would impair the Agency's ability to assess and evaluate the applicant's qualifications for a license pursuant to this Part, such as a misstatement or misrepresentation regarding training or experience;
 - 2) Willfully evading the statute or regulations pertaining to a license, or willfully aiding another person in evading the statute or regulations pertaining to a license;
 - 3) Having been convicted in any state of a crime that is a felony under the laws of this State or having been convicted of a felony in a federal court,

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unless such individual demonstrates to the Agency that he/she has been sufficiently rehabilitated, ~~by restoration of all civil rights~~, to warrant the public trust;

- 4) Misrepresenting the capabilities of a device for detecting and measuring radon or radon progeny or misrepresenting the results of a test to detect or measure radon or radon progeny;
 - 5) Gross and willful overcharging for professional services, including filing false statements for collection of fees or moneys for which services are not rendered; and
 - 6) A person knowingly makes a false material statement to an Agency employee during the course of official Agency business. A finding by the Department that the licensee, after having his or her license placed on probationary status, has violated the terms of probation.
 - 7) Failure to Provide Access to Records. Failure to make records available for audit or inspection at all reasonable times, such as during usual business hours.
 - 8) Failing, within 60 days, to provide information in response to a written request made by the Agency that has been sent by mail to the licensee's last known address. [420 ILCS 44/45(g)].
 - 9) Failure to file a return or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty, or interest, as required by a tax Act administered by the Department of Revenue, until such time as the requirements of any such tax Act are satisfied. [420 ILCS 44/45(q)]
- b) If, based upon any of the grounds in subsection (a) of this Section, disciplinary action is initiated, the Agency shall notify the person and shall provide an opportunity for a hearing in accordance with 32 Ill. Adm. Code 200.60. An opportunity for a hearing shall be provided before the Agency takes action to suspend or revoke a person's license.
- c) Suspension of a license shall be for up to 1 year in time. The term of suspension shall be reduced by the Director, upon the recommendation of the hearing officer,

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if the hearing officer finds, based upon evidence presented to him/her at a hearing, and the Director concurs, that the conditions leading to the Preliminary Order for Suspension can be cured in less than 1 year. However, if the Agency finds that the causes are of a serious or continuous nature, such as past actions ~~that~~^{which} posed an immediate threat to public health or safety, deficiencies that cannot be cured within 1 year or frequent child support arrearages, the Agency shall revoke the person's license.

- d) The Director may summarily suspend the license of a licensee without a hearing, simultaneously with the institution of proceedings for a hearing, if the Director finds that evidence in his or her possession indicates that continuation of the contractor in practice would constitute an imminent danger to the public. *If the Director summarily suspends a license without a hearing, a hearing by the Agency shall be held within 30 days after the suspension has occurred and shall be concluded without appreciable delay.* [420 ILCS 44/50] The hearing shall be held in accordance with 32 Ill. Adm. Code 200.
- e) When a person's license is suspended or revoked, the person shall surrender the license to the Agency and cease licensed activities.
- f) A person whose license has been revoked may seek reinstatement of the license by filing with the Agency a petition for reinstatement. ~~Petitions~~^{Such petition} may be filed after the beginning of the revocation period. The person shall be afforded a hearing in accordance with 32 Ill. Adm. Code 200 and shall bear the burden of proof of establishing that the license should be reinstated due to rehabilitation.
- g) A person who violates any provisions of this Part shall be guilty of a business offense and shall be assessed a penalty in accordance with Section 35 of the Act.

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

Section 422.130 Measurement Protocol

- a) Measurement Location
 - 1) Short-term or long-term measurements shall be made in each lowest structural area suitable for occupancy. For example, a split-level building with a basement, a slab-on-grade room and a room over crawlspace shall have measurements made in each of the foundation types: the basement, a

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slab-on-grade room and a room over the crawlspace.

- A) Measurements shall be made in rooms that can be regularly occupied by individuals, such as family rooms, living rooms, dens, playrooms and bedrooms.
- B) Charcoal canisters of any type shall not be placed in bathrooms, kitchens, laundry rooms, spa rooms or other areas of high humidity.
- C) When the level of the home being tested is over 2000 square feet, an additional test location is required for each 2000 square feet of the level being tested. Radon in air measurements shall be made either concurrently with or prior to any diagnostic radon in water measurements.
- D) Measurement devices shall be placed in the general breathing zone and shall be:
- i) Undisturbed during the measurement period;
 - ii) At least 3 feet from doors, windows to the outside, or ventilation ducts; ~~and out of the direct flow of air from the ventilation duct;~~
 - iii) Out of the direct flow of air from the ventilation duct;
 - iv) At least 1 foot from exterior walls;
 - v) 20 inches to 6 feet from the floor;
 - vi) At least 4 inches away from other objects horizontally or vertically above the detector;
 - vii) At least 4 feet from heat, fireplaces and furnaces, out of direct sunlight, etc.
- E) Measurement devices may be suspended in the general breathing zone and, if suspended, shall be 20 inches to 6 feet above the floor

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[and at least 1 foot below the ceiling.](#)

- F) Measurements made in closets, cupboards, sumps, crawlspaces or nooks within the foundation shall not be used as a representative measurement and shall not be the basis for a decision to, or not to, mitigate the radon level within a building.

b) Measurements

- 1) A short-term measurement shall range in duration from 48 hours to 90 days, depending upon the measurement device used. Unoccupied homes shall be tested with the HVAC system set and operating throughout the measurement interval in the normal range, such as 72 degrees F plus or minus 5 degrees F.
- A) Short-term measurements shall be made under closed-building conditions. In measurements lasting more than seven days and less than 90 days, closed-house conditions shall be maintained as much as possible while the measurement is in progress.
- B) Closed building conditions shall begin at least 12 hours prior to the beginning of the measurement period for measurements lasting less than [96 hours](#)~~4 days~~.
- C) The following conditions shall be complied with during closed-building conditions:
- i) Operation of permanently installed HVAC systems ~~shall continue~~[shall continue](#) during closed-building conditions. Radon Measurement licensees shall inform the resident in writing that operation of dryers, range hoods, bathroom fans and other mechanical systems that draw air out of the building may adversely affect the measurement results.
- ii) In buildings having permanently installed radon mitigation systems, the mitigation system shall be functioning during the measurement interval.
- iii) Air conditioning systems that recycle interior air may be

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operated during closed-building conditions.

- iv) All windows shall be kept closed.
 - v) All external doors shall be closed except for normal entry and exit. Structural openings due to disrepair or structural defects shall be repaired to correct their condition prior to initiation of closed-building conditions. All exterior windows and doors shall be inspected by a Radon Measurement Professional licensee or Radon Measurement Technician at the placement and retrieval of the detectors and the result of the inspection documented for the measurement file.
 - vi) Whole-house fans shall not be operated. Portable window fans shall be removed from the window or sealed in place. Window air conditioning units shall only be operated in a recirculating mode. If the building contains an air handling system, the air handling system shall not be set for continuous operation unless the air handling equipment is specifically used for radon control and is so labeled.
 - vii) Fireplaces or combustion appliances, except water heaters and cooking appliances, shall not be operated unless they are the primary sources of heat for the building.
 - viii) Ceiling fans, portable dehumidifiers, portable humidifiers, portable air filters and window air conditioners shall not be operated within 20 feet of the detector.
- D) Short-term measurements of less than 96 hours shall not be conducted during severe storms or periods of sustained high winds (30 miles per hour or more). Radon Measurement licensees shall check and document local weather forecasts prior to placing short-term measurement devices when the measurement period is less than 96 hours.

AGENCY NOTE: The National Weather Service defines a severe storm as a storm that generates winds of 58 mph and/or ¾-inch

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diameter hail and that may produce tornadoes – not necessarily in that order.

- E) The Radon Measurement licensee shall document that instructions describing closed-building conditions in subsection (b)(1) of this Section were provided for the person who controls the building in accordance with subsections (d)(1) and (2) of this Section.
 - 2) The Radon Measurement licensee shall advise the resident in accordance with Appendix A ~~of this Part~~.
 - 3) Follow-up measurements shall be conducted in the same location as the initial measurement, provided the initial measurement was performed in accordance with acceptable measurement placement protocol.
 - 4) The results of both initial and follow-up measurements and the average of duplicate measurements shall be reported. The average shall be considered appropriate as the basis for determining the need for mitigation.
- c) Options for Real Estate Testing
- 1) ~~Option 1: Sequential Testing~~
 - A) ~~The results of the first measurement shall not be reported prior to making the second measurement. The results of sequential measurements shall be reported to the client at the same time.~~
 - B) ~~The average of the sequential measurements shall be reported and shall be considered appropriate as the basis for determining the need for mitigation.~~
 - C) ~~Sequential tests shall be:~~
 - i) ~~Made with similar measurement devices (see Appendix C of this Part);~~
 - ii) ~~For similar time periods;~~

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iii) ~~In the same locations; and~~

iv) ~~Reported in the same units (pCi/L).~~

1)2) Option 1:~~Option 2:~~ Simultaneous Testing

- A) Simultaneous testing shall be comprised of a minimum of 2 indoor radon measurements conducted simultaneously with similar measurement devices (see Appendix C ~~of this Part~~).
- B) Simultaneous tests shall be:
- i) Co-located and spaced 4 to 5 inches apart;
 - ii) ~~Exposed~~Be exposed for the same measurement period; and
 - iii) Produce results in the same units (pCi/L or WL).
- C) The results of both measurements and the average of the simultaneous measurements shall be reported and shall be considered appropriate as the basis for determining the need for mitigation.
- D) Simultaneous measurement results that are both less than 4.0 pCi/L shall agree with a Relative Percent Difference (RPD) of less than 67 percent. RPD is the difference between the 2 results divided by the average of the 2 results times 100. If the RPD is greater than 67 percent, the Radon Measurement Professional licensee shall investigate, document and correct the sources of the error.
- E) When one of the measurements is equal to or greater than 4.0 pCi/L and one is less than 4.0 pCi/L, and the higher result is greater than twice the lower result, the client shall be informed of the large discrepancy and the simultaneous measurements repeated at no added cost to the client.
- F) Simultaneous measurement results that are both equal to or greater than 4.0 pCi/L shall agree with a RPD of less than 36 percent. If the RPD is greater than 36 percent, the Radon Measurement Professional licensee shall investigate, document and correct the

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sources of the error.

- G) The precision of simultaneous measurements shall be monitored and recorded in the quality assurance records. The analysis of data from simultaneous measurements shall be plotted on range control charts. If the precision estimated by the user is not within the precision expected of the measurement method, the cause of the problem shall be investigated and corrective action taken in accordance with the licensee's Agency-approved quality program.

2)3) Option 2: Continuous Monitor Testing~~Option 3: Performing A Single Test~~

- A) This option requires an active continuous monitor that has the capability to integrate and record a new result at least hourly. Shorter integration periods and more frequent data logging afford greater ability to detect unusual variations in radon or radon progeny concentrations.
- B) The minimum ~~single~~-test measurement period shall be 48 hours. The first 4 hours of data from a continuous monitor may be discarded or incorporated into the result using system correction factors. There shall be at least 44 contiguous hours of usable data to produce a valid average.
- i) The "backing out" of data (i.e., removal of portions imbedded in the 44 contiguous hours of monitoring) shall invalidate the measurement.
- ii) The periodic results shall be averaged to produce a result that is reported to the client.

3)4) Additional Requirement for Real Estate Option Testing

- A) Real Estate Option tests shall be conducted in accordance with subsections (a)(1) and (b)(1) of this Section.
- B) The measurement exposure time shall be a minimum of 48 hours.

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- C) Measurement licensees shall establish controls consistent with the devices used in their measurements to prevent interference and document those controls in accordance with subsection (l)(1) of this Section.
- d) Non-Interference Agreement
- 1) The buyer, seller, occupant, real estate professional or other individual in control of the property shall sign a non-interference agreement indicating an understanding of the testing conditions, ~~of this Part and of~~ the penalties for interference with an in-progress radon measurement, and that any test interference that is detected will be documented in the report and will invalidate the measurement results.
 - 2) If such an agreement cannot be or will not be signed by the buyer, seller, occupant, real estate professional or other individual in control of the property, the Radon Measurement licensee shall document on the agreement why the signature was not obtained. The agreement shall be retained for inspection by the Agency.
- e) Radon Measurement In Progress Notification. The licensee shall post at every building entry and in a conspicuous location a Radon Measurement In Progress Notification. The Notice shall be posted upon initiation of a radon measurement. A copy of a Radon Measurement In Progress Notice is provided in Appendix D-~~of this Part.~~
- f) Multi-Family Building Measurements. Professional licensees shall submit standard operating procedures for the performance of multi-family building measurements.
- AGENCY NOTE: This subsection does not apply to measurements in an individual condominium unit.
- 1) Initial measurements shall be short-term measurements of at least 48 hours to 90 days, depending on the device used, and shall be made in regularly occupied rooms in contact with the soil, whether the contact is slab-on-grade, a basement, a berm, a room above a crawlspace or any combination.

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- A) Regularly occupied rooms include bedrooms, offices, dens, family rooms, work areas and play rooms.
- B) A minimum of one detector shall be placed per every 2000 square feetsquare feet of open floor area.
- 2) Regularly occupied rooms shall be tested simultaneously.
 - A) The licensee shall ensure that each occupant/resident is provided information regarding necessary test conditions.
 - B) The licensee shall perform and document a surveillance of the building to determine the rooms needing testing prior to placement.
- 3) Follow-up Measurements
 - A) Follow-up measurements shall be performed in every room with a short-term, initial measurement result of 4.0 pCi/L or greater, unless measurements are during a real estate transaction. Refer to Appendix A.
 - B) If performing measurements in accordance with subsection (c), Options for Real Estate Testing, follow-up measurements are not required. Refer to Appendix B.
- 4) During both initial and follow-up measurements, the HVAC system shall be operated normally. An understanding of the design, operation and maintenance of a building's HVAC system and how it influences indoor air conditions is essential for understanding, managing and developing a measurement strategy in multi-family buildings. If the units of a building have a common HVAC system, the building shall be tested by a licensee licensed to perform measurements in commercial buildings.
- 5) The Radon Measurement Professional licensee shall recommend in writing to the multi-family building management, owners or representatives that a decision to mitigate be based on Appendix A or Appendix B, as applicable.

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- 6) Multi-family building measurements shall be performed in accordance with subsections (a) through (e) and (h) through (n) of this Section.
 - A) A Device Placement Log and Floor Plan shall be finalized for each multi-family building in which radon or radon progeny measurements are made.
 - B) All measurements devices, including duplicate measures and blanks, shall be noted on the Device Placement Log and Floor Plan by serial number.
- 7) Requirements for Specific Multi-Family Building Designs
 - A) Slab-on-Grade Design. Measure a regularly-occupied room in each unit in contact with the ground.
 - B) Crawlspace Design. Measure a regularly-occupied room directly in each unit above an enclosed crawlspace.
 - C) Basement Design. In addition to measuring a regularly-occupied basement room in each unit, measure a regularly-occupied room in each unit above the basement that has at least one wall with substantial contact with the ground.
- g)†) School and Commercial Building Measurements. Professional licensees shall submit standard operating procedures for the performance of school and commercial building measurements.
 - 1) Initial measurements shall be short-term measurements of at least 48 hours to 90 days, depending on the device used, and shall be made in all frequently occupied rooms in contact with the soil, whether the contact is slab-on-grade, a basement, berm, a room above a crawlspace or any combination.
 - A) Frequently occupied rooms include classrooms, offices, conference rooms, gymnasiums, auditoriums, cafeterias and break rooms.
 - B) Testing need not be conducted in infrequently used areas such as storage rooms, stairwells, restrooms, utility closets, elevator shafts

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or hallways.

C) A minimum of one detector shall be placed per every 2000 square feet of open floor area.

D) Schools and commercial buildings shall only be tested for radon during periods when the HVAC system is operating as it does normally when the buildings are occupied, even if the testing occurs when school is not in session or during long holidays.

2) All frequently occupied rooms shall be tested simultaneously.

A) The licensee shall ensure that the teacher or frequent adult user of the room being tested is aware of the detector.

B) The licensee shall perform and document a surveillance of the building to determine the rooms needing testing prior to placement.

3) Follow-up measurements shall be performed in every room with a short-term, initial measurement result of 4.0 pCi/L or greater. Refer to Appendix A ~~of this Part~~.

4) During both initial and follow-up measurements, the HVAC system shall be operated normally.

5) The Radon Measurement Professional licensee shall recommend in writing to the school or commercial building management, owners or representatives that a decision to mitigate not be based on initial measurement results.

6) School and commercial building measurements shall be performed in accordance with subsections (a) and (b) of this Section.

A) School and commercial building measurements of less than 96 hours~~4 days~~ duration shall be performed under closed-building conditions as described in subsection (b)(1) of this Section.

B) Duplicate measurements shall be performed and shall represent 10 percent of all the detectors deployed, or a maximum of 50

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detectors, whichever is less, within the building.

- C) Blank measurements shall be performed and shall represent 5 percent of all the detectors deployed, or a maximum of 25 detectors, whichever is less, within the building.
- D) A Device Placement Log and Floor Plan shall be finalized for each school or commercial building in which radon or radon progeny measurements are made. All measurement devices, including duplicate measures and blanks, shall be noted on the Device Placement Log and Floor Plan by serial number.

7) Requirements for Specific School and Commercial Building Designs

- A) [Slab-on-Grade Design](#)~~Slab-on-grade Design~~. Measure all frequently-occupied rooms in contact with the ground.
- B) Open-~~Plan~~[plan](#) or Pod Design. If sections of a pod have moveable walls that can physically separate them from other sections, measure each section separately. If moveable walls are absent or inoperable, measure the pod as one room placing detectors every 2000 square feet.
- C) Crawlspace Design. Measure all rooms directly above an enclosed crawlspace.
- D) Basement Design. In addition to measuring all frequently-occupied basement rooms, measure all frequently occupied rooms above the basement that have at least one wall with substantial contact with the ground.

8) [The on-site presence of the Licensed Radon Measurement Professional providing supervision is required for all radon measurement activities at schools and commercial buildings.](#)[hg](#)) New Construction Testing Conditions

- 1) Newly constructed buildings shall not be tested for radon or radon progeny unless the installation of the following items is completed:

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- A) All insulation;
 - B) All exterior doors with associated hardware shall be installed prior to testing;
 - C) All windows;
 - D) All fireplaces and fireplace dampers;
 - E) All heating, air conditioning, and plumbing appliances;
 - F) All ceiling covers;
 - G) All interior trim and coverings for the exterior walls;
 - H) All exterior siding, weatherproofing and caulking;
 - I) All interior and exterior structural components; and
 - J) Any interior or exterior work that may adversely affect the measurement validity.
- 2) Unoccupied homes shall be tested with the HVAC system set and operating in the normal range, such as 72 degrees F plus or minus 5 degrees F.

| ih) Post-Mitigation Testing

- 1) Post-mitigation measurements shall not be conducted if temporary radon reduction measures are in use.
- 2) Post-mitigation measurements shall be conducted to determine a system's effectiveness after a permanent radon reduction system has been fully operational for at least 24 hours but not later than 30 days following completion and activation of a mitigation system. The mitigation system shall be operated normally and continuously during the entire measurement period.

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- 3) Post-mitigation measurements shall be conducted in accordance with subsections (a), (b) and (c) of this Section.

| ji) Temporary Radon Reduction Measures

- 1) Temporary radon reduction measures include:
 - A) The introduction of unconditioned air into the building; or
 - B) Closure of normally accessible areas of the building; or
 - C) Lowering the thermostat below its normal use range, such as 72 degrees F plus or minus 5 degrees F.
- 2) Any of the conditions listed in subsection (ji)(1) of this Section shall invalidate measurement results. The Radon Measurement licensee shall not conduct a measurement until the conditions have been corrected. The Radon Measurement licensee shall inform the client and other parties involved in a real estate transaction that these conditions invalidate the measurement results.
- 3) Any improper radon reduction efforts that may affect the measurement results identified prior to, during, or after initial, follow-up, real estate option or post-mitigation measurements shall invalidate the measurement results. The Radon Measurement licensee shall not conduct a measurement until the improper conditions have been corrected.
- 4) Post-mitigation measurements shall not be conducted if any improper radon reduction efforts that may affect the measurement results are identified.

| kj) When Radon Measurements Shall Not Be Made

- 1) Short-term radon measurements of less than 96 hours shall not be conducted during severe storms or periods of sustained high winds (30 miles per hour or more). Radon Measurement licensees shall check and document local weather forecasts prior to placing short-term measurement devices when the measurement period is less than 96 hours.

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AGENCY NOTE: The National Weather Service defines a severe storm as a storm that generates winds of 58 mph, and/or 3/4-inch diameter hail and that may produce tornadoes – not necessarily in that order.

- 2) Radon measurements of any duration shall not be made during renovation of a building, especially renovations involving structural changes, or during renovations of the HVAC systems or any change that disturbs the normal airflow of the building.

AGENCY NOTE: When renovations are planned, radon measurements should be made prior to renovations and immediately upon the completion of renovations.

- ~~3) Schools and commercial buildings shall only be tested for radon during periods when the HVAC system is operating as it is normally operated when the buildings are occupied, even if the testing occurs when school is not in session or during long holidays.~~

lk) Quality Assurance for Radon Measurements.

- 1) Radon Measurement licensees shall abide by the Quality Assurance Program described in Section 422.60(a)(5)(D) ~~of this Part.~~
- 2) Measurements not performed in accordance with subsections (a), (b) and (c) of this Section shall be considered inappropriate for the purpose of determining the need for mitigation or the effectiveness of a mitigation service.

ml) Measurement Documentation

- 1) Radon Measurement Professional licensees shall ensure that sufficient information on each measurement is recorded in a permanent record to allow for future data comparisons, interpretations and reporting to clients.
- 2) Radon Measurement Professional licensees shall keep the following information in a measurement record that shall be maintained for inspection for a minimum of 5 years. Additional method-specific documentation is outlined in Section 422.140.

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- A) A complete copy of the measurement report.
 - B) A description of any non-interference controls used and copies of non-interference agreements completed in accordance with subsection (d) of this Section; and
 - C) A record of any quality control measures associated with the test, such as the results of simultaneous measurements, diagnostic measurements, duplicate measurements, and calculations associated with the measurement.
- n) Measurement Results
- 1) Measurement results shall be reported in the units that the device measures.
 - 2) Any measurement results based on radon gas shall be reported to no more than one decimal place, e.g., 4.3 pCi/L.
 - 3) All valid individual measurement results shall be reported.
 - 4) When using continuous radon monitors, hourly readings shall be included.
 - 5) Measurements made in separate locations shall not be averaged.
 - 6) The average of collocated measurement devices shall be reported, as well as the individual results. Standard mathematical rules shall be followed; i.e., if the average of two measurements produces a result of 3.95 pCi/L, the result shall be reported as 4.0 pCi/L.
 - 7) Any quality control measurements shall be reported as such.
- o) Measurement Reports
- 1) Radon Measurement Professional licensees shall return radon measurement results to the occupant, the owner of the building, his/her representatives or the client within 45 days after retrieving exposed devices. As a minimum, the measurement report shall contain:
 - A) Measurement results reported in accordance with subsection (n).

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- B) The exact start and stop dates and times of the measurement period.
- C) The address of the building measured, including the zip code.
- D) A description of the measurement device used, its manufacturer, model or type, and serial numbers or other unique device identification numbers.
- E) The name and Illinois license numbers of the person placing and retrieving the device.
- F) The name and Illinois license number of the laboratory analyzing the device, if applicable.
- G) A statement describing recommendations concerning retesting or mitigation provided to the occupant, the owner of the building, his/her representatives or the client in accordance with Appendix A or B, as appropriate.
- H) A statement of whether a mitigation system was observed in the building during placement or retrieval, including whether the mitigation system was operating.
- I) A statement describing any observed tampering, interference or deviations from the required measurement conditions.
- J) A description of the condition of any permanent vents that allow outdoor air into the building, such as crawlspace vents or combustion air supply to combustive appliances.
- K) A description of any severe weather conditions.
- L) The exact locations of all measurement devices deployed and any information that would allow for future data comparisons and interpretations. Licensees shall provide the exact locations by one of the following methods:

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- ~~C) A diagram of the footprint of the building, noting the exact locations of all measurement devices deployed and any information that would allow for future data comparisons and interpretations, such as the information in subsection (1)(1)(F) of this Section.~~
 - ~~D) Exact start and stop dates and times of the measurement period, as required for analysis;~~
 - ~~E) A description of the measurement devices used and serial numbers;~~
 - ~~F) A description of the condition of any permanent vents, such as crawlspace vents or combustion air supply to combustive appliances;~~
 - ~~G) The name and Illinois license number of the service or analysis organizations used to analyze devices;~~
 - ~~H) The name and Illinois license number of the individual who conducted the test;~~
 - ~~I) A description of any variations from or uncertainties about standard measurement procedures, closed building conditions or other factors that may affect the measurement result;~~
 - ~~J) A description of any non-interference controls used and copies of signed non-interference agreements; and~~
 - ~~K) A record of any quality control measures associated with the test, such as the results of simultaneous or diagnostic measurements.~~
- m) Reporting Measurement Results. Radon Measurement Professional licensees shall return radon measurement results to the occupant, the owner of the building, his/her representatives or the client within 45 days after retrieving exposed devices. Laboratories receiving an exposed device that has been delivered for analysis shall return results to the client within 45 days. As a minimum, the measurement report shall contain:
- 1) Measurement results reported in the units that the device measures. Any measurement results based on radon gas shall be reported to no more than

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~~one decimal place, e.g., 4.3 pCi/L. Any measurement result based on radon progeny shall be reported to no more than 3 decimal places, e.g., 0.033 WL.~~

- ~~2) Working level values shall be converted to pCi/L and both shall be reported to the client. The conversions from WL to pCi/L shall be presented and explained clearly in the report to the client. A statement shall be included in the measurement report stating that this approximate conversion is based on a 50 percent equilibrium ratio. In addition, the report shall state that this equilibrium ratio is typical but that any indoor environment may have a different and varying relationship between radon and radon progeny.~~
- ~~3) The dates of the measurement period and address of the building tested.~~
- ~~4) A description of the measurement device used, its manufacturer, model or type, and serial numbers or other unique device identification numbers.~~
- ~~5) The name and Illinois license numbers of the person placing and retrieving the device and the Illinois license number of the laboratory analyzing the device.~~
- ~~6) A statement describing any observed tampering, interference or deviations from the required measurement conditions.~~
- ~~7) A copy of the diagram required in accordance with subsection (1)(1)(C) of this Section.~~
- ~~8) Grab sampled measurements shall be reported with written notification stating that grab sample results are useful diagnostic tools, but are not a basis for making a decision regarding mitigation.~~

pn) Devices Placed by Clients. Radon licensees shall provide the client with the following:

- 1) For licensees providing measurement devices to clients, sufficient detectors to ensure that testing is performed consistent with this Part.
- 2) The Agency's address and telephone number.

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- 3) Devices that will be placed by the client shall be accompanied by instructions on how to use the device. These instructions shall be consistent with this Section and include specific information on the minimum and maximum length of time that the device shall be exposed.

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

Section 422.140 Device Protocol

- a) Quality Assurance
 - 1) Professional licensees providing measurement services using radon and radon product measurement devices shall establish and maintain a Quality Assurance Program (QAP). These programs shall include written procedures for attaining quality assurance objectives and a system for recording and monitoring the results of the quality assurance measurements for each device used. The QAP shall include the maintenance of control charts and related statistical data.
 - 2) The objective of quality assurance is to ensure that data are scientifically sound and of known precision and accuracy. This subsection (a)(2) discusses the 6 general categories of quality control measurements. Specific guidance is provided for each method in the relevant protocol.
 - A) Calibration Measurements. Calibration measurements are samples collected or measurements made in a known radon environment, such as a radon chamber. Instruments providing immediate results, such as continuous working level and radon monitors, shall be operated in a radon chamber to establish individual instrument calibration factors.
 - i) Calibration measurements must be conducted to determine and verify the conversion factors used to derive the concentration results. These factors are determined normally for a range of concentrations and exposure times, and for a range of other exposure and/or analysis conditions pertinent to the particular device.

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- ii) Determination of these calibration factors is a necessary part of the laboratory analysis and is the responsibility of the laboratory. These calibration measurement procedures, including the frequency of tests and the number of devices to be tested, shall be specified in the QAP maintained by manufacturers and analysis laboratories.
 - iii) Licensees providing measurements with active devices are required to recalibrate their instruments at least once every 12 months.
- B) Known Exposure Measurements (Spikes). Known exposure measurements or spiked samples consist of detectors that have been exposed to known concentrations in a radon chamber. These detectors, such as charcoal canisters, alpha track detectors and electret ion chambers, are labeled and submitted to the laboratory in the same manner as ordinary samples to preclude special processing.
- i) Suppliers and analysis laboratories shall provide for the blind introduction of spiked samples into their measurement processes and the monitoring of the results in their QAP.
 - ii) Licensees using passive measurement devices shall conduct spiked measurements at a rate of 3 per 100 measurements, with a minimum of 3 per year and a maximum required of 6 per month. Devices shall be exposed in a radon chamber at a minimum of 3 different radon concentrations, such as approximately 4.0, 10-30 and 30-100 pCi/L.
 - iii) Spikes shall be labeled in the same manner as field detectors to ensure identical processing. The results of analyses of detectors exposed to known radon concentrations shall be monitored and recorded. Any significant deviation from the known concentration to which they were exposed shall be investigated and corrective action taken.

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- C) Background Measurements. Background measurements are required both for continuous monitors and for passive detectors requiring laboratory analysis.
- i) Licensees using continuous monitors shall perform sufficient instrument background measurements to establish a reliable instrument background and to act as a check on instrument operation.

AGENCY NOTE: Calibration laboratories routinely perform background measurements of continuous monitors during the calibration of instruments.
 - ii) Passive detectors requiring laboratory analysis require one type of background measurement made in the laboratory and another in the field.
 - iii) Laboratories shall measure the background of a statistically significant number of unexposed detectors from each batch or lot to establish the laboratory background for the batch and the entire measurement system. This laboratory blank value is subtracted (by the laboratory) from the field sample results reported to the user, and shall be made available to the users for quality assurance purposes.
 - iv) Laboratories performing these measurements shall calculate the lower limit of detection (LLD) for their measurement systems. This LLD is based on the detector and analysis system's background and can restrict the ability of some measurement systems to measure low concentrations.
 - v) Licensees using passive detectors shall employ field controls (called blanks) equal to approximately 5 percent of the detectors that are deployed, or 25 each month, whichever is smaller.
 - vi) These controls shall be set aside from each detector shipment, kept sealed and in a low radon environment,

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labeled in the same manner as the field samples to preclude special processing, and returned to the analysis laboratory along with each shipment. These field blanks measure the background exposure that may accumulate during shipment and storage. The results shall be monitored and recorded.

- vii) The recommended action to be taken if the concentrations measured by one or more of the field blanks is significantly greater than the LLD is dependent upon the type of detector and is discussed in the protocol for each method.
- D) Duplicate Measurements. Duplicate measurements provide a check on the precision of the measurement result and allow the user to make an estimate of the relative precision. Large precision errors may be caused by detector manufacture or improper data transcription or handling by suppliers, laboratories, or technicians performing placements. Precision error can be an important component of the overall error; therefore, licensees performing measurements shall monitor precision.
- i) Duplicate measurements shall be side-by-side measurements made in at least 10 percent of the total number of measurement locations, or 50 each month, whichever is smaller. The locations selected for duplicate measurement shall be distributed systematically throughout the entire population of samples.
 - ii) The precision of duplicate measurements shall be monitored and recorded in the quality assurance records. The analysis of data from duplicates shall be plotted on range control charts. If the precision estimated by the user is not within the precision expected of the measurement method, the cause of the problem shall be investigated.
 - iii) Detectors shall be treated identically in every respect. They shall be shipped, stored, opened, installed, removed and processed together, and not identified as duplicates to the processing laboratory.

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- E) Routine Instrument Performance Checks. Proper functioning of analysis equipment and operator usage require that the equipment and measurement system be subject to routine checks. Regular monitoring of equipment and operators is vital to ensure consistently accurate results. Performance checks include the frequent use of an instrument check source. Components of the device (such as a pump, battery or electronics) shall be checked regularly and the results noted in a record. Each user shall develop methods for regularly monitoring (preferably daily with use) their measurement system and for recording and reviewing results.
- F) Cross-checks. Professional licensees using active monitors shall check their monitors for bias on a regular basis. Ideally, such measurements are made in a radon chamber. Exposure in a radon chamber is required during calibration. It can be difficult to expose active monitors more often than once every 12 months. It is important to more frequently ~~assess~~ the continued satisfactory operation of the instrument response and to ensure damage from shipping has not occurred prior to an instrument being placed into service after calibration. Cross-checks shall be performed prior to placing an instrument being returned to service after calibration and at 6 months (plus or minus a month) after calibration. The following conditions shall be met:
- i) Where feasible, a cross-check shall begin with an instrument background measurement.
 - ii) The cross-check measurement shall be made in an environment that has been chosen for its stability and radon concentration that is above the lower limit of detection.
 - iii) Cross-checks shall be side-by-side measurements.
 - iv) One of the instruments shall have been calibrated within the last 45 days.
 - v) A measurement of at least 48 hours duration shall be conducted.

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- vi) The bias of cross-check measurements shall be monitored and recorded in the quality assurance records. If the bias estimated by the user is not within the bias expected of the measurement, the cause of the problem shall be investigated and corrective action taken in accordance with the licensee's Agency-approved QAP.
- b) Protocol for using continuous radon monitors (CRs) to measure indoor radon concentrations
- 1) Refer to Section 422.130 ~~of this Part~~ for a list of general conditions that shall be met and standard information that shall be documented.
 - 2) When performing a radon measurement, the CR shall be programmed to run continuously, recording periodically (hourly or more frequently) the radon concentration for at least 48 hours. Longer measurements may be required per the continuous monitor type and the radon level being measured.
 - 3) If the first 4 hours of data from a 48-hour measurement are discarded because data are produced prior to the establishment of equilibrium conditions in the test device, the remaining hours of data shall be averaged and shall be sufficient to represent a 2-day measurement.
 - 4) Every CR shall be calibrated in a radon chamber, approved by the Agency, before being placed into service, and after any repairs or modifications that could affect the calibration. Subsequent recalibrations and background checks shall be performed at least once every 12 months. Each scintillation cell requires an individual calibration factor.
 - 5) Background measurements shall be performed after every 1,000 hours of operation of scintillation cell-type CRs and whenever any type of CR is calibrated. The background shall be checked by purging the monitor with clean, aged air or nitrogen in accordance with the manufacturer's instructions. In addition, the background count rate shall be monitored in accordance with the manufacturer's instruction.
 - 6) Licensees providing measurement services with CR devices shall perform duplicate measurements. The performance and analysis of duplicates shall be completed in accordance with subsection (a)(2)(D) of this Section.

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- 7) Pumps and flow meters shall be checked before and after each measurement in accordance with the manufacturer's instruction.
 - 8) Licensees providing measurement services with CR devices shall perform cross-checks. The performance and analysis of cross-checks shall be completed in accordance with subsection (a)(2)(F) of this Section.
- c) Protocol for using alpha track (AT) detectors to measure indoor radon concentrations
- 1) Refer to Section 422.130 ~~of this Part~~ for a list of general conditions that shall be met and standard information that shall be documented.
 - 2) The laboratory background level for each batch of ATs shall be established by each laboratory licensed by the Agency. Laboratories shall measure the background of a statistically significant number of unexposed ATs that have been processed according to the licensee's Quality Assurance Program implementing/operating procedures.
 - 3) Every AT laboratory system shall be calibrated in a radon chamber at least once every 12 months. Determination of a calibration factor requires exposures of ATs to a known radon concentration in a radon chamber. These calibration exposures shall be used to obtain or verify the conversion factor between net tracks per unit area and radon concentration.
 - A) ATs shall be exposed in a radon chamber at a minimum of 3 different radon concentrations such as approximately 4.0, 10-30 and 30-100 pCi/L or exposure levels similar to those found in the tested buildings.
 - B) Expose a minimum of 10 detectors at each radon concentration of the chamber.
 - C) A calibration factor shall be determined for each batch or sheet of detector material received from the supplier. Alternatively, calibration factors may be established for several sheets, and these factors extended to detectors from sheets exhibiting similar

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sensitivities (within pre-established tolerance limits).

- D) Analysis instruments shall be checked at least daily for operability prior to operation. Analysis instruments do not need to be checked on days not used.
- 4) Licensees providing measurement services with AT devices shall perform known exposure measurements (spikes). The performance and analysis of spikes shall be completed in accordance with subsection (a)(2)(B) of this Section.
- 5) Licensees providing measurement services with AT devices shall perform duplicate measurements. The performance and analysis of duplicates shall be completed in accordance with subsection (a)(2)(D) of this Section.
- 6) Licensees providing measurement services with AT devices shall perform background measurements. The performance of background measurements shall be completed in accordance with subsection (a)(2)(C) of this Section.
- A) The results shall be monitored and recorded. If one or a few field blanks have concentrations significantly greater than the LLD established by the supplier, it may indicate defective packaging or handling and the licensee shall investigate the cause. If the average value from the field control devices (field blanks) is significantly greater than the LLD established by the supplier, this average value shall be subtracted from the individual values reported for the other devices in the exposure group.
- B) It may be advisable to use 3 sets of detectors (pre-exposure, field and post-exposure background) in order to allow the most thorough and complete evaluation of radon levels. For example, one group of detectors (pre-exposure detectors) may be earmarked for background measurement and returned for processing immediately after the other detectors are deployed. The results from these detectors determine if the number of tracks acquired before deployment is significant and should be subtracted from the gross result. The second set of background detectors (post-exposure background detectors) are obtained just before the field monitors are to be collected and are opened and kept in the same

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location as the returning field monitors for the same duration, and returned with them. Finally, this "post-exposure background" is subtracted from the field results, if found to be significant. In general, a value of 1 pCi/L or greater for any blank AT indicates a significant level that should be investigated and potentially subtracted from the field AT results.

- d) Protocol for using electret ion chamber radon (ES or EL) detectors to measure indoor radon concentration.
- 1) Refer to Section 422.130 ~~of this Part~~ for a list of general conditions that shall be met and standard information that shall be documented.
 - 2) Every short-term and long-term electret system and the electret reader(s) shall be calibrated in a radon chamber, approved by the Agency. Initial calibration for the system is provided by the manufacturer. Subsequent recalibrations shall be performed at least once every 12 months. Determination of calibration factors for short-term or long-term detectors requires exposure of detectors to known concentrations of radon-222 in a radon exposure chamber. Since short-term and long-term electret detector systems are also sensitive to gamma radiation, a gamma exposure rate measurement in the test chamber is also required annually.
 - 3) The following is provided to manufacturers and suppliers of ES or EL services as minimum requirements in determining the calibration factor:
 - A) Detectors shall be exposed in a radon chamber at a minimum of 3 different radon concentrations, such as approximately 4.0, 10-30 and 30-100 pCi/L, or exposure levels similar to those found in the tested buildings.
 - B) Expose a minimum of 10 detectors at each radon concentration of the chamber.
 - C) Ensure a period of exposure sufficient to allow the detector to achieve equilibrium with the radon chamber atmosphere.
 - 4) Licensees providing measurement services with ES or EL devices shall perform known exposure measurements (spikes). The performance and

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analysis of spikes shall be completed in accordance with subsection (a)(2)(B) of this Section.

- 5) Licensees providing measurement services with ES or EL devices shall perform duplicate measurements. The performance and analysis of duplicates shall be completed in accordance with subsection (a)(2)(D) of this Section.
 - 6) Licensees providing measurement services with short-term or long-term electrets shall set aside a minimum of 5 percent of the electrets or 10, whichever number is smaller, from each shipment and evaluate them for voltage drift. The electrets shall be kept covered with protective caps in a low radon environment and analyzed for voltage drift over a time period similar to the time period used for those deployed in measurements. Any voltage loss found in the control electrets of more than one volt per week over a 3-week test period for short-term electrets, or one volt per month over a 3-month period for long-term electrets, shall be investigated.
 - 7) Proper operation of the surface voltmeter shall be monitored following the manufacturer's procedures for zeroing the voltmeter and analyzing a reference electret. These checks shall be conducted at least once a week while the voltmeter is in use.
- e) Protocol for using activated charcoal adsorption (AC) devices to measure indoor radon concentrations
- 1) Refer to Section 422.130 ~~of this Part~~ for a list of general conditions that shall be met and standard information that shall be documented.
 - 2) Every activated charcoal adsorption system shall be calibrated in a ~~radon chamber~~ radon chamber at least once every 12 months. Determination of calibration factors for ACs requires exposure of the detectors to known concentrations of radon-222 in a radon chamber. The calibration factors depend on the exposure time and may also depend on the amount of water adsorbed by the charcoal container during exposure. Calibration factors shall be determined for each AC measurement system (container type, amount of charcoal, gamma detector type, etc.).
 - 3) Licensees providing measurement services with AC devices shall perform

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known exposure measurements (spikes). The performance and analysis of spikes shall be completed in accordance with subsection (a)(2)(B) of this Section.

- 4) Licensees providing measurement services with AC devices shall perform duplicate measurements. The performance and analysis of duplicates shall be completed in accordance with subsection (a)(2)(D) of this Section.
- 5) Laboratory Control Detectors. The laboratory background level for each batch of ACs shall be established by each laboratory or supplier. Suppliers shall measure the background of a statistically significant number of unexposed detectors that have been processed according to their standard operating procedures (laboratory blanks). The analysis laboratory or supplier calculates the net readings, ~~that~~ which are used to calculate the reported sample radon concentrations, by subtracting the laboratory blank values from the results obtained from the field detectors.
- 6) Licensees providing measurement services with AC devices shall perform background measurements. The performance of background measurements shall be completed in accordance with subsection (a)(2)(C) of this Section.
 - A) One or a few of the field blanks have concentrations significantly greater than LLD established by the supplier may indicate defective devices or poor procedures and the licensee shall investigate the cause.
 - B) If most of the field blanks have concentrations significantly greater than the LLD, the average value of the field blanks shall be subtracted from the reported field detector concentrations and the supplier notified of a possible problem.
- 7) Counting equipment shall be subject to daily operability checks by counting an instrument check source and determining whether the reference source is constant to within established limits (2 standard deviations). Daily operability checks do not need to be performed on days the instrument is not used. The characteristics of the check source (geometry, type of radiation emitted, etc.) shall be similar to those of the samples analyzed. The count rate of the check sources shall be high enough to yield good counting

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statistics in a short time (for example, 1000 to 10,000 counts per minute) to provide a maximum random uncertainty of 5 percent.

- f) Protocol for using charcoal liquid scintillation (LS) devices to measure indoor radon concentrations
- 1) Refer to Section 422.130 ~~of this Part~~ for a list of general conditions that shall be met and standard information that shall be documented.
 - 2) Every LS laboratory system shall be calibrated in a radon chamber at least once every 12 months. Determination of calibration factors for LS devices requires exposure of calibration devices to known concentrations of radon-222 in a radon chamber at carefully measured radon concentrations. The calibration factors depend on the exposure time and may also depend on the amount of water adsorbed by the device during exposure. Calibration factors shall be determined for a range of different exposure times and, as appropriate, humidities.
 - 3) Licensees providing measurement services with LS devices shall perform known exposure measurements (spikes). The performance and analysis of spikes shall be completed in accordance with subsection (a)(2)(B) of this Section.
 - 4) Licensees providing measurements services with LS devices shall perform duplicate measurements. The performance and analysis of duplicates shall be completed in accordance with subsection (a)(2)(D) of this Section.
 - 5) Laboratory Control Devices. The laboratory background level for each batch of LS devices shall be established by each laboratory or supplier. Suppliers shall measure the background of a statistically significant number of unexposed LS devices that have been processed according to their standard operating procedures (laboratory blanks). The analysis laboratory or supplier calculates the net readings, ~~that~~ which are used to calculate the reported sample radon concentrations, by subtracting the laboratory blank values from the results obtained from the field detectors.
 - 6) Licensees providing measurement services with LS devices shall perform background measurements. The performance of background measurements shall be completed in accordance with subsection (a)(2)(C) of this Section.

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- A) One or a few of the field blanks have concentrations significantly greater than the LLD established by the supplier may indicate defective devices or poor procedures and the licensee shall investigate the cause.
- B) If most of the field blanks have concentrations significantly greater than the LLD, the average value of the field blanks shall be subtracted from the reported field detector concentrations and the supplier notified of a possible problem.
- 7) Counting equipment shall be subject to daily operability checks by counting an instrument check source and determining whether the reference source is constant to within established limits (~~2-standard~~2 standard deviations). Daily operability checks do not need to be performed on days the instrument is not used. The characteristics of the check source (geometry, type of radiation emitted, etc.) shall be similar to those of the samples analyzed. The count rate of the check sources shall be high enough to yield good counting statistics in a short time (for example, 1000 to 10,000 counts per minute) to provide a maximum random uncertainty of 5 percent.
- g) ~~Protocol for using grab radon sampling (GB, GC, GS) pump/collapsible bag devices (PBs), and 3 day integrating evacuated scintillation cells (SCs) to measure indoor radon concentrations~~
- 1) ~~Refer to Section 422.130 of this Part for a list of general conditions that shall be met and standard information that shall be documented.~~
- 2) ~~Every GB, GC, GS, PB or SC device shall be calibrated in a radon chamber before being put into service and at subsequent intervals of not more than 12 months.~~
- A) ~~Calibration Factors. Determination of calibration factors requires exposure of calibration devices to known concentrations of radon-222 in a radon chamber at carefully measured radon concentrations. The cells shall be recalibrated annually at radon levels similar to those found in tested buildings. Scintillation counting systems used to count exposed cells shall be either the system used to calibrate the cell or one calibrated against that system.~~

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- B) ~~Cell Calibration. If a GS method of measuring the radon concentration is used in the PB or GB methods, the following calibration procedure shall be followed.~~
- i) ~~The cell counting system consisting of the scaler, detector and high voltage supply shall be calibrated. The correct high voltage is determined by increasing the high voltage by increments and plotting the resultant counts. Each counting system shall be calibrated in a radon chamber before use and after any repairs or modifications that could affect the calibration. Subsequent recalibrations shall be performed once every 12 months, with cross checks to a recently calibrated instrument at least semiannually. A check source or calibration cell shall be counted in each analysis system each day of use to demonstrate proper operation prior to counting any samples.~~
 - ii) ~~A separate calibration factor shall be obtained for each cell in the counting system. Each cell shall be filled with radon of a known concentration and counted to determine the conversion factor (in counts per minute per pCi). The known concentration of radon may be obtained from a radon chamber or estimated from a bubbler tube containing a known concentration of radium.~~
- C) ~~Grab Radon/Activated Charcoal (GC) Method Calibration. The special cartridge shall be calibrated in a radon chamber prior to use and at least once every 12 months thereafter to establish a calibration factor. Samples shall be taken at different humidities and temperatures to establish correction factors.~~
- 3) ~~Licenses providing measurement services with GB, GC, GS, PB or SC devices shall perform known exposure measurements (spikes). The performance and analysis of spikes shall be completed in accordance with subsection (a)(2)(B) of this Section.~~
- 4) ~~Licenses providing measurement services with GB, GC, GS, PB or SC devices shall perform duplicate measurements. The performance and~~

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- ~~analysis of duplicates shall be completed in accordance with subsection (a)(2)(D) of this Section.~~
- 5) ~~Laboratory Control Devices. The background level for each device shall be established by each supplier. Suppliers shall measure the background of each device before each use.~~
- A) ~~A background count for each type of system is determined prior to measurement.~~
- B) ~~When the GC method is used, the background of the charcoal shall also be assessed.~~
- 6) ~~Licensees providing measurement services with GB, GC, GS, PB or SC devices shall perform background measurements. The performance of background measurements shall be completed in accordance with subsection (a)(2)(C) of this Section.~~
- 7) ~~Counting equipment shall be checked prior to each day's use with a check source. The characteristics of the check source (i.e., geometry, type of radiation emitted, etc.) shall be as similar to the samples to be analyzed as possible. The count rate of the check source shall be high enough to yield good counting statistics in a short time (for example, 1000 to 10,000 counts per minute) to provide a maximum random uncertainty of 5 percent.~~
- 8) ~~Pumps and flow meters shall be checked in accordance with the manufacturer's specification to ensure accuracy of volume measurements. This may be performed using a dry gas meter or other flow measurement device of traceable accuracy.~~
- 9) ~~Licensees providing measurement services with GB, GC, GS, or SC devices shall perform cross-checks. The performance and analysis of cross-checks shall be completed in accordance with subsection (a)(2)(F) of this Section.~~
- h) ~~Protocol for using unfiltered track detection (UT) to measure indoor radon concentrations~~
- 1) ~~Refer to Section 422.130 of this Part for a list of general conditions that shall be met and standard information that shall be documented.~~

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- 2) ~~Every UT laboratory system shall be calibrated in a radon chamber at least once every 12 months. Determination of a calibration factor requires exposure of UT detectors to a known radon and radon progeny concentration in a radon chamber. These calibration exposures shall be used to obtain or verify the conversion factor between net tracks per unit area and radon concentration. The following is provided to manufacturers and suppliers of this device as minimum requirements in determining the calibration factor:~~
 - A) ~~UT detectors shall be exposed in a radon chamber at a minimum of 3 different radon and radon progeny concentrations similar to those expected in the tested buildings. Concentrations of radon progeny shall be known in order to be included in the calculation of the calibration factor.~~
 - B) ~~A minimum of 10 detectors shall be exposed at each radon concentration of the chamber.~~
 - C) ~~A calibration factor shall be determined for each batch of detector material received from the material supplier. Alternatively, calibration factors may be established from several sheets and these factors extended to detectors from sheets exhibiting similar sensitivities (within pre-established tolerance limits).~~
 - D) ~~Altitude of the radon chamber shall be known if located at more than 600 feet (200 meters) above sea level so that a correction can be included in the calculation of the calibration factor.~~
- 3) ~~Licenses providing measurement services with UT devices shall perform known exposure measurements (spikes). The performance and analysis of spikes shall be completed in accordance with subsection (a)(2)(B) of this Section.~~
- 4) ~~Licenses providing measurement services with UT devices shall perform duplicate measurements. The performance and analysis of duplicates shall be completed in accordance with subsection (a)(2)(D) of this Section.~~
- 5) ~~Laboratory Control Detectors. The laboratory background level for each~~

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~~batch of UT detectors shall be established by each supplier. Suppliers shall measure the background of a statistically significant number of unexposed detectors that have been processed according to their standard operating procedures. Normally, the analysis laboratory or supplier calculates the net readings (which are used to calculate the reported sample radon concentrations) by subtracting the laboratory blank values from the results obtained from the field detectors.~~

- 6) ~~Licenses providing measurement services with UT devices shall perform background measurements. The performance of background measurements shall be completed in accordance with subsection (a)(2)(C) of this Section.~~

A) ~~One or a few of the field blanks having concentrations significantly greater than the LLD established by the supplier may indicate defective devices or poor procedures and the licensee shall investigate the cause.~~

B) ~~If most of the field blanks have concentrations significantly greater than the LLD, the average value of the field blanks shall be subtracted from the reported field detector concentrations and the supplier notified of a possible problem.~~

- 7) ~~Analysis instruments shall be checked at least daily for operability prior to operation. Daily operability checks do not need to be performed on days the instrument is not used.~~

- gi) Protocol for using continuous working level (CW) ~~monitors to~~ monitors to measure indoor radon progeny concentrations

1) Radon Decay Product measurements may be appropriate under certain conditions in large buildings, but are not currently routinely performed by licensees or recommended by the American Association of Radon Scientists and Technologists. The Agency does not recommend their use for home environment or residential real estate measurements. Licensees interested in using CWs for measurement purposes shall submit Standard Operating Procedures, consistent with this Part, specific to the model and design of the CW instrument to the Agency for approval.

2) Conditions and information in Section 422.130 shall be met.

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- 3) Any measurement result based on radon progeny shall be reported to no more than 3 decimal places, e.g., 0.033 working level (WL).
- 4) The integrated average WL over the measurement period shall be reported as the measurement result.
- 5) When performing a radon measurement, the CW shall be programmed to run continuously, recording the periodic WL and, when possible, the total integrated average WL. The longer the operating time, the smaller the uncertainty associated with using the measurement result to estimate a longer-term average concentration.
- 6) Working level values shall be converted to pCi/L and both shall be reported to the client. The conversions from WL to pCi/L shall be presented and explained clearly in the report to the client. A statement shall be included in the measurement report that this approximate conversion is based on a 40 percent equilibrium ratio. In addition, the report shall state that this equilibrium ratio is typical, but that any indoor environment may have a different and varying relationship between radon and radon progeny.
- 7) Every continuous WL monitor shall be calibrated in a radon chamber, approved by the Agency, before being placed into service and after any repairs or modifications that could affect the calibration. Subsequent recalibrations shall be performed at least once every 12 months.
- 8) Background measurements shall be performed after every 168 hours of operation and whenever the unit is calibrated. The CW shall be purged with clean, aged air or nitrogen in accordance with the manufacturer's instructions. In addition, the background count rate may be monitored more frequently by operating the CW in a low radon concentration.
- 9) Measurement licensees providing measurement services with CW devices shall perform duplicate measurements. The performance and analysis of duplicates shall be completed in accordance with subsection (a)(2)(D) of this Section.
- 10) Pumps and flow meters shall be checked before and after each measurement in accordance with the manufacturer's instruction to ensure accuracy of

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volume measurements. This may be performed using a dry-gas meter or other flow measurement device of traceable accuracy.

- 11) Licenses providing measurement services with CW devices shall perform cross-checks. The performance and analysis of cross-checks shall be completed in accordance with subsection (a)(2)(F) of this Section.
- 1) ~~Refer to Section 422.130 of this Part for a list of general conditions that shall be met and standard information that shall be documented.~~
- 2) ~~When performing a radon measurement, the CW shall be programmed to run continuously, recording the periodic WL and, when possible, the total integrated average WL. The longer the operating time the smaller the uncertainty associated with using the measurement result to estimate a longer term average concentration.~~
- 3) ~~The integrated average WL over the measurement period shall be reported as the measurement result.~~
- 4) ~~Every continuous WL monitor shall be calibrated in a radon chamber, approved by the Agency, before being placed into service and after any repairs or modifications that could affect the calibration. Subsequent recalibrations shall be performed at least once every 12 months.~~
- 5) ~~Background measurements shall be performed after every 168 hours of operation and whenever the unit is calibrated. The CW shall be purged with clean, aged air or nitrogen in accordance with the manufacturer's instructions. In addition, the background count rate may be monitored more frequently by operating the CW in a low radon concentration.~~
- 6) ~~Measurement licenses providing measurement services with CM devices shall perform duplicate measurements. The performance and analysis of duplicates shall be completed in accordance with subsection (a)(2)(D) of this Section.~~
- 7) ~~Pumps and flow meters shall be checked before and after each measurement in accordance with the manufacturer's instructions to ensure accuracy of volume measurements. This may be performed using a dry-gas meter or other flow measurement device of traceable accuracy.~~

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- 8) ~~Licenses providing measurement services with CW devices shall perform cross checks. The performance and analysis of cross checks shall be completed in accordance with subsection (a)(2)(F) of this Section.~~
- j) ~~Protocol for using radon progeny integrating sampling units (RPISUs or RPs) to measure indoor radon progeny concentrations~~
- 1) ~~Refer to Section 422.130 of this Part for a list of general conditions that shall be met and standard information that shall be documented.~~
- 2) ~~Every RP shall be calibrated in a radon chamber, approved by the Agency, before being placed into service and after any repairs or modifications that could affect the calibration. Subsequent recalibrations shall be performed at least once every 12 months, with cross checks with a recently calibrated instrument at least semiannually. Calibration of RPs requires exposure in a controlled radon chamber where the radon progeny concentration is known during the exposure period. The detector shall be exposed in the radon chamber using the normal operating flow rate for the RP sampling pumps. Calibration shall include exposure to a minimum of 4 detectors exposed at different radon decay product concentrations representative of the range found in routine measurements. The relationship of thermoluminescent dosimeters (TLD) reader units or etched track reader units to working level (WL) for a given sample volume and the standard error associated with this measurement shall be determined. Calibrations of the RPs includes testing to ensure accuracy of the flow rate measurement.~~
- 3) ~~Licenses providing measurement services with RP devices shall perform known exposure measurements (spikes). The performance and analysis of spikes shall be completed in accordance with subsection (a)(2)(B) of this Section.~~
- 4) ~~Licenses providing measurement services with RP devices shall perform duplicate measurements. The performance and analysis of duplicates shall be completed in accordance with subsection (a)(2)(D) of this Section.~~
- 5) ~~Laboratory Control Detectors. The laboratory background level for each batch of assembled TLDs shall be established by each supplier. Suppliers~~

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~~shall measure the background of a statistically significant number of unexposed thermoluminescent assemblies that have been processed according to their standard operating procedures. To calculate the net readings used to calculate the reported sample radon concentrations, the analysis laboratory shall subtract this laboratory blank value from the results obtained from the field detectors.~~

- A) ~~Similarly, the laboratory background level for each batch of AT-type RPs shall be established by each supplier of these detectors. Suppliers shall measure the background of a statistically significant number of unexposed detector films that have been processed according to their standard operating procedures. The analysis laboratory shall subtract this laboratory blank value from the results obtained from the field detectors before calculating the final result.~~
- B) ~~Users of electret type RPs shall follow control detector procedures described in subsection (d) of this Section.~~
- 6) ~~Licensees providing measurement services with RP devices shall perform background measurements. The performance of background measurements shall be completed in accordance with subsection (a)(2)(C) of this Section.~~
 - A) ~~One or a few of the field blanks having concentrations significantly greater than the LLD established by the supplier may indicate defective devices or poor procedures and the licensee shall investigate the cause.~~
 - B) ~~If most of the field blanks have concentrations significantly greater than the LLD, the average value of the field blanks shall be subtracted from the reported field detector concentrations and the supplier notified of a possible problem.~~
- 7) ~~Pumps and flow meters shall be checked before and after each measurement in accordance with the manufacturer's instructions to ensure accuracy of volume measurements. This may be performed using a dry gas meter or other flow measurement device of traceable accuracy.~~

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- k) ~~Protocol for using the grab sampling working level (GW) technique to measure indoor radon progeny concentrations~~
- 1) ~~Refer to Section 422.130 of this Part for a list of general conditions that shall be met and standard information that shall be documented.~~
- 2) ~~Pumps and flow meters used to sample air shall be calibrated at least annually to ensure accuracy of volume measurements. This may be performed using a dry gas meter or other flow measurement device of traceable accuracy.~~
- 3) ~~Every GW device shall be calibrated in a radon chamber before being put into service and after any repairs or modifications that could affect the calibration. Subsequent recalibrations shall be performed once every 12 months. Grab measurements shall be made in a radon chamber of known radon progeny concentrations to verify the calibration factor. These measurements shall also be used to test the collection efficiency and self-absorption of the filter material being used for sampling. A change in the filter material being used shall require that the new material be checked for collection efficiency in a radon chamber.~~
- 4) ~~Counting equipment shall be checked to ensure proper operation. This shall be achieved by counting an alpha instrument check source at least once per day prior to instrument use. Daily operability checks do not need to be performed on days the instrument is not used. The characteristics of the check source (i.e., geometry, type of radiation emitted, etc.) shall be as similar to the samples to be analyzed as possible. The count rate of the check source shall be high enough to yield good counting statistics in a short time (for example, 1000 to 10,000 counts per minute) to provide a maximum random uncertainty of 5 percent.~~
 - A) ~~The radiological counters shall have calibration checks run daily prior to use to determine counter efficiency. Daily operability checks do not need to be performed on days the instrument is not used. These checks shall be made using a NIST traceable alpha calibration source such as Am-241. In addition, the system background count rate shall be assessed in accordance with the manufacturer's specification.~~

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- ~~B) Pumps and flow meters shall be checked in accordance with the manufacturer's specification to ensure accuracy of volume measurements. This may be performed using a dry gas meter or other flow measurement device of traceable accuracy.~~
- ~~5) Licensees providing measurement services with GW devices shall perform duplicate measurements. The performance and analysis of duplicates shall be completed in accordance with subsection (a)(2)(D) of this Section.~~
- ~~6) Licensees providing measurement services with GW devices shall perform cross checks. The performance and analysis of cross checks shall be completed in accordance with subsection (a)(2)(F) of this Section.~~

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

Section 422.150 Mitigation Standard

- a) The Mitigation Standard (MS) includes requirements for installation of radon remediation systems and provides a basis for evaluating the quality of such installations. It provides the basis against which in-progress or completed inspections will be evaluated.
- b) Radon Mitigation Professional licensees shall be responsible for all radon mitigation systems installed by their firm or its subcontractors to ensure compliance with the requirements of this Mitigation Standard.
- c) Limitations
 - 1) Where discrepancies exist between provisions of the MS and municipal codes, the municipal codes shall take precedence, except that the municipal codes shall not take precedence with regard to alterations that may adversely impact the radon reduction functions for which such systems were originally designed and may adversely impact public health and safety regarding exposure to a radioactive element.
 - 2) Compliance with the MS does not guarantee reduction of indoor radon concentrations to any specific level.
 - 3) When altering a mitigation~~Mitigation~~ systems ~~altered after June 1, 1998, it~~

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shall be upgraded to the requirements of this Section. Altering radon mitigation systems does not include activities such as replacing worn out equipment or providing new filters, while leaving the remainder of the system unchanged. When maintenance is performed by a licensee on a mitigation system that does not comply with this Part, the client shall be notified in writing that the mitigation system does not comply with the mitigation standards of this Part. In addition, the professional licensee shall provide a written estimate of the upgrades needed and the cost to bring the system into compliance.

- 4) ~~Radon Mitigation licensees shall have, as reference documents for the design, size, operation, use and selection of the most appropriate mitigation strategy for a given building, the following references, as a minimum:~~
 - A) ~~"Radon Reduction Techniques for Detached Houses, Technical Guidance (Second Edition)," EPA/625/5-87/019, January 1988.~~
 - B) ~~"Radon Reduction Techniques for Detached Houses, Technical Guidance (Third Edition) for Active Soil Depressurization Systems" EPA/625/R-93/011, October 1993.~~
 - C) ~~"Application of Radon Reduction Methods," EPA/625/5-88/024, August 1988.~~
- d) Quality Assurance. Radon Mitigation licensees shall follow the procedures specified in the Quality Assurance Program as required by Section 422.60(c)(5)(D) ~~of this Part.~~
- e) General Practices. The following general practices are required for all contacts between Radon Mitigation licensees and clients.
 - 1) In the initial contact with a client, the licensee shall review any available results from previous radon measurements to assist in developing an appropriate mitigation strategy. If the radon measurement was not performed in accordance with this Part, the client shall be advised that a retest is recommended.
 - 2) The licensee shall inform the client of or provide to the client, Illinois

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specific documents, approved by the Agency, that discuss interpretation of indoor radon test results and the health risk associated with the radon level found in the building. These documents are available from the Agency and are on the Agency web site.

- 3) ~~Whenever a temporary radon reduction system is installed in lieu of a permanent radon reduction system, the licensee shall:~~
- A) ~~Obtain a signed acknowledgement that the client understands the temporary nature of the system;~~
 - B) ~~Label the system as temporary with a label readable from at least 3 feet away and that states "This system is temporary and will be replaced with a permanent radon reduction system. The estimated date of installation of the permanent radon reduction system is ."~~
 - C) ~~Inform the Agency when the permanent installation is postponed for over 60 days.~~
- 34) The licensee shall inform the client in writing, at the time a proposal for the installation of a radon reduction system is offered, of any sealants, caulks, or bonding chemicals containing volatile solvents and of the need to ventilate work areas during and after the use of such materials. The licensee shall provide ventilation as recommended by the manufacturer of the material used if existing ventilation does not meet the recommendations of the manufacturer of the material used.
- f) Building Investigation
- 1) The licensee shall conduct a thorough visual inspection of the building prior to initiating any radon mitigation work. The results of the inspection shall be recorded in detail on a drawing of the floor plan. The licensee shall identify and describe any specific building characteristics and configurations, such as large cracks in slabs, exposed earth in crawlspaces, open stairways to basements, and operational conditions, such as continuously running HVAC systems or operation windows, that may affect the design, installation, and effectiveness of radon mitigation systems.

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- A) As part of this inspection, the licensee shall request from the client any available information on the building, such as construction specifications, pictures, drawings, etc., that might be valuable in determining the radon mitigation strategy.
 - B) A floor-plan drawing shall be finalized from preliminary inspection sketches and shall include illustration of the building foundation, the location of all walls, drain fixtures, HVAC systems and radon entry points, results of any diagnostic testing, the layout of any radon mitigation system piping, and the location of any vent fan and system warning devices.
 - C) The finalized drawing shall be an auditable part of the mitigation file and shall be available to the occupant, the owner of the building, his/her representatives or the client, upon request.
- 2) The licensee shall conduct diagnostic tests to assist in identifying and verifying radon entry points and shall document the results of these tests in writing. Such tests may include radon grab sampling, continuous radon monitoring, and the use of smoke sticks.
 - 3) If a contractor has concerns about backdrafting potential at a particular site, the contractor shall recommend that a qualified person inspect the natural draft combustion appliances and venting systems for compliance with local codes and regulations. The contractor shall recommend that the building owner bring into compliance any combustion appliance or venting system found to be non-complying.
 - 4) Licensees shall not install a fan-powered radon reduction system in any building wherein confirmed spillage from any natural combustion appliance occurs, until the licensee has confirmed that the problem has been corrected by the client.
 - 5) Licensees shall conduct a communication test prior to completing a proposal for the installation of a radon reduction system in any building where the characteristics of the sub-slab material are unknown to the licensee. The results of the communication test shall be documented in writing or on a drawing of the building floor plan.

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g) Systems Design

- 1) All radon mitigation systems shall be designed and installed as permanent, integral additions to a building, except in accordance with subsection (e)(3) of this Section.
- 2) All radon mitigation systems shall be designed to avoid the creation of other health, safety, or environmental hazards to building occupants, such as backdrafting of natural draft combustion appliances.
- 3) The main run of vent pipe, from primary suction point to exhaust, shall be a minimum 3 inches in diameter to avoid excessive flow noise inside the pipe and noise when the exhaust jet is released.
- 4) All radon mitigation systems and their components shall be designed to comply with the laws, ordinances, codes, and regulations of relevant jurisdictional authorities, including applicable mechanical, electrical, building, plumbing, energy and fire prevention codes.
- 5) All radon mitigation systems shall be designed to reduce a radon concentration in each area within the footprint of the building as low as reasonably achievable (ALARA).
- 6) [As installed, the mitigation system shall operate at a reasonable noise level.](#)

h) Systems Installation

- 1) General Requirements
 - A) All components of radon mitigation systems shall also be in compliance with the applicable mechanical, electrical, building, plumbing, energy and fire prevention codes, standards, and regulations of local jurisdiction.
 - B) Where portions of structural framing material must be removed to accommodate radon vent pipes, material removed shall be no greater than that permitted for plumbing installations by applicable building or plumbing codes.

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- C) Where radon mitigation system installation requires pipes or ducts to penetrate a firewall or other fire resistance rated wall, floor or ceiling penetrations shall be protected in accordance with applicable building, mechanical, fire and electrical codes.

AGENCY NOTE: An example of a protected penetration would be the installation of a fire collar on a vent pipe penetrating a ceiling.

- D) Sump pits shall not be used as the primary suction point for mitigation systems, unless in accordance with subsection (h)(7) of this Section.

- E) ~~Installations that require greater than 5 days for installation shall be treated as temporary installations in accordance with subsection (e)(3) of this Section until the permanent installation is complete.~~

- 2) Passive or skeletal new construction systems are not required components of new building construction, except as included in municipal building codes. Mitigation systems installed in new construction must be performed by a licensed mitigation professional or technician.

3) Radon Vent Pipe Installation

- A) All joints and connections in radon mitigation systems using plastic vent pipes shall be permanently sealed with adhesives as specified by the manufacturer of the pipe material used, with 2 exceptions:
- i) If secondary suction points are installed in sump pits, the system shall be designed with removable or flexible couplings to facilitate removal of the sump pit cover and for sump pump maintenance; and
 - ii) To facilitate maintenance and future replacement, radon vent fans shall be installed in the vent pipe using removable couplings or flexible connections that can be tightly secured to both the fan and the vent pipe.

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- B) All joints and connections in radon mitigation systems using 3-inch by 4-inch metal downspout on the exterior of a building shall be permanently sealed with appropriate sealants.
- CB) Vent stack discharge points shall be directed vertically with no obstruction in the discharge except for a rodent screen of wire mesh no smaller than one-fourth inch. Rain caps shall not be installed on the discharge.
- DC) Radon vent pipes shall be fastened to the structure of the building with hangers, strapping, or other supports that will permanentlyadequately secure the vent material. Existing plumbing pipes, ducts, or mechanical equipment shall not be used to support or secure a radon vent pipe.
- ED) Radon vent pipes shall be supported as follows:
- i) Supports for radon vent pipes shall be installed at least every 6 feet on non-vertical runs.
 - ii) Vertical runs shall be secured either above or below the points of penetration through floors, ceilings and roofs.
 - iii) Vertical runs shall be secured at least every 8 feet on runs that do not penetrate floors, ceilings or roofs.
- FE) To prevent blockage of air flow into the bottom of radon vent pipes, these pipes shall be supported or secured in a permanent manner that prevents their downward movement to the bottom of suction pits or sump pits, or into the soil beneath an aggregate layer under a slab.
- GF) Radon vent pipes shall be installed in a configuration that ensures that any rain water or condensation within the pipes drains downward into the ground beneath the slab or soil gas retarder membrane.
- HG) Radon vent pipes shall not block access to any areas requiring

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maintenance or inspection. Radon vents shall not be installed in front of or interfere with any light, opening, door, window or equipment access area required by code.

- H) When a radon mitigation system is designed to draw soil gas from a perimeter drain tile loop (internal or external) that discharges water through a drain line to daylight or a soakaway, a one-way flow valve, water trap, or other control device shall be installed if diagnostic testing indicates that outside air is entering the system.
- 4) Vent Stack Discharge Point. The discharge from vent stack pipes of active soil depressurization systems shall prevent re-entrainment of radon, prevent vent stack blockage due to heavy snowfall and prevent the direct exposure of individuals outside of buildings to high levels of radon by meeting all the following requirements:
- A) Above the highest eave of the roof and as close to the roof ridge line as possible, unless an attached garage may be used for vent stack pipe discharge and all the following additional conditions are met:
- i) The vent stack point penetrates the highest point on the roof that maximizes distance from people using the house, yard, patio, deck, etc.;
 - ii) There are no windows in the direct line of sight from the vent stack point;
 - iii) The vent stack point penetrates the farthest point on the roof that maximizes distance from the nearest opening (such as windows, doors, etc.) into the house and garage that is less than 2 feet below the exhaust point; and
 - iv) The reason for routing through an attached garage shall be documented and maintained for inspection by the Agency;
- B) 10 feet or more above ground level;
- C) 10 feet or more from any window, door or other opening into conditioned spaces of the structure that is less than 2 feet below the

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exhaust point. The 10 feet may be measured either directly between the 2 points or be the sum of measurements made around intervening obstacles;

- D) 10 feet or more from any opening into an adjacent building;
 - E) For vent stack pipes that penetrate the roof, at least 12 inches above the surface of the roof; and
 - F) For vent stack pipes attached to or penetrating the sides of buildings, vertical and at least 12 inches above the edge of the roof and in a position to prevent blockage from snow or other materials and from being filled with water from the roof or an overflowing gutter.
- 5) Radon Vent Fan Installation
- A) Vent fans used in radon mitigation systems shall be designed or otherwise sealed to reduce the potential for leakage of soil gas from the fan housing.
 - B) Radon vent fans used in active soil depressurization systems shall be installed in attics, in garages that are not beneath conditioned spaces, or on the exterior of the building. Radon vent fans shall not be installed below ground nor in the conditioned (heated/cooled) space of a building, nor in any basement, crawlspace, or other interior location directly beneath the conditioned spaces of a building.
 - C) Radon vent fans shall be installed in a configuration that avoids condensation buildup in the fan housing. Fans shall be installed in vertical runs of the vent pipe.
 - D) Radon vent fans shall be mounted and secured in a manner that minimizes transfer of vibration to the structural framing of the building.
 - E) Radon vent fans shall be mounted to the vent pipe with removable couplings or flexible connections to facilitate fan removal for repair or replacement.

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F) The intakes of fans used in crawlspace pressurization, or in pressurizing the building itself, shall be screened or filtered to prevent ingestion of debris or personal injury. Screens or filters shall be removable to permit cleaning or replacement and the building occupant and owner shall be informed of the need to periodically replace or clean such screens and filters. This information shall be included in documentation provided to the client.

G) Vent fans shall originate from a manufacturer that lists radon mitigation as one of the fan's intended uses.

6) Suction Pit Requirement for Sub-Slab Depressurization (SSD) Systems. Materials shall be excavated from the area immediately below the slab penetration point of SSD system vent pipes to provide optimum pressure field extension.

7) Sump Pit Requirements

A) Sump pits shall not be used as the primary suction point for mitigation systems.

B) Sump pits that require a sump pump shall have a submersible sump pump installed.

CB) When the sump pit is used as a secondary suction point, a submersible pump shall be installed in the sump pit.

D) In areas where the water table is near the surface, causing flooding of the basement or interfering with the effectiveness of the mitigation system, pedestal pumps with a higher pumping capacity may be installed in accordance with all the following conditions:

i) The pump is installed in accordance with the manufacturer's instructions.

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ii) The sump lid can be sealed air tight with the exception of the tiny opening necessary to permit free operation of the pedestal pump's float.

iii) The design does not create noise, through the float opening, that is objectionable to the client.

~~or in areas where the water table is near the surface, causing flooding of the basement or interfering with the effectiveness of the mitigation system. Pedestal pumps with a higher pumping capacity may be installed in accordance with all the following conditions:~~

~~i)~~ ~~The pump is installed in accordance with the manufacturer's instructions.~~

~~ii)~~ ~~The sump lid can be sealed air tight with the exception of the tiny opening necessary to permit free operation of the pedestal pump's float.~~

~~iii)~~ ~~The design does not create noise, through the float opening, that is objectionable to the client.~~

EC) Sump pits that permit entry of soil gas or that would allow conditioned air to be drawn into a mitigation system shall be covered and sealed to prevent such entry.

ED) The covers on sumps that previously provided protection or relief from surface water collection shall be fitted with a water or mechanically trapped drain. Water traps shall be fitted with an automatic supply of priming water.

EE) Sump pit covers shall incorporate a clear view-port to permit observations of conditions in the sump pit.

EF) Sump pit covers shall be made of durable plastic or clear polycarbonate and be designed to permit air-tight sealing.

EG) Sump pit covers shall be designed to support the weight of a 155-pound individual standing on the cover.

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JH) To permit easy removal for sump pump servicing, the sump pit cover shall be sealed using silicone or other non-permanent type caulking materials or an air-tight gasket.

8) Sealing Requirements

- A) Openings around radon vent pipe penetrations of the slab, the foundation walls, or the crawlspace soil gas retarder membrane shall be cleaned, prepared and sealed in a permanent, air-tight manner using compatible caulks or other sealants.
- B) Openings around other utility penetrations of the slab, walls or soil gas retarder shall also be sealed. Cracks in slabs and other small openings around penetrations of the slab and foundation walls shall be cleaned, prepared and sealed in a permanent air-tight manner using caulks or other sealants designed for such application.
- C) Where a Block Wall Depressurization (BWD) system is used to mitigate radon, openings in the tops of the block walls and all accessible openings or cracks in the interior surfaces of the block walls shall be cleaned, prepared and sealed with caulks or other sealants designed for such application.
- D) When sealing holes for plumbing rough-in or other large openings in slabs and foundation walls that are below the ground surface, non-shrink mortar, grouts, expanding foam, or other sealants designed for such application shall be used.
- E) Openings or cracks that are determined to be inaccessible or beyond the ability of the licensee to seal shall be disclosed to the client and included in the documentation.
- F) Openings, perimeter channel drains or cracks that exist where the slab meets the foundation wall (floor-wall joint), shall be sealed with urethane caulk or other sealants designed for such application. When the opening or channel is greater than ½ inch in width, a foam backer rod shall be inserted in the channel before application of the sealant. This sealing technique shall be done in a manner

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that retains the channel feature as a water control system. Other openings or cracks in slabs or at expansion or control joints should also be sealed.

- G) When installing baseboard type suction systems, all seams and joints in the baseboard material shall be joined and sealed using materials recommended by the manufacturer of the baseboard system. Baseboards shall be secured to walls and floors with adhesives designed and recommended for such installations. If a baseboard system is installed on a block wall foundation, the tops of the block walls shall be closed and sealed.
- 9) Soil Gas Retarder Requirements
- A) A soil gas retarder membrane shall be installed in basement or crawlspace areas without a concrete floor.
 - B) Plastic sheeting installed in crawlspaces as soil gas retarders shall be a minimum of 6 mil (3 mil cross-laminated) polyethylene or equivalent flexible material. Heavier gauge sheeting shall be used when crawlspaces are used for storage, or frequent entry is required for maintenance of utilities.
 - C) Any seams in soil gas retarder membranes shall be overlapped at least 12 inches and sealed in a permanent air tight manner using compatible glues. The membrane shall also be sealed around interior piers and to the inside of exterior walls with furring strips and sealant or in accordance with specific procedures approved by the Agency.
 - D) Access doors required by local building codes shall be fitted with air tight gaskets and a means of positive closure, but shall not be permanently sealed. In cases where both the basement and the adjacent crawlspace areas are being mitigated with active SSD and SMD systems, sealing of the openings between those areas is not required.
 - E) Crawlspace depressurization without the use of a soil gas retarder membrane shall only be used when the crawlspace is inaccessible. When crawlspace depressurization is used for radon mitigation,

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openings and cracks in floors above the crawlspace that would permit conditioned air to pass out of the living spaces of the building, shall be identified, closed and sealed. Sealing of openings around hydronic heat or steam pipe penetrations shall be done using non-combustible materials.

- F) Drain tile depressurization in a crawlspace shall only be installed under the following conditions:
 - i) In conjunction with a sub-membrane depressurization system; or
 - ii) Suction can be obtained beneath the soil gas retarder.

10) Electrical Requirements

- A) All electrical components of radon mitigation systems shall conform to provisions of the National Electrical Code and any additional local regulations.
- B) Wiring shall not be located in or chased through the radon vent piping or any heating or cooling ductwork.
- C) Any plugged cord used to supply power to a radon vent fan shall be no longer than 6 feet in length.
- D) No plugged cord shall penetrate a wall or be concealed within a wall.
- E) Radon mitigation fans installed on the exterior of buildings shall be hard-wired into an electrical circuit. Electrical disconnects shall be installed within line of sight and within 4 feet of the fan. Exteriorly, plugged fans shall be used only inside of weather-proofed fan housings or weather-proofed chases.
- F) If the rated electricity requirements of a radon mitigation system fan exceeds 50 percent of the circuit capacity into which it will be connected, or if the total connected load on the circuit (including the radon vent fan) exceeds 80 percent of the circuit's rated

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capacity, a separate, dedicated circuit shall be installed to power the fan.

- G) An electrical disconnect switch or circuit breaker shall be installed in radon mitigation system fan circuits to permit deactivation of the fan for maintenance or repair. Disconnect switches are not required with plugged fans.

11) Drain Installation Requirements

- A) If drains discharge directly into soil beneath the slab or through solid pipe to a soakaway, the licensee shall install a drain that meets local building codes.
- B) If condensate drains from air conditioning units terminate beneath the floor slab, the licensee shall install a trap in the drain that provides a minimum 6-inch standing water seal depth, reroute the drain directly into a trapped floor drain, or reconnect the drain to a condensate pump.
- C) Perimeter (channel or French) drains shall be sealed with backer rods and urethane or comparable sealants in a manner that will retain the channel feature as a water control system.
- D) When a sump pit is the only system in a basement for protection or relief from excess surface water and a cover is installed on the sump for radon control, the cover shall be recessed and fitted with a trapped drain meeting the requirements of subsection (h)(7) of this Section.

12) HVAC Installation Requirements

- A) Modifications to an existing HVAC system that are proposed to mitigate elevated levels of radon should be reviewed and approved by the original designer of the installed HVAC system or by a licensed mechanical contractor.
- B) Foundation vents, installed specifically to reduce indoor radon levels by increasing the natural ventilation of a crawlspace, shall

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be non-closeable. In areas subject to sub-freezing conditions, the existing location of water supply and distribution pipes in the crawlspace, and the need to insulate or apply heat tape to those pipes, shall be considered when selecting locations for installing foundation vents.

- C) Heat Recovery Ventilation (HRV) systems shall not be installed in rooms that contain friable asbestos.
 - D) In HRV installations, supply and exhaust ports in the interior shall be located a minimum of 12 feet apart. The exterior supply and exhaust ports shall be positioned to avoid blockage by snow or leaves and be a minimum of 10 feet apart.
 - E) Contractors installing HRV systems shall verify that the incoming and outgoing airflow is balanced to ensure that the system does not create a negative pressure within the building. Contractors shall inform their client, the occupant and the owner that periodic filter replacement and inlet grill cleaning are necessary to maintain a balanced airflow. Information on filter replacement and inlet grill cleaning shall be provided to their client, the occupant and the owner and shall be included in the documentation.
 - F) Both internal and external intake and exhaust vents in HRV systems shall be covered with wire mesh or screening to prevent entry of animals or debris or injury to occupants.
- 13) Materials
- A) As a minimum, all plastic vent pipes in mitigation systems shall be smooth-walled Schedule 40 PVC.
 - B) Piping routed exteriorly shall be rated against deterioration from ultra-violet radiation from the sun.
 - C) Exteriorly, Schedule 40 PVC or 3-inch by 4-inch metal downspout shall be used as the vent pipe.
 - D) Vent pipe fittings in a mitigation system shall be of the same

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material as the vent pipes except as noted in subsection (h)(3)(A) of this Section.

- E) Cleaning solvents and adhesives used to join plastic pipes and fittings shall be as recommended by manufacturers for use with the type of pipe material used in the mitigation system.
 - F) When sealing holes for plumbing rough-in or other large openings in slabs and foundation walls that are below the ground surface, non-shrink mortar, grouts, expanding foam or other sealants designed for such application shall be used.
 - G) Penetrations of sump covers to accommodate electrical wiring, water ejection pipes, or radon vent pipes shall be designed to permit air-tight sealing around penetrations, using caulk or grommets.
 - H) Plastic sheeting installed in crawlspaces as soil gas retarders shall be a minimum of 6 mil (3 mil cross-laminated) polyethylene or equivalent flexible material. Heavier gauge sheeting should be used when crawlspaces are used for storage, or frequent entry is required for maintenance of utilities.
 - I) Any wood that comes into direct contact with the soil or concrete and is used in attaching soil gas retarder membranes to crawlspace walls or piers shall be pressure treated or naturally resistant to decay and termites.
 - J) When transitioning from one material or shape to another, an adapter specifically designed for the transition shall be used.
- 14) Monitors and Labeling
- A) All active soil depressurization systems shall include a [mitigation system monitor](#) mechanism to [indicate](#) monitor system performance [and](#) warn of system failure.
 - B) Electrical radon mitigation system monitors (whether visual or audible) shall be installed on non-switched circuits and be

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designed to reset automatically when power is restored after service or power supply failure. Battery operated monitoring devices shall not be used unless they are equipped with a low-power warning feature.

- C) Mechanical radon mitigation system monitors, such as manometer type pressure gauges, shall be clearly marked to indicate the range or zone of pressure readings that existed when the system was initially activated.
- D) ~~Effective October 1, 2009, an Illinois Mitigation System Tag-A system description label~~ shall be placed on the vent pipe next to the ~~mitigation system monitor~~ manometer. This label shall be ~~purchased from the Agency~~ legible from a distance of 3 feet and include the following information: "Radon Reduction System"; the installer's name, phone number and the Illinois license number; the date of installation; and an advisory that the building should be tested for radon at least every 2 years.
- E) All exposed and visible interior radon mitigation system vent pipe sections shall be identified with at least one label on each floor level that reads "Radon Reduction System".
- F) Fans mounted outdoors and exterior vent pipe shall be identified with a label that reads "Radon Reduction System" in a weatherproof manner.
- G) Sump pits that are depressurized by the mitigation system or covered to minimize radon entry shall be identified with a label that reads "Radon Reduction System – Removal of this cover may result in failure of the Radon Reduction System. Consult (installer's name and phone number) before removing this cover and for instructions on the correct procedure for replacing it".
- H) Circuit breakers controlling the circuits on which the radon vent fan and system failure warning devices operate shall be labeled "Radon Reduction System".

- 15) Post Installation Checklist

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- A) Upon completion of the installation of any radon mitigation system, the licensee shall complete the following steps, and document them on an installation check sheet that shall be signed and dated by a mitigation licensee and shall become auditable evidence.
 - i) Re-examine and verify the integrity of the fan mounting seals and all joints in the interior vent piping.
 - ii) Verify suctions or flows in the system piping or ducting to assure that the system is operating as designed.
 - iii) Advise the client that retesting the building at least every 2 years or if the building undergoes significant alteration is recommended.
 - iv) Request a copy of the report of any post-mitigation testing conducted by the client or by a Radon Measurement licensee.
 - B) Radon Mitigation licensees shall inform the client in writing that post-mitigation testing should be conducted no sooner than 24 hours nor later than 30 days following completion and activation of the mitigation system and that the test may be conducted by an independent Radon Measurement licensee or by the resident of the dwelling.
- 16) Post-Mitigation Testing
- A) Evaluate the effectiveness of the mitigation system using an approved measurement device to assure the system is performing as designed.
 - B) Post-mitigation tests shall be performed in accordance with the applicable requirements of Section 422.130 ~~of this Part~~.
- 17) Contracts and Documentation

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- A) No mitigation activity shall be undertaken before a proposal for the work is accepted by the client, as evidenced by the client's signature and date on the proposal. A proposal for the installation of any radon mitigation system shall include as a minimum:
- i) The Radon Mitigation Professional licensee's Illinois license number;
 - ii) A statement describing the planned scope of the work and an estimated completion date;
 - iii) A statement describing any known hazards associated with chemicals used in or as part of the installation;
 - iv) A statement indicating compliance with and implementation of the mitigation standards described in this Section;
 - v) A description of any system maintenance that the client, the occupant, or the building owner would be required to perform;
 - vi) A firm price of the installation cost and an estimate of the annual operating costs of the system; and
- AGENCY NOTE: The firm price may include stepped approaches.
- vii) A statement that the system is guaranteed to reduce the average radon concentration to less than 4.0 pCi/L and the conditions thereof; or a statement explaining that there is no guarantee and the reasons why there is no guarantee.
- B) Licensees shall maintain the following records for 5 years or for the period of any warranty or guarantees, whichever is longer, and shall make the following records available to the homeowner upon request and documentation of home ownership:
- i) Copies of the building investigation summary and floor

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plan sketch;

- ii) The finalized drawing that includes illustration of the building foundation, the location of all walls, drain fixtures, HVAC systems and radon entry points, results of any diagnostic testing, the layout of any radon mitigation system piping, and the location of any vent fan and system warning devices.
- iii) Pre- and post-mitigation radon test data;
- iv) Copies of contracts and warranties;
- v) A description of the mitigation system installed and its basic operating principles;
- vi) A description of any deviations from the MS and applicable regulations of this Part;
- vii) A description of the proper operating procedures of any mechanical or electrical systems installed, including manufacturer's operation and maintenance instructions and warranties; ~~and~~
- viii) The proposal, contract, and warranties or guarantees made to the client, and any other documentation important to the mitigation system installed; ~~and~~.
- ix) The address of the building mitigated, including the zip code, the mitigation system type, the mitigation date, whether radon resistant new construction techniques were used, and the Illinois mitigation system tag number.

C) Licensees shall, upon completion of the mitigation project, provide clients with an information package that includes:

- i) A list of appropriate actions for clients to take if the system failure warning device indicates system degradation or failure; and

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- ii) The name, telephone number, and license number of the professional licensee and the phone number of the Agency's Radon Program.

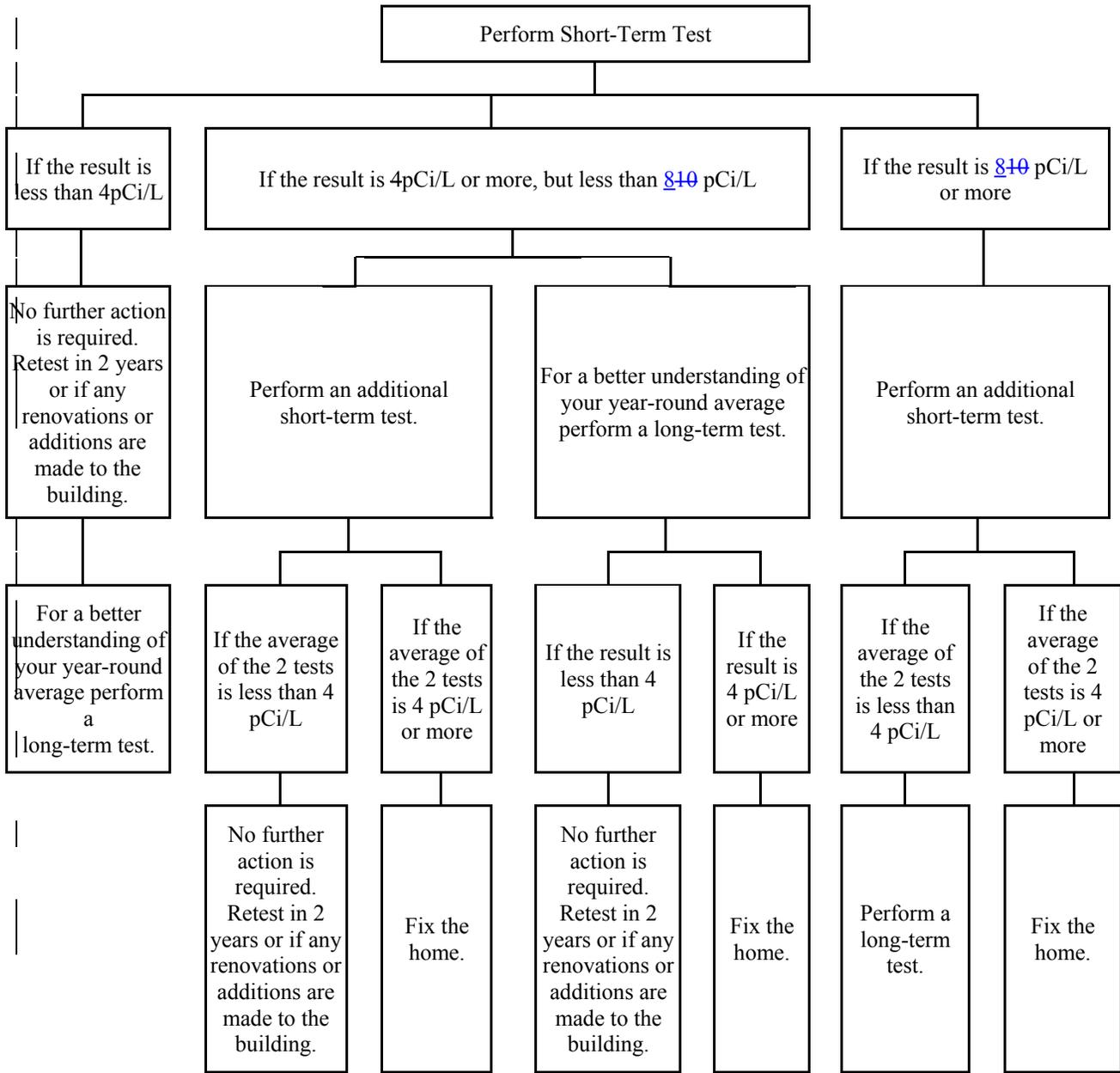
(Source: Amended at 33 Ill. Reg. _____, effective _____)

ILLINOIS EMERGENCY MANAGEMENT AGENCY

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Section 422.APPENDIX A Recommended Testing Strategy for Home Environment Measurements (Buildings Not Involved in a Real Estate Transaction)

The first step is to perform a short-term measurement* in the lowest structural areas**.



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- * Short-term tests may last between 2 and 90 days, most last between 2 and 7 days. Examples of short-term detectors used in home environment testing include: activated charcoal canisters, liquid scintillation vials, electret chambers and continuous monitors. Examples of long-term detectors used in home environment testing include: alpha track detectors and electret chambers.
- ** Conduct a short-term test in each of the lowest structural areas suitable for occupancy in the home. For example, if the home is a split-level building with one or more foundation types: test in the basement, in a room over the crawlspace and in a slab-on-grade room. In accordance with this protocol, measurement licensees are required to test in each of the foundation types.

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

ILLINOIS EMERGENCY MANAGEMENT AGENCY

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Section 422.APPENDIX B Recommended Testing Strategy for Measurements in Buildings Involved in Real Estate Transactions

The first step is to perform a short-term measurement* in the lowest structural area(s)**.

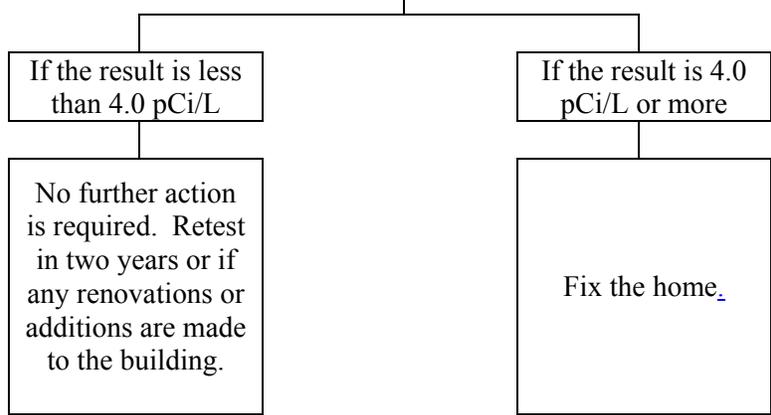
Perform a Short-Term Test
The minimum length of a short-term test shall be 48 hours.

There are three methods that may be used for short-term testing during a Real Estate transaction.

~~(1) Sequential Tests – Two short-term tests, set in the same location, performed on sequential dates.~~

(12) Simultaneous Tests – Two short-term tests set side by side conducted simultaneously.

(23) Continuous Monitor Testing~~Single Test Using Electronic Monitors~~ – A Continuous Monitor that measures in hourly increments.



* Short-term tests may last between 2 and 90 days, most last between 2 and 7 days. Tests between seven and 90 days are usually impractical for real estate transactions but are fine for homeowners assessing their own radon situation. Examples of short-term detectors used in home environment testing include: activated charcoal canisters, charcoal liquid scintillation vials, electret chambers and continuous monitors.

** Conduct a short-term test in each of the lowest structural areas suitable for occupancy in the home. For example, if the home is a split-level building with one or more foundation

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types: test in the basement, in a room over the crawlspace and in a slab-on-grade room. In accordance with this protocol, measurement professionals are required to test in each of the foundation types.

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

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Section 422.APPENDIX C Radon and Radon Decay Product Measurement Method Categories

A (pCi/L)	B (WL)
-----------	--------

AC Activated charcoal adsorption integrating	RP Radon progeny sampling unit
--	---

AT Alpha track detection	CW Continuous working level monitor
--------------------------	-------------------------------------

LS Charcoal liquid scintillation	
----------------------------------	--

CR Continuous radon monitor	
-----------------------------	--

PB Pump-collapsible bag	
------------------------------------	--

SC Evacuated scintillation cell (3 day integrating)	
--	--

EL Electret ion chamber; long-term	
------------------------------------	--

ES Electret ion chamber; short-term	
-------------------------------------	--

UT Unfiltered track detection	
--	--

GB Grab radon collapsible bag	
--	--

GC Grab radon activated charcoal	
---	--

GS Grab radon scintillation cell	
---	--

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

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Section 422.APPENDIX E Diagram of Room Worksheet for Radon Measurements

This worksheet may be used in accordance with Section 422.130(o)(1)(L)(ii). Complete all areas of the worksheet and include a separate worksheet for each foundation type measured. A copy of each worksheet shall be retained as a permanent record and included as part of a measurement report in accordance with Section 422.130(o).

Placement of Measurement Devices

Short-term or long-term measurements shall be made in each lowest structural area suitable for occupancy. For example, a split-level building with a basement, a slab-on-grade room and a room over crawlspace shall have measurements made in each of the foundation types: the basement, a slab-on-grade room and a room over the crawlspace.

Measurement devices shall (check all that apply):

- Be made in rooms that can be regularly occupied, such as family rooms, living rooms, dens, playrooms and bedrooms.
- If charcoal canisters, not be placed in bathrooms, kitchens, laundry rooms, spa rooms or other areas of high humidity.
- Be undisturbed during the measurement period.
- Be at least 3 feet from doors, windows to the outside, or ventilation ducts and out of the direct flow of air from the ventilation duct.
- Be at least 1 foot from exterior walls.
- Be 20 inches to 6 feet from the floor.
- Be at least 4 inches away from other objects horizontally or vertically above the detector.
- Be at least 4 feet from heat, fireplaces and furnaces, out of direct sunlight, etc.

Diagram of Room Measured The following information shall be included:

- 1) All windows and doors. Annotate exterior walls and the direction of north or the front of the building.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Provider Requirements, Type Services, and Rates of Payment
- 2) Code Citation: 89 Ill. Adm. Code 686
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
686.200	Amendment
686.210	Amendment
686.220	Amendment
686.230	Amendment
636.235	New Section
636.240	Amendment
636.250	Amendment
363.260	Amendment
363.280	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: Language was added for homemaker agency appeals so that it is all encompassing, rather than just for compliance reviews. Additional language states appeal requests must be filed within a 30-day time period. A new Section was added for the enhanced rate for health insurance costs for eligible homemaker agencies that addresses the type of health insurance plans, eligibility requirements and the annual insurance review for participating agencies. New language was also added to the payment information and financial reporting sections to address the additional requirements for agencies receiving the enhanced rate.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: Federal Regs: 1915 (c) of the Social Security Act and 42 CFR 441.302(e).
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed amendments pending on this Part? No

DEPARTMENT OF HUMAN SERVICES

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- 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 after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

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

217/785-9772
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: Homemaker and provider agencies who choose to participate and provide health insurance benefits to eligible employees.
 - B) Reporting, bookkeeping or other procedures required for compliance: The Division has developed several reporting forms and these forms must be completed and filed by participating provider entities. Audits by a certified firm may be required if requested by the Department.
 - C) Types of professional skills necessary for compliance: Entities must meet the homemaker provider requirements outlined in Section 686.200.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2008

The full text of the Proposed Amendments is identical to that of the Emergency Amendments for this Part, and begins on page 7017:

POLLUTION CONTROL BOARD

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- 1) Heading of the Part: Definitions and General Procedures
- 2) Code Citation: 35 Ill. Adm. Code 211
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
211.665	New Section
211.995	New Section
211.1315	New Section
211.1435	New Section
211.2355	New Section
211.2357	New Section
211.2625	New Section
211.3100	New Section
211.3355	New Section
211.3475	New Section
211.4280	New Section
211.5195	New Section
- 4) Statutory Authority: Implementing Section 10 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/10, 27, and 28]
- 5) A Complete Description of the Subjects and Issues Involved:

The Board's May 7, 2009 opinion and order (Amendments to 35 Ill. Adm. Code 217, Nitrogen Oxides Emissions, and 35 Ill. Adm. Code 211, R08-19, slip op. at 21-27 (summarizing twelve proposed new definitions)) describes the twelve new Sections of Part 211 proposed in this rulemaking.

This rulemaking is based on a proposal filed with the Board by the Illinois Environmental Protection Agency (Agency) on May 9, 2008. The Agency proposes to amend Parts 211 and 217 of the Board's air pollution regulations (35 Ill. Adm. Code 211, 217) to control nitrogen oxides (NO_x) emissions from major stationary sources in the nonattainment areas and from emission units including industrial boilers, process heaters, glass melting furnaces, cement kilns, lime kilns, furnaces used in steelmaking and aluminum melting, and fossil fuel-fired stationary boilers at such sources. In Part 211, the Agency proposes to add twelve new definitions of terms employed in proposed new Sections of Part 217.

On April 2, 2009, the Board granted the Agency's motion to expedite review of this proposal in order to meet federal deadlines for submission of State Implementation Plans

POLLUTION CONTROL BOARD

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for NO_x. In its May 7, 2009, opinion and order, the Board stated that, having granted the motion for expedited review, it is highly unlikely to grant any motion for an extension of the first-notice comment period. The Board strongly encouraged participants who wish to file a public comment to do so within the statutory 45-day period.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: The Agency stated that it relied on the following 68 sources in preparing its proposal to the Board:
1. The Clean Air Act, as amended in 1990 (42 USC 7401 *et seq.*);
 2. Illinois Environmental Protection Act (415 ILCS 5);
 3. Energy & Environmental Analysis, Inc., "Characterization of the U.S. Boiler Industrial Commercial Boiler Population", submitted to Oak Ridge National Laboratory, May 2005;
 4. [http://commons.wikimedia.org/wiki/Image:Water tube boiler schematic.png](http://commons.wikimedia.org/wiki/Image:Water_tube_boiler_schematic.png);
 5. [http://en.wikipedia.org/wiki/Image:Locomotive fire tube boiler schematic.png](http://en.wikipedia.org/wiki/Image:Locomotive_fire_tube_boiler_schematic.png);
 6. Babcock & Wilcox Company; Steam, Its Generation and Use, 40th Edition, 1992;
 7. Neil Johnson, "Fundamentals of Stoker Fired Boiler Design and Operation", presented at CIBO Emission Controls Technology Conference, July 15-17, 2002;
 8. Letter to Mr. Regulator, New Hampshire Division of Environmental Services, from Daniel J. Willems, Product Development, Cleaver Brooks, dated May 19, 2006;
 9. http://wwwl.eere.energy.gov/industry/bestpractices/pdfs/steam4_boiler_efficiency.pdf;
 10. http://www.energysolutionscenter.org/boilerburner/Eff_Improve/Efficiency/Oxygen_Control.asp;
 11. <http://files.asme.org/asmeorg/Codes/CertifAccred/Personnel/2971.pdf>;
 12. http://www.coen.com/i_html/white_lowcostnoxpm.html;

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13. Rajani Varagani (n.d.), "A Cost Effective Low NO_x Retrofit Technology for Industrial Boilers," cited within CIBO Industrial Emissions Control Technology III, August 1-3, 2005;
14. Email from Jim Staudt, Andover Technology, to R. Gifford Broderick, Combustion Components Associates, Based on estimate for a 4-burner project, dated October 16, 2003;
15. http://www.johnzink.com/products/burners/html_todd/burn_todd_cs_104.htm;
16. Sacramento General Services Heating Plant Case Study: COEN web site: <http://www.coen.com/mrktli/ibrochures/pdf/qla.pdf>;
17. Zink, John (2003) "U.S. Borax TODD Ultra Low Emissions Burner Installment";
18. Zink, John (2003) "TODD Ultra Low Emissions Burner Installment";
19. Coen Company, "Ultra Low NO_x Gas-Fired Burner with Air Preheat", Final Report, prepared for California Air Resources Board, November 23, #2000;
20. Memorandum from Jim Staudt, Andover Technology Partners, to Sikander Khan, United States Environmental Protection Agency, providing comments in response to September 10, 2003 email, dated October 24, 2003;
21. Memorandum from Chad Whiteman, Institute of Clean Air Companies to Christopher Recchia, Ozone Transport Commission, regarding Selective Non-Catalytic Reduction Technology Costs for Industrial Sources, dated October 6, 2006;
22. Northeast States for Coordinated Air Use Management (NESCAUM), "Status Report on NO_x: Control Technologies and Cost Effectiveness for Utility Boilers", prepared by Jim Staudt, Andover Technology Partners, June 1998;
23. Northeast States for Coordinated Air Use Management (NESCAUM), "Status Report on NO_x Controls", prepared by Jim Staudt, Andover Technology Partners, December 2000 ("NESCAUM 2000 report");

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24. Institute to Clean Air Companies, Inc., "White Paper: Selective Catalytic Reduction (SCR) Control of NO_x Emissions", November 1997;
25. <http://www.cormetech.com/experience.htm>;
26. "Economic Indicators", Chemical Engineering, p. 102, September 2006;
27. Vatatuck, William M., "Updating the CE Plant Cost Index", Chemical Engineering, p. 69, January 2002;
28. State and Territorial Air Pollution (STAPPA) and Association of Local Air Pollution Control Offices (ALAPCO), "Controlling Fine Particulate Matter Under the Clean Air Act: A Menu of Options", March 2006;
29. Erickson, C., and Staudt, J., "Selective Catalytic Reduction System Performance and Reliability Review", presented at the EPRI-EPA-DOE-AWMA Combined Utility Air Pollution Control Conference, the Mega Conference, Baltimore, August 28-31, 2006;
30. Cichanowicz, E.J., "Current Capital Cost and Cost-Effectiveness of Power Plant Emissions Control Technologies", prepared for Utility Air Regulatory Group, June 2007.
31. <http://www.mobotecusa.com/projects/vermillion-sellsheet.pdf>;
32. <http://www.mobotecusa.com/projects/capefear6-sellsheet.pdf>;
33. STAPPA/ALAPCO, "Controlling Nitrogen Oxides under the Clean Air Act: A Menu of Options", July 1994;
34. Khan, Sikander, United States Environmental Protection Agency, "Methodology, Assumptions, and References Preliminary NO_x Controls Cost Estimates for Industrial Boilers", October-November 2003;
35. MACTEC Federal Programs/MACTEC Engineering and Consulting, Inc., "Midwest Regional Planning Organization (RPO): Petroleum Refinery Best Available Retrofit Technology (BART)", Engineering Analysis, prepared for The Lake Michigan Air Directors Consortium (LADCO), March 30, 2005. ("LADCO 2005");

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36. http://www.epa.gov/air/ozonepollution/SIPToolkit/documents/stationary_nox_list.pdf;
37. http://www.callidus.com/pages/next_gen.htm;
38. Heat Input Affects NO_x Emissions from Internal Flue Gas Re-Circulation Burners
<http://texasiof.ces.utexas.edu/texasshowcase/pdfs/presentations/c1/dbishop.pdf>;
39. http://www.andovertechnology.com/HGA_Market_Report_secure.pdf;
40. <http://vwww.valleyair.org/rules/currnrules/r4304.pdf>;
41. www.perf.org/ppt/Bishop.ppt;
42. State of New Jersey Department of Environmental Protection, State of the Art Manual for Boilers and Process Heaters, July 1997 (revised February 22, 2004).
www.state.nj.us/dep/aqpp/downloads/sota/sota12.pdf;
43. Partha Ganguli, Workgroup Recommendations and Other Potential Control Measures Stationary Combustion Sources Workgroup, May 11, 2006.
http://www.nj.gov/dep/airworkgroups/docs/wps/SCS004A_fin.pdf;
44. Sun, W.H., Bisnett, M.J., et al., "Reduction of NO_x Emissions from Cement Kiln/Calcliner through the Use of the NO_xOUT Process", International Specialty Conference on Waste Combustion in Boilers and Industrial Furnaces, April 21, 1994;
45. <http://www.cadencerecycling.com/pdf/6-PageComplete.pdf>;
46. Hansen, E., Cadence Environmental Energy Inc., "Staged Combustion for NO_x Reduction Using High Pressure Air Injection", undated.
<http://www.cadencerecycling.com/pdf/IEEE2002.pdf>;
47. Sabo, E., MACTEC Federal Programs, Inc., "Candidate Control Measures for Cement Plants", LADCO/MRPO, Regional Air Quality Workshop, June 28, 2005;
48. United States Environmental Protection Agency, Office of Air Quality, Planning and Standards, Technical Bulletin: Nitrogen Oxides (NO_x), Why and How They

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Are Controlled, EPA-456/F-99-006R, November 1999.

<http://www.epa.gov/ttn/catc/dir1/fnoxdoc.pdf>;

49. Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone, Rule, 63 *Fed. Reg.* 57356, October 27, 1998;
50. State of Michigan v. USEPA, 213 F.3d 663 (D.C. Cir. 2000);
51. Federal Implementation Plans to Reduce the Regional Transport of Ozone; Proposed Rule, 63 *Fed. Reg.* 56394, October 21, 1998;
52. United States Environmental Protection Agency, Office of Air and Radiation, Regulatory Impact Analysis for the NO_x SIP Call, FIP, and Section 126 Petitions, Volume 1: Costs and Economic Impacts, September 1998;
53. Waible, R., Price, D., Tish, P., Halpern, M., "Advanced Burner Technology for Stringent NO_x Regulations", presented at the American Petroleum Institute Midyear Refining Meeting, Orlando, FL, May 8, 1990;
54. Nguyen, Quang, Koppang, Richard, Energy and Environmental Research Corporation, Advanced Steel Reheat Furnaces Research and Development, Final Report, prepared for U.S. Department of Energy, January 14, 1999;
55. Rowlan, Steven J. and Sun, William H., "NO_x Control on Preheat and Radiant Furnaces at Nucor Steel Mills through Urea SNCR, SCR, and Hybrid Processes", presented at ICAC Forum, Houston, TX, February 12-13, 2002.
<http://www.icac.com/Files/Rowlan.pdf>;
56. Kobayashi, H., "Advances in Oxy-Fuel Fired Glass Melting Technology", presented at XX International Congress on Glass (ICG), Kyoto, Japan, September 26- October 1, 2004;
57. <http://www1.eere.energy.gov/industry/glass/pdfs/airstaging.pdf>;
58. http://www.gastechnology.org/webroot/app/xn/xd.aspx?it=enweb&xd=4reportspubs%5C4_8focus%5Coxxygenenrichedairstaging.xml;
59. http://www.osti.gov/energycitations/product.biblio.jsp?osti_id=616314;

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60. Midwest RPO Candidate Control Measures, Interim White Paper, Source Category: Glass Manufacturing, December 2, 2005;
 61. Energetics, Inc., Energy and Environmental Profile of the U.S. Aluminum Industry, prepared for U.S. Department of Energy, July 1997;
 62. <http://www1.eere.energy.gov/industry/aluminum/pdfs/aluminum.pdf>;
 63. Schalles, David G., The Next Generation of Combustion Technology for Aluminum Melting, undated. <http://www.bloomeng.com/tmspaper-FINAL.doc>;
 64. <http://www.bloomeng.com/11501umiflame.pdf>;
 65. <http://www.eere.energy.gov/industry/combustion/pdfs/osellcomb.pdf>;
 66. California South Coast Rule 2002, Allocations for oxides of Nitrogen (NO_x) and oxides of Sulfur (SO_x), amended January 7, 2005;
 67. <http://www.epa.gov/ttn/emc/cem.html>; and
 68. Alternative Control Techniques Document – NO_x Emissions from Cement Manufacturing, EPA-453/R-94-004, U. S. Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, N. C. 27711, March 1994.
- 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?

Section Number:
211.1920

Proposed Action:
Amend

Illinois Register Citation:
32 Ill. Reg. 17055 (Oct. 31, 2008)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide Policy Objectives: 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)].
- 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 R08-19 and be addressed to:

Clerk's Office
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: In Part 211, the Agency proposes to add twelve new definitions of terms employed in the proposed new Sections of Part 217.
 - A) Types of small businesses, small municipalities and not for profit corporations affected: None expected.
 - B) Reporting, bookkeeping or other procedures required for compliance: The proposed rulemaking requires the owner or operator of an affected source to perform emissions monitoring, complete required tests, and maintain records and make reports as required.
 - C) Types of Professional skills necessary for compliance: No professional skills beyond those currently required by the existing state and federal air pollution control regulations applicable to affected sources will be required.
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2006

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS
FOR STATIONARY SOURCES

PART 211
DEFINITIONS AND GENERAL PROVISIONS

SUBPART A: GENERAL PROVISIONS

Section	
211.101	Incorporations by Reference
211.102	Abbreviations and Conversion Factors

SUBPART B: DEFINITIONS

Section	
211.121	Other Definitions
211.122	Definitions (Repealed)
211.130	Accelacota
211.150	Accumulator
211.170	Acid Gases
211.210	Actual Heat Input
211.230	Adhesive
211.240	Adhesion Promoter
211.250	Aeration
211.270	Aerosol Can Filling Line
211.290	Afterburner
211.310	Air Contaminant
211.330	Air Dried Coatings
211.350	Air Oxidation Process
211.370	Air Pollutant
211.390	Air Pollution
211.410	Air Pollution Control Equipment
211.430	Air Suspension Coater/Dryer
211.450	Airless Spray
211.470	Air Assisted Airless Spray
211.474	Alcohol

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

211.479	Allowance
211.484	Animal
211.485	Animal Pathological Waste
211.490	Annual Grain Through-Put
211.495	Anti-Glare/Safety Coating
211.510	Application Area
211.530	Architectural Coating
211.550	As Applied
211.560	As-Applied Fountain Solution
211.570	Asphalt
211.590	Asphalt Prime Coat
211.610	Automobile
211.630	Automobile or Light-Duty Truck Assembly Source or Automobile or Light-Duty Truck Manufacturing Plant
211.650	Automobile or Light-Duty Truck Refinishing
211.660	Automotive/Transportation Plastic Parts
211.665	Auxiliary Boiler
211.670	Baked Coatings
211.680	Bakery Oven
211.685	Basecoat/Clearcoat System
211.690	Batch Loading
211.695	Batch Operation
211.696	Batch Process Train
211.710	Bead-Dipping
211.730	Binders
211.740	Brakehorsepower (rated-bhp)
211.750	British Thermal Unit
211.770	Brush or Wipe Coating
211.790	Bulk Gasoline Plant
211.810	Bulk Gasoline Terminal
211.820	Business Machine Plastic Parts
211.830	Can
211.850	Can Coating
211.870	Can Coating Line
211.890	Capture
211.910	Capture Device
211.930	Capture Efficiency
211.950	Capture System
211.953	Carbon Adsorber

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

211.955	Cement
211.960	Cement Kiln
211.970	Certified Investigation
211.980	Chemical Manufacturing Process Unit
211.990	Choke Loading
211.995	Circulating Fluidized Bed Combustor
211.1010	Clean Air Act
211.1050	Cleaning and Separating Operation
211.1070	Cleaning Materials
211.1090	Clear Coating
211.1110	Clear Topcoat
211.1120	Clinker
211.1130	Closed Purge System
211.1150	Closed Vent System
211.1170	Coal Refuse
211.1190	Coating
211.1210	Coating Applicator
211.1230	Coating Line
211.1250	Coating Plant
211.1270	Coil Coating
211.1290	Coil Coating Line
211.1310	Cold Cleaning
211.1312	Combined Cycle System
211.1315	Combustion Tuning
211.1316	Combustion Turbine
211.1320	Commence Commercial Operation
211.1324	Commence Operation
211.1328	Common Stack
211.1330	Complete Combustion
211.1350	Component
211.1370	Concrete Curing Compounds
211.1390	Concentrated Nitric Acid Manufacturing Process
211.1410	Condensate
211.1430	Condensable PM-10
211.1435	Container Glass
211.1465	Continuous Automatic Stoking
211.1467	Continuous Coater
211.1470	Continuous Process
211.1490	Control Device

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

211.1510	Control Device Efficiency
211.1515	Control Period
211.1520	Conventional Air Spray
211.1530	Conventional Soybean Crushing Source
211.1550	Conveyorized Degreasing
211.1570	Crude Oil
211.1590	Crude Oil Gathering
211.1610	Crushing
211.1630	Custody Transfer
211.1650	Cutback Asphalt
211.1670	Daily-Weighted Average VOM Content
211.1690	Day
211.1710	Degreaser
211.1730	Delivery Vessel
211.1740	Diesel Engine
211.1750	Dip Coating
211.1770	Distillate Fuel Oil
211.1780	Distillation Unit
211.1790	Drum
211.1810	Dry Cleaning Operation or Dry Cleaning Facility
211.1830	Dump-Pit Area
211.1850	Effective Grate Area
211.1870	Effluent Water Separator
211.1875	Elastomeric Materials
211.1880	Electromagnetic Interference/Radio Frequency Interference (EMI/RFI) Shielding Coatings
211.1885	Electronic Component
211.1890	Electrostatic Bell or Disc Spray
211.1900	Electrostatic Prep Coat
211.1910	Electrostatic Spray
211.1920	Emergency or Standby Unit
211.1930	Emission Rate
211.1950	Emission Unit
211.1970	Enamel
211.1990	Enclose
211.2010	End Sealing Compound Coat
211.2030	Enhanced Under-the-Cup Fill
211.2050	Ethanol Blend Gasoline
211.2070	Excess Air

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NOTICE OF PROPOSED AMENDMENTS

211.2080	Excess Emissions
211.2090	Excessive Release
211.2110	Existing Grain-Drying Operation (Repealed)
211.2130	Existing Grain-Handling Operation (Repealed)
211.2150	Exterior Base Coat
211.2170	Exterior End Coat
211.2190	External Floating Roof
211.2210	Extreme Performance Coating
211.2230	Fabric Coating
211.2250	Fabric Coating Line
211.2270	Federally Enforceable Limitations and Conditions
211.2285	Feed Mill
211.2290	Fermentation Time
211.2300	Fill
211.2310	Final Repair Coat
211.2330	Firebox
211.2350	Fixed-Roof Tank
211.2355	Flare
211.2357	Flat Glass
211.2360	Flexible Coating
211.2365	Flexible Operation Unit
211.2370	Flexographic Printing
211.2390	Flexographic Printing Line
211.2410	Floating Roof
211.2420	Fossil Fuel
211.2425	Fossil Fuel-Fired
211.2430	Fountain Solution
211.2450	Freeboard Height
211.2470	Fuel Combustion Emission Unit or Fuel Combustion Emission Source
211.2490	Fugitive Particulate Matter
211.2510	Full Operating Flowrate
211.2530	Gas Service
211.2550	Gas/Gas Method
211.2570	Gasoline
211.2590	Gasoline Dispensing Operation or Gasoline Dispensing Facility
211.2610	Gel Coat
211.2620	Generator
211.2625	Glass Melting Furnace
211.2630	Gloss Reducers

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

211.2650	Grain
211.2670	Grain-Drying Operation
211.2690	Grain-Handling and Conditioning Operation
211.2710	Grain-Handling Operation
211.2730	Green-Tire Spraying
211.2750	Green Tires
211.2770	Gross Heating Value
211.2790	Gross Vehicle Weight Rating
211.2810	Heated Airless Spray
211.2815	Heat Input
211.2820	Heat Input Rate
211.2830	Heatset
211.2850	Heatset Web Offset Lithographic Printing Line
211.2870	Heavy Liquid
211.2890	Heavy Metals
211.2910	Heavy Off-Highway Vehicle Products
211.2930	Heavy Off-Highway Vehicle Products Coating
211.2950	Heavy Off-Highway Vehicle Products Coating Line
211.2970	High Temperature Aluminum Coating
211.2990	High Volume Low Pressure (HVLP) Spray
211.3010	Hood
211.3030	Hot Well
211.3050	Housekeeping Practices
211.3070	Incinerator
211.3090	Indirect Heat Transfer
211.3100	Industrial Boiler
211.3110	Ink
211.3130	In-Process Tank
211.3150	In-Situ Sampling Systems
211.3170	Interior Body Spray Coat
211.3190	Internal-Floating Roof
211.3210	Internal Transferring Area
211.3230	Lacquers
211.3250	Large Appliance
211.3270	Large Appliance Coating
211.3290	Large Appliance Coating Line
211.3300	Lean-Burn Engine
211.3310	Light Liquid
211.3330	Light-Duty Truck

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NOTICE OF PROPOSED AMENDMENTS

211.3350	Light Oil
211.3355	Lime Kiln
211.3370	Liquid/Gas Method
211.3390	Liquid-Mounted Seal
211.3410	Liquid Service
211.3430	Liquids Dripping
211.3450	Lithographic Printing Line
211.3470	Load-Out Area
211.3475	Load Shaving Unit
211.3480	Loading Event
211.3483	Long Dry Kiln
211.3485	Long Wet Kiln
211.3487	Low-NO _x Burner
211.3490	Low Solvent Coating
211.3500	Lubricating Oil
211.3510	Magnet Wire
211.3530	Magnet Wire Coating
211.3550	Magnet Wire Coating Line
211.3570	Major Dump Pit
211.3590	Major Metropolitan Area (MMA)
211.3610	Major Population Area (MPA)
211.3620	Manually Operated Equipment
211.3630	Manufacturing Process
211.3650	Marine Terminal
211.3660	Marine Vessel
211.3670	Material Recovery Section
211.3690	Maximum Theoretical Emissions
211.3695	Maximum True Vapor Pressure
211.3710	Metal Furniture
211.3730	Metal Furniture Coating
211.3750	Metal Furniture Coating Line
211.3770	Metallic Shoe-Type Seal
211.3780	Mid-Kiln Firing
211.3790	Miscellaneous Fabricated Product Manufacturing Process
211.3810	Miscellaneous Formulation Manufacturing Process
211.3830	Miscellaneous Metal Parts and Products
211.3850	Miscellaneous Metal Parts and Products Coating
211.3870	Miscellaneous Metal Parts or Products Coating Line
211.3890	Miscellaneous Organic Chemical Manufacturing Process

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NOTICE OF PROPOSED AMENDMENTS

211.3910	Mixing Operation
211.3915	Mobile Equipment
211.3930	Monitor
211.3950	Monomer
211.3960	Motor Vehicles
211.3965	Motor Vehicle Refinishing
211.3970	Multiple Package Coating
211.3980	Nameplate Capacity
211.3990	New Grain-Drying Operation (Repealed)
211.4010	New Grain-Handling Operation (Repealed)
211.4030	No Detectable Volatile Organic Material Emissions
211.4050	Non-Contact Process Water Cooling Tower
211.4055	Non-Flexible Coating
211.4065	Non-Heatset
211.4067	NO _x Trading Program
211.4070	Offset
211.4090	One Hundred Percent Acid
211.4110	One-Turn Storage Space
211.4130	Opacity
211.4150	Opaque Stains
211.4170	Open Top Vapor Degreasing
211.4190	Open-Ended Valve
211.4210	Operator of a Gasoline Dispensing Operation or Operator of a Gasoline Dispensing Facility
211.4230	Organic Compound
211.4250	Organic Material and Organic Materials
211.4260	Organic Solvent
211.4270	Organic Vapor
211.4280	Other Glass
211.4290	Oven
211.4310	Overall Control
211.4330	Overvarnish
211.4350	Owner of a Gasoline Dispensing Operation or Owner of a Gasoline Dispensing Facility
211.4370	Owner or Operator
211.4390	Packaging Rotogravure Printing
211.4410	Packaging Rotogravure Printing Line
211.4430	Pail
211.4450	Paint Manufacturing Source or Paint Manufacturing Plant

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NOTICE OF PROPOSED AMENDMENTS

211.4470	Paper Coating
211.4490	Paper Coating Line
211.4510	Particulate Matter
211.4530	Parts Per Million (Volume) or PPM (Vol)
211.4550	Person
211.4590	Petroleum
211.4610	Petroleum Liquid
211.4630	Petroleum Refinery
211.4650	Pharmaceutical
211.4670	Pharmaceutical Coating Operation
211.4690	Photochemically Reactive Material
211.4710	Pigmented Coatings
211.4730	Plant
211.4740	Plastic Part
211.4750	Plasticizers
211.4770	PM-10
211.4790	Pneumatic Rubber Tire Manufacture
211.4810	Polybasic Organic Acid Partial Oxidation Manufacturing Process
211.4830	Polyester Resin Material(s)
211.4850	Polyester Resin Products Manufacturing Process
211.4870	Polystyrene Plant
211.4890	Polystyrene Resin
211.4910	Portable Grain-Handling Equipment
211.4930	Portland Cement Manufacturing Process Emission Source
211.4950	Portland Cement Process or Portland Cement Manufacturing Plant
211.4960	Potential Electrical Output Capacity
211.4970	Potential to Emit
211.4990	Power Driven Fastener Coating
211.5010	Precoat
211.5015	Preheater Kiln
211.5020	Preheater/Preheater Kiln
211.5030	Pressure Release
211.5050	Pressure Tank
211.5060	Pressure/Vacuum Relief Valve
211.5061	Pretreatment Wash Primer
211.5065	Primary Product
211.5070	Prime Coat
211.5080	Primer Sealer
211.5090	Primer Surfacer Coat

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NOTICE OF PROPOSED AMENDMENTS

211.5110	Primer Surfacer Operation
211.5130	Primers
211.5150	Printing
211.5170	Printing Line
211.5185	Process Emission Source
211.5190	Process Emission Unit
211.5195	Process Heater
211.5210	Process Unit
211.5230	Process Unit Shutdown
211.5245	Process Vent
211.5250	Process Weight Rate
211.5270	Production Equipment Exhaust System
211.5310	Publication Rotogravure Printing Line
211.5330	Purged Process Fluid
211.5340	Rated Heat Input Capacity
211.5350	Reactor
211.5370	Reasonably Available Control Technology (RACT)
211.5390	Reclamation System
211.5410	Refiner
211.5430	Refinery Fuel Gas
211.5450	Refinery Fuel Gas System
211.5470	Refinery Unit or Refinery Process Unit
211.5480	Reflective Argent Coating
211.5490	Refrigerated Condenser
211.5500	Regulated Air Pollutant
211.5510	Reid Vapor Pressure
211.5530	Repair
211.5550	Repair Coat
211.5570	Repaired
211.5580	Repowering
211.5590	Residual Fuel Oil
211.5600	Resist Coat
211.5610	Restricted Area
211.5630	Retail Outlet
211.5640	Rich-Burn Engine
211.5650	Ringelmann Chart
211.5670	Roadway
211.5690	Roll Coater
211.5710	Roll Coating

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NOTICE OF PROPOSED AMENDMENTS

211.5730	Roll Printer
211.5750	Roll Printing
211.5770	Rotogravure Printing
211.5790	Rotogravure Printing Line
211.5810	Safety Relief Valve
211.5830	Sandblasting
211.5850	Sanding Sealers
211.5870	Screening
211.5880	Screen Printing on Paper
211.5890	Sealer
211.5910	Semi-Transparent Stains
211.5930	Sensor
211.5950	Set of Safety Relief Valves
211.5970	Sheet Basecoat
211.5980	Sheet-Fed
211.5990	Shotblasting
211.6010	Side-Seam Spray Coat
211.6025	Single Unit Operation
211.6030	Smoke
211.6050	Smokeless Flare
211.6060	Soft Coat
211.6070	Solvent
211.6090	Solvent Cleaning
211.6110	Solvent Recovery System
211.6130	Source
211.6140	Specialty Coatings
211.6145	Specialty Coatings for Motor Vehicles
211.6150	Specialty High Gloss Catalyzed Coating
211.6170	Specialty Leather
211.6190	Specialty Soybean Crushing Source
211.6210	Splash Loading
211.6230	Stack
211.6250	Stain Coating
211.6270	Standard Conditions
211.6290	Standard Cubic Foot (scf)
211.6310	Start-Up
211.6330	Stationary Emission Source
211.6350	Stationary Emission Unit
211.6355	Stationary Gas Turbine

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NOTICE OF PROPOSED AMENDMENTS

211.6360	Stationary Reciprocating Internal Combustion Engine
211.6370	Stationary Source
211.6390	Stationary Storage Tank
211.6400	Stencil Coat
211.6410	Storage Tank or Storage Vessel
211.6420	Strippable Spray Booth Coating
211.6430	Styrene Devolatilizer Unit
211.6450	Styrene Recovery Unit
211.6470	Submerged Loading Pipe
211.6490	Substrate
211.6510	Sulfuric Acid Mist
211.6530	Surface Condenser
211.6540	Surface Preparation Materials
211.6550	Synthetic Organic Chemical or Polymer Manufacturing Plant
211.6570	Tablet Coating Operation
211.6580	Texture Coat
211.6590	Thirty-Day Rolling Average
211.6610	Three-Piece Can
211.6620	Three or Four Stage Coating System
211.6630	Through-the-Valve Fill
211.6650	Tooling Resin
211.6670	Topcoat
211.6690	Topcoat Operation
211.6695	Topcoat System
211.6710	Touch-Up
211.6720	Touch-Up Coating
211.6730	Transfer Efficiency
211.6750	Tread End Cementing
211.6770	True Vapor Pressure
211.6790	Turnaround
211.6810	Two-Piece Can
211.6830	Under-the-Cup Fill
211.6850	Undertread Cementing
211.6860	Uniform Finish Blender
211.6870	Unregulated Safety Relief Valve
211.6880	Vacuum Metallizing
211.6890	Vacuum Producing System
211.6910	Vacuum Service
211.6930	Valves Not Externally Regulated

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NOTICE OF PROPOSED AMENDMENTS

211.6950	Vapor Balance System
211.6970	Vapor Collection System
211.6990	Vapor Control System
211.7010	Vapor-Mounted Primary Seal
211.7030	Vapor Recovery System
211.7050	Vapor-Suppressed Polyester Resin
211.7070	Vinyl Coating
211.7090	Vinyl Coating Line
211.7110	Volatile Organic Liquid (VOL)
211.7130	Volatile Organic Material Content (VOMC)
211.7150	Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)
211.7170	Volatile Petroleum Liquid
211.7190	Wash Coat
211.7200	Washoff Operations
211.7210	Wastewater (Oil/Water) Separator
211.7230	Weak Nitric Acid Manufacturing Process
211.7250	Web
211.7270	Wholesale Purchase – Consumer
211.7290	Wood Furniture
211.7310	Wood Furniture Coating
211.7330	Wood Furniture Coating Line
211.7350	Woodworking
211.7400	Yeast Percentage

211.APPENDIX A Rule into Section Table

211.APPENDIX B Section into Rule Table

AUTHORITY: Implementing Sections 9, 9.1, 9.9 and 10 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/9, 9.1, 9.9, 10, 27 and 28].

SOURCE: Adopted as Chapter 2: Air Pollution, Rule 201: Definitions, R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R74-2 and R75-5, 32 PCB 295, at 3 Ill. Reg. 5, p. 777, effective February 3, 1979; amended in R78-3 and 4, 35 PCB 75 and 243, at 3 Ill. Reg. 30, p. 124, effective July 28, 1979; amended in R80-5, at 7 Ill. Reg. 1244, effective January 21, 1983; codified at 7 Ill. Reg. 13590; amended in R82-1 (Docket A) at 10 Ill. Reg. 12624, effective July 7, 1986; amended in R85-21(A) at 11 Ill. Reg. 11747, effective June 29, 1987; amended in R86-34 at 11 Ill. Reg. 12267, effective July 10, 1987; amended in R86-39 at 11 Ill. Reg. 20804, effective December 14, 1987; amended in R82-14 and R86-37 at 12 Ill. Reg. 787, effective December 24, 1987; amended in R86-18 at 12 Ill. Reg. 7284, effective April 8, 1988; amended

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in R86-10 at 12 Ill. Reg. 7621, effective April 11, 1988; amended in R88-23 at 13 Ill. Reg. 10862, effective June 27, 1989; amended in R89-8 at 13 Ill. Reg. 17457, effective January 1, 1990; amended in R89-16(A) at 14 Ill. Reg. 9141, effective May 23, 1990; amended in R88-30(B) at 15 Ill. Reg. 5223, effective March 28, 1991; amended in R88-14 at 15 Ill. Reg. 7901, effective May 14, 1991; amended in R91-10 at 15 Ill. Reg. 15564, effective October 11, 1991; amended in R91-6 at 15 Ill. Reg. 15673, effective October 14, 1991; amended in R91-22 at 16 Ill. Reg. 7656, effective May 1, 1992; amended in R91-24 at 16 Ill. Reg. 13526, effective August 24, 1992; amended in R93-9 at 17 Ill. Reg. 16504, effective September 27, 1993; amended in R93-11 at 17 Ill. Reg. 21471, effective December 7, 1993; amended in R93-14 at 18 Ill. Reg. 1253, effective January 18, 1994; amended in R94-12 at 18 Ill. Reg. 14962, effective September 21, 1994; amended in R94-14 at 18 Ill. Reg. 15744, effective October 17, 1994; amended in R94-15 at 18 Ill. Reg. 16379, effective October 25, 1994; amended in R94-16 at 18 Ill. Reg. 16929, effective November 15, 1994; amended in R94-21, R94-31 and R94-32 at 19 Ill. Reg. 6823, effective May 9, 1995; amended in R94-33 at 19 Ill. Reg. 7344, effective May 22, 1995; amended in R95-2 at 19 Ill. Reg. 11066, effective July 12, 1995; amended in R95-16 at 19 Ill. Reg. 15176, effective October 19, 1995; amended in R96-5 at 20 Ill. Reg. 7590, effective May 22, 1996; amended in R96-16 at 21 Ill. Reg. 2641, effective February 7, 1997; amended in R97-17 at 21 Ill. Reg. 6489, effective May 16, 1997; amended in R97-24 at 21 Ill. Reg. 7695, effective June 9, 1997; amended in R96-17 at 21 Ill. Reg. 7856, effective June 17, 1997; amended in R97-31 at 22 Ill. Reg. 3497, effective February 2, 1998; amended in R98-17 at 22 Ill. Reg. 11405, effective June 22, 1998; amended in R01-9 at 25 Ill. Reg. 108, effective December 26, 2000; amended in R01-11 at 25 Ill. Reg. 4582, effective March 15, 2001; amended in R01-17 at 25 Ill. Reg. 5900, effective April 17, 2001; amended in R05-16 at 29 Ill. Reg. 8181, effective May 23, 2005; amended in R05-11 at 29 Ill. Reg. 8892, effective June 13, 2005; amended in R04-12/20 at 30 Ill. Reg. 9654, effective May 15, 2006; amended in R07-18 at 31 Ill. Reg. 14254, effective September 25, 2007; amended in R08-6 at 32 Ill. Reg. 1387, effective January 16, 2008; amended in R08-19 at 33 Ill. Reg. _____, effective _____.

SUBPART B: DEFINITIONS

Section 211.665 Auxiliary Boiler

"Auxiliary boiler" means, for purposes of Part 217, a boiler that is operated only when the main boiler or boilers at a source are not in service and is used either to maintain building heat or to assist in the startup of the main boiler or boilers. This term does not include emergency or standby units and load shaving units.

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

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NOTICE OF PROPOSED AMENDMENTS

Section 211.995 Circulating Fluidized Bed Combustor

"Circulating fluidized bed combustor" means, for purposes of Part 217, a fluidized bed combustor in which the majority of the fluidized bed material is carried out of the primary combustion zone and is transported back to the primary zone through a recirculation loop.

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

Section 211.1315 Combustion Tuning

"Combustion tuning" means, for purposes of Part 217, review and adjustment of a combustion process to maintain combustion efficiency of an emission unit, as performed in accordance with procedures provided by the manufacturer or by a trained technician.

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

Section 211.1435 Container Glass

"Container glass" means, for purposes of Part 217, glass made of soda-lime recipe, clear or colored, that is pressed or blown, or both, into bottles, jars, ampoules, and other products listed in Standard Industrial Classification 3221.

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

Section 211.2355 Flare

"Flare" means an open combustor without enclosure or shroud.

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

Section 211.2357 Flat Glass

"Flat glass" means, for purposes of Part 217, glass made of soda-lime recipe and produced into continuous flat sheets and other products listed in Standard Industrial Classification 3211.

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

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NOTICE OF PROPOSED AMENDMENTS

Section 211.2625 Glass Melting Furnace

"Glass melting furnace" means, for purposes of Part 217, a unit comprising a refractory vessel in which raw materials are charged and melted at high temperature to produce molten glass.

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

Section 211.3100 Industrial Boiler

"Industrial boiler" means, for purposes of Part 217, an enclosed vessel in which water is heated and circulated either as hot water or as steam for heating or for power, or both. This term does not include a heat recovery steam generator that captures waste heat from a combustion turbine and boilers serving a generator that has a nameplate capacity greater than 25 MWe and produces electricity for sale, and cogeneration units, if such boilers meet the applicability criteria under Subpart M of Part 217.

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

Section 211.3355 Lime Kiln

"Lime kiln" means, for purposes of Part 217, an enclosed combustion device used to calcine lime mud, which consists primarily of calcium carbonate, into calcium oxide.

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

Section 211.3475 Load Shaving Unit

"Load shaving unit" means, for purposes of Part 217, a device used to generate electricity for sale or use during high electric demand days, including but not limited to stationary reciprocating internal combustion engines or turbines.

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

Section 211.4280 Other Glass

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"Other glass" means, for purposes of Part 217, glass that is neither container glass, as that term is defined in Section 211.1435, nor flat glass, as that term is defined in Section 211.2357.

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

Section 211.5195 Process Heater

"Process heater" means, for purposes of Part 217, an enclosed combustion device that burns gaseous or liquid fuels only and that indirectly transfers heat to a process fluid or a heat transfer medium other than water. This term does not include pipeline heaters and storage tank heaters that are primarily meant to maintain fluids at a certain temperature or viscosity.

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

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Nitrogen Oxides Emissions
- 2) Code Citation: 35 Ill. Adm. Code 217
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
217.100	Amended
217.104	Amended
217.121	Repealed
217.141	Amended
217.150	New Section
217.152	New Section
217.154	New Section
217.155	New Section
217.156	New Section
217.157	New Section
217.158	New Section
217.160	New Section
217.162	New Section
217.164	New Section
217.165	New Section
217.166	New Section
217.180	New Section
217.182	New Section
217.184	New Section
217.185	New Section
217.186	New Section
217.200	New Section
217.202	New Section
217.204	New Section
217.220	New Section
217.222	New Section
217.224	New Section
217.240	New Section
217.242	New Section
217.244	New Section
217.340	New Section
217.342	New Section
217.344	New Section
217.345	New Section

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217.APPENDIX H New Section

- 4) Statutory Authority: Implementing Section 10 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/10, 27, and 28]
- 5) A Complete Description of the Subjects and Issues Involved: The Board's May 7, 2009 opinion and order (Amendments to 35 Ill. Adm. Code 217, Nitrogen Oxides Emissions, and 35 Ill. Adm. Code 211, R08-19, slip op. at 27-58 (summarizing twelve proposed new definitions)) discusses in details the amendments to Part 217 proposed in this rulemaking.

This rulemaking is based on a proposal filed with the Board by the Illinois Environmental Protection Agency (Agency) on May 9, 2008. The Agency proposes to amend Parts 211 and 217 of the Board's air pollution regulations (35 Ill. Adm. Code 211, 217) to control nitrogen oxides (NO_x) emissions from major stationary sources in the nonattainment areas and from emission units including industrial boilers, process heaters, glass melting furnaces, cement kilns, lime kilns, furnaces used in steelmaking and aluminum melting, and fossil fuel-fired stationary boilers at such sources.

On April 2, 2009, the Board granted the Agency's motion to expedite review of this proposal in order to meet federal deadlines for submission of State Implementation Plans for NO_x. In its May 7, 2009, opinion and order, the Board stated that, having granted the motion for expedited review, it is highly unlikely to grant any motion for an extension of the first-notice comment period. The Board strongly encouraged participants who wish to file a public comment to do so within the statutory 45-day period.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: The Agency stated that it relied on the following 68 sources in preparing its proposal to the Board:
1. The Clean Air Act, as amended in 1990 (42 USC 7401 *et seq.*);
 2. Illinois Environmental Protection Act (415 ILCS 5);
 3. Energy & Environmental Analysis, Inc., "Characterization of the U.S. Boiler Industrial Commercial Boiler Population", submitted to Oak Ridge National Laboratory, May 2005;
 4. [http://commons.wikimedia.org/wiki/Image:Water tube boiler schematic.png](http://commons.wikimedia.org/wiki/Image:Water_tube_boiler_schematic.png);

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5. [http://en.wikipedia.org/wiki/Image:Locomotive fire tube boiler schematic.png](http://en.wikipedia.org/wiki/Image:Locomotive_fire_tube_boiler_schematic.png);
6. Babcock & Wilcox Company; Steam, It's Generation and Use, 40th Edition, 1992;
7. Neil Johnson, "Fundamentals of Stoker Fired Boiler Design and Operation", presented at CIBO Emission Controls Technology Conference, July 15-17, 2002;
8. Letter to Mr. Regulator, New Hampshire Division of Environmental Services, from Daniel J. Willems, Product Development, Cleaver Brooks, dated May 19, 2006;
9. http://www1.eere.energy.gov/industry/bestpractices/pdfs/steam4_boiler_efficiency.pdf;
10. http://www.energysolutionscenter.org/boilerburner/Eff_Improve/Efficiency/Oxygen_Control.asp;
11. <http://files.asme.org/asmeorg/Codes/CertifAccred/Personnel/2971.pdf>;
12. http://www.coen.com/i_html/white_lowcostnoxpm.html;
13. Rajani Varagani (n.d.), "A Cost Effective Low NO_x Retrofit Technology for Industrial Boilers", cited within CIBO Industrial Emissions Control Technology III, August 1-3, 2005;
14. Email from Jim Staudt, Andover Technology, to R. Gifford Broderick, Combustion Components Associates, Based on estimate for a 4-burner project, dated October 16, 2003;
15. http://www.johnzink.com/products/burners/html_todd/burn_todd_cs_104.htm;
16. Sacramento General Services Heating Plant Case Study: COEN web site: <http://www.coen.com/mrktli/ibrochures/pdf/qla.pdf>;
17. Zink, John (2003) "U.S. Borax TODD Ultra Low Emissions Burner Installment";
18. Zink, John (2003) "TODD Ultra Low Emissions Burner Installment";

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19. Coen Company, "Ultra Low NO_x Gas-Fired Burner with Air Preheat", Final Report, prepared for California Air Resources Board, November 23, 2000;
20. Memorandum from Jim Staudt, Andover Technology Partners, to Sikander Khan, United States Environmental Protection Agency, providing comments in response to September 10, 2003 email, dated October 24, 2003;
21. Memorandum from Chad Whiteman, Institute of Clean Air Companies to Christopher Recchia, Ozone Transport Commission, regarding Selective Non-Catalytic Reduction Technology Costs for Industrial Sources, dated October 6, 2006;
22. Northeast States for Coordinated Air Use Management (NESCAUM), "Status Report on NO_x: Control Technologies and Cost Effectiveness for Utility Boilers", prepared by Jim Staudt, Andover Technology Partners, June 1998;
23. Northeast States for Coordinated Air Use Management (NESCAUM), "Status Report on NO_x Controls", prepared by Jim Staudt, Andover Technology Partners, December 2000 ("NESCAUM 2000 report");
24. Institute to Clean Air Companies, Inc., "White Paper: Selective Catalytic Reduction (SCR) Control of NO_x Emissions", November 1997;
25. <http://www.cormetech.com/experience.htm>;
26. "Economic Indicators", Chemical Engineering, p. 102, September 2006;
27. Vatatuck, William M., "Updating the CE Plant Cost Index", Chemical Engineering, p. 69, January 2002;
28. State and Territorial Air Pollution (STAPPA) and Association of Local Air Pollution Control Offices (ALAPCO), "Controlling Fine Particulate Matter Under the Clean Air Act: A Menu of Options", March 2006;
29. Erickson, C., and Staudt, J., "Selective Catalytic Reduction System Performance and Reliability Review", presented at the EPRI-EPA-DOE-AWMA Combined Utility Air Pollution Control Conference, the Mega Conference, Baltimore, August 28-31, 2006;

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30. Cichanowicz, E.J., "Current Capital Cost and Cost-Effectiveness of Power Plant Emissions Control Technologies", prepared for Utility Air Regulatory Group, June 2007.
31. <http://www.mobotecusa.com/projects/vermillion-sellsheet.pdf>;
32. <http://www.mobotecusa.com/projects/capefear6-sellsheet.pdf>;
33. STAPPA/ALAPCO, "Controlling Nitrogen Oxides under the Clean Air Act: A Menu of Options", July 1994;
34. Khan, Sikander, United States Environmental Protection Agency, "Methodology, Assumptions, and References Preliminary NO_x Controls Cost Estimates for Industrial Boilers", October-November 2003;
35. MACTEC Federal Programs/MACTEC Engineering and Consulting, Inc., "Midwest Regional Planning Organization (RPO): Petroleum Refinery Best Available Retrofit Technology (BART)", Engineering Analysis, prepared for The Lake Michigan Air Directors Consortium (LADCO), March 30, 2005. ("LADCO 2005");
36. http://www.epa.gov/air/ozonepollution/SIPToolkit/documents/stationary_nox_list.pdf;
37. http://www.callidus.com/pages/next_gen.htm;
38. Heat Input Affects NO_x Emissions from Internal Flue Gas Re-Circulation Burners <http://texasiof.ces.utexas.edu/texasshowcase/pdfs/presentations/c1/dbishop.pdf>;
39. http://www.andovertechnology.com/HGA_Market_Report_secure.pdf;
40. <http://vwww.valleyair.org/rules/currnrules/r4304.pdf>;
41. www.perf.org/ppt/Bishop.ppt;
42. State of New Jersey Department of Environmental Protection, State of the Art Manual for Boilers and Process Heaters, July 1997 (revised February 22, 2004). www.state.nj.us/dep/aqpp/downloads/sota/sota12.pdf;

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43. Partha Ganguli, Workgroup Recommendations and Other Potential Control Measures Stationary Combustion Sources Workgroup, May 11, 2006.
http://www.nj.gov/dep/airworkgroups/docs/wps/SCS004A_fin.pdf;
44. Sun, W.H., Bisnett, M.J., et al., "Reduction of NO_x Emissions from Cement Kiln/Calcliner through the Use of the NO_xOUT Process", International Specialty Conference on Waste Combustion in Boilers and Industrial Furnaces, April 21, 1994;
45. <http://www.cadencerecycling.com/pdf/6-PageComplete.pdf>;
46. Hansen, E., Cadence Environmental Energy Inc., "Staged Combustion for NO_x Reduction Using High Pressure Air Injection", undated.
<http://www.cadencerecycling.com/pdf/IEEE2002.pdf>;
47. Sabo, E., MACTEC Federal Programs, Inc., "Candidate Control Measures for Cement Plants", LADCO/MRPO, Regional Air Quality Workshop, June 28, 2005;
48. United States Environmental Protection Agency, Office of Air Quality, Planning and Standards, Technical Bulletin: Nitrogen Oxides (NO_x), Why and How They Are Controlled, EPA-456/F-99-006R, November 1999.
<http://www.epa.gov/ttn/catc/dir1/fnoxdoc.pdf>;
49. Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone, Rule, 63 Fed. Reg. 57356, October 27, 1998;
50. State of Michigan v. USEPA, 213 F.3d 663 (D.C. Cir. 2000);
51. Federal Implementation Plans to Reduce the Regional Transport of Ozone; Proposed Rule, 63 Fed. Reg. 56394, October 21, 1998;
52. United States Environmental Protection Agency, Office of Air and Radiation, Regulatory Impact Analysis for the NO_x SIP Call, FIP, and Section 126 Petitions, Volume 1: Costs and Economic Impacts, September 1998;
53. Waible, R., Price, D., Tish, P., Halpern, M., "Advanced Burner Technology for Stringent NO_x Regulations", presented at the American Petroleum Institute Midyear Refining Meeting, Orlando, FL, May 8, 1990;

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54. Nguyen, Quang, Koppang, Richard, Energy and Environmental Research Corporation, Advanced Steel Reheat Furnaces Research and Development, Final Report, prepared for U.S. Department of Energy, January 14, 1999;
55. Rowlan, Steven J. and Sun, William H., "NO_x Control on Preheat and Radiant Furnaces at Nucor Steel Mills through Urea SNCR, SCR, and Hybrid Processes", presented at ICAC Forum, Houston, TX, February 12-13, 2002.
<http://www.icac.com/Files/Rowlan.pdf>;
56. Kobayashi, H., "Advances in Oxy-Fuel Fired Glass Melting Technology", presented at XX International Congress on Glass (ICG), Kyoto, Japan, September 26- October 1, 2004;
57. <http://www1.eere.energy.gov/industry/glass/pdfs/airstaging.pdf>;
58. http://www.gastechnology.org/webroot/app/xn/xd.aspx?it=enweb&xd=4reportspubs%5C4_8focus%5Ccoxygenenrichedairstaging.xml;
59. http://www.osti.gov/energycitations/product.biblio.jsp?osti_id=616314;
60. Midwest RPO Candidate Control Measures, Interim White Paper, Source Category: Glass Manufacturing, December 2, 2005;
61. Energetics, Inc., Energy and Environmental Profile of the U.S. Aluminum Industry, prepared for U.S. Department of Energy, July 1997;
62. <http://www1.eere.energy.gov/industry/aluminum/pdfs/aluminum.pdf>;
63. Schalles, David G., The Next Generation of Combustion Technology for Aluminum Melting, undated. <http://www.bloomeng.com/tmspaner-FINAL.doc>;
64. <http://www.bloomeng.com/11501umiflame.pdf>;
65. <http://www.eere.energy.gov/industry/combustion/pdfs/osellcomb.pdf>;
66. California South Coast Rule 2002, Allocations for oxides of Nitrogen (NO_x) and oxides of Sulfur (SO_x), amended January 7, 2005;

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67. <http://www.epa.gov/ttn/emc/cem.html>; and
68. Alternative Control Techniques Document – NO_x Emissions from Cement Manufacturing, EPA-453/R-94-004, U. S. Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, N. C. 27711, March 1994.
- 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. See 35 Ill. Adm. Code 217.104 (incorporating 11 sources).
- 1) 40 CFR 60, Appendix A, Methods 1, 2, 3, and 4 (2007);
- 2) Alternative Control Techniques Document – NO_x Emissions from Industrial/Commercial/Institutional (ICI) Boilers, EPA-453/R-94-022, U. S. Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, N. C. 27711, March 1994;
- 3) Alternative Control Techniques Document – NO_x Emissions from Process Heaters (Revised), EPA-453/R-93-034, U. S. Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, N. C. 27711, September 1993;
- 4) Alternative Control Techniques Document – NO_x Emissions from Glass Manufacturing, EPA-453/R-94-037, U. S. Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, N. C. 27711, June 1994; and
- 5) Alternative Control Techniques Document – NO_x Emissions from Iron and Steel Mills, EPA-453/R-94-065, U. S. Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, N. C. 27711, September 1994.
- 10) Are there any other proposed rulemakings pending on this Part? Yes

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<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
217.386	Amend	32 Ill. Reg. 17075 (Oct. 31, 2008)
217.392	Amend	32 Ill. Reg. 17075 (Oct. 31, 2008)
217.396	Amend	32 Ill. Reg. 17075 (Oct. 31, 2008)

- 11) Statement of Statewide Policy Objectives: 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)].
- 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 R08-19 and be addressed to:

Clerk's Office
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: None expected
- B) Reporting, bookkeeping or other procedures required for compliance: The proposed rulemaking requires the owner or operator of an affected source to perform emissions monitoring, complete required tests, and maintain records and make reports as required.
- C) Types of Professional skills necessary for compliance: No professional skills beyond those currently required by the existing State and federal air pollution control regulations applicable to affected sources will be required.

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- 14) Regulatory Agenda on which this rulemaking was summarized: July 2006

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS
FOR STATIONARY SOURCES

PART 217
NITROGEN OXIDES EMISSIONS

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- Section
- 217.100 Scope and Organization
- 217.101 Measurement Methods
- 217.102 Abbreviations and Units
- 217.103 Definitions
- 217.104 Incorporations by Reference

SUBPART B: NEW FUEL COMBUSTION EMISSION SOURCES

- Section
- 217.121 New Emission Sources [\(Repealed\)](#)

SUBPART C: EXISTING FUEL COMBUSTION EMISSION [UNITSSOURCES](#)

- Section
- 217.141 Existing Emission Sources in Major Metropolitan Areas

[SUBPART D: NO_x GENERAL REQUIREMENTS](#)

- [Section](#)
- [217.150](#) [Applicability](#)
- [217.152](#) [Compliance Date](#)
- [217.154](#) [Performance Testing](#)
- [217.155](#) [Initial Compliance Certification](#)
- [217.156](#) [Recordkeeping and Reporting](#)
- [217.157](#) [Testing and Monitoring](#)
- [217.158](#) [Emissions Averaging Plans](#)

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- 217.160 Applicability
- 217.162 Exemptions
- 217.164 Emissions Limitations
- 217.165 Combination of Fuels
- 217.166 Methods and Procedures for Combustion Tuning

SUBPART F: PROCESS HEATERS

Section

- 217.180 Applicability
- 217.182 Exemptions
- 217.184 Emissions Limitations
- 217.185 Combination of Fuels
- 217.186 Methods and Procedures for Combustion Tuning

SUBPART G: GLASS MELTING FURNANCES

Section

- 217.200 Applicability
- 217.202 Exemptions
- 217.204 Emissions Limitations

SUBPART H: CEMENT AND LIME KILNS

Section

- 217.220 Applicability
- 217.222 Exemptions
- 217.224 Emissions Limitations

SUBPART I: IRON AND STEEL AND ALUMINUM MANUFACTURING

Section

- 217.240 Applicability
- 217.242 Exemptions
- 217.244 Emissions Limitations

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SUBPART K: PROCESS EMISSION SOURCES

Section
217.301 Industrial Processes

SUBPART M: ELECTRICAL GENERATING UNITS

Section
217.340 Applicability
217.342 Exemptions
217.344 Emissions Limitations
217.345 Combination of Fuels

SUBPART O: CHEMICAL MANUFACTURE

Section
217.381 Nitric Acid Manufacturing Processes

SUBPART Q: STATIONARY RECIPROCATING
INTERNAL COMBUSTION ENGINES AND TURBINES

Section
217.386 Applicability
217.388 Control and Maintenance Requirements
217.390 Emissions Averaging Plans
217.392 Compliance
217.394 Testing and Monitoring
217.396 Recordkeeping and Reporting

SUBPART T: CEMENT KILNS

Section
217.400 Applicability
217.402 Control Requirements
217.404 Testing
217.406 Monitoring
217.408 Reporting
217.410 Recordkeeping

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SUBPART U: NO_x CONTROL AND TRADING PROGRAM FOR
SPECIFIED NO_x GENERATING UNITS

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217.450	Purpose
217.452	Severability
217.454	Applicability
217.456	Compliance Requirements
217.458	Permitting Requirements
217.460	Subpart U NO _x Trading Budget
217.462	Methodology for Obtaining NO _x Allocations
217.464	Methodology for Determining NO _x Allowances from the New Source Set-Aside
217.466	NO _x Allocations Procedure for Subpart U Budget Units
217.468	New Source Set-Asides for "New" Budget Units
217.470	Early Reduction Credits (ERCs) for Budget Units
217.472	Low-Emitter Requirements
217.474	Opt-In Units
217.476	Opt-In Process
217.478	Opt-In Budget Units: Withdrawal from NO _x Trading Program
217.480	Opt-In Units: Change in Regulatory Status
217.482	Allowance Allocations to Opt-In Budget Units

SUBPART V: ELECTRIC POWER GENERATION

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217.521	Lake of Egypt Power Plant
217.700	Purpose
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217.704	Applicability
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217.712	Reporting and Recordkeeping

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217.750	Purpose
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217.754	Applicability
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217.760	NO _x Trading Budget
217.762	Methodology for Calculating NO _x Allocations for Budget Electrical Generating Units (EGUs)
217.764	NO _x Allocations for Budget EGUs
217.768	New Source Set-Asides for "New" Budget EGUs
217.770	Early Reduction Credits for Budget EGUs
217.774	Opt-In Units
217.776	Opt-In Process
217.778	Budget Opt-In Units: Withdrawal from NO _x Trading Program
217.780	Opt-In Units: Change in Regulatory Status
217.782	Allowance Allocations to Budget Opt-In Units

SUBPART X: VOLUNTARY NO_x EMISSIONS REDUCTION PROGRAM

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217.800	Purpose
217.805	Emission Unit Eligibility
217.810	Participation Requirements
217.815	NO _x Emission Reductions and the Subpart X NO _x Trading Budget
217.820	Baseline Emissions Determination
217.825	Calculation of Creditable NO _x Emission Reductions
217.830	Limitations on NO _x Emission Reductions
217.835	NO _x Emission Reduction Proposal
217.840	Agency Action
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217.APPENDIX A	Rule into Section Table
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217.APPENDIX G Existing Reciprocating Internal Combustion Engines Affected by the NO_x SIP Call

[217.APPENDIX H Compliance Dates for Certain Emissions Units at Petroleum Refineries](#)

AUTHORITY: Implementing Sections 9.9 and 10 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/9.9, 10, 27 and 28].

SOURCE: Adopted as Chapter 2: Air Pollution, Rule 207: Nitrogen Oxides Emissions, R71-23, 4 PCB 191, April 13, 1972, filed and effective April 14, 1972; amended at 2 Ill. Reg. 17, p. 101, effective April 13, 1978; codified at 7 Ill. Reg. 13609; amended in R01-9 at 25 Ill. Reg. 128, effective December 26, 2000; amended in R01-11 at 25 Ill. Reg. 4597, effective March 15, 2001; amended in R01-16 and R01-17 at 25 Ill. Reg. 5914, effective April 17, 2001; amended in R07-18 at 31 Ill. Reg. 14271, effective September 25, 2007; amended in R08-19 at 33 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 217.100 Scope and Organization

- a) This Part sets standards and limitations for emission of oxides of nitrogen from stationary sources.
- b) Permits for sources subject to this Part may be required pursuant to 35 Ill. Adm. Code 201 [or Section 39.5 of the Act](#).
- c) Notwithstanding the provisions of this Part the air quality standards contained in 35 Ill. Adm. Code 243 may not be violated.
- d) These rules have been grouped for convenience of the public; the scope of each is determined by its language and history.

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

Section 217.104 Incorporations by Reference

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

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- a) The phenol disulfonic acid procedures, as published in 40 CFR 60, Appendix A, Method 7 (2000);
- b) 40 CFR 96, subparts B, D, G, and H (1999);
- c) 40 CFR 96.1 through 96.3, 96.5 through 96.7, 96.50 through 96.54, 96.55(a) & (b), 96.56 and 96.57 (1999);
- d) 40 CFR 60, 72, 75 & 76 (2006);
- e) Alternative Control Techniques Document – NO_x Emissions from Cement Manufacturing, EPA-453/R94-004, U.S. Environmental Protection Agency-Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, March 1994;
- f) Section 11.6, Portland Cement Manufacturing, AP-42 Compilation of Air Emission Factors, Volume 1: Stationary Point and Area Sources, U.S. Environmental Protection Agency-Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, revised January 1995;
- g) 40 CFR 60.13 (2001);
- h) 40 CFR 60, Appendix A, Methods 3A, 7, 7A, 7C, 7D, 7E, 19, and 20 (2000);
- i) ASTM D6522-00, Standard Test Method for Determination of Nitrogen Oxides, Carbon Monoxide, and Oxygen Concentrations in Emissions from Natural Gas-Fired Reciprocating Engines, Combustion Turbines, Boilers, and Process Heaters Using Portable Analyzers (2000);
- [jk](#)) Standards of Performance for Stationary Combustion Turbines, 40 CFR 60, Subpart KKKK, 60.4400 (2006); ~~and~~
- [kl](#)) Compilation of Air Pollutant Emission Factors: AP-42, Volume I: Stationary Point and Area Sources (2000), USEPA;~~;~~
- [l](#)) [40 CFR 60, Appendix A, Methods 1, 2, 3, and 4 \(2007\);](#)
- [m](#)) [Alternative Control Techniques Document – NO_x Emissions from Industrial/Commercial/Institutional \(ICI\) Boilers, EPA-453/R-94-022, U.S.](#)

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Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, March 1994;

- n) Alternative Control Techniques Document – NO_x Emissions from Process Heaters (Revised), EPA-453/R-93-034, U.S. Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, September 1993;
- o) Alternative Control Techniques Document – NO_x Emissions from Glass Manufacturing, EPA-453/R-94-037, U.S. Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, June 1994; and
- p) Alternative Control Techniques Document – NO_x Emissions from Iron and Steel Mills, EPA-453/R-94-065, U.S. Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, September 1994.

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

SUBPART B: NEW FUEL COMBUSTION EMISSION SOURCES

Section 217.121 New Emission Sources (Repealed)

~~No person shall cause or allow the emission of nitrogen oxides (NO_x) into the atmosphere in any one hour period from any new fuel combustion emission source with an actual heat input equal to or greater than 73.2 MW (250 mmbtu/hr) to exceed the following standards and limitations:~~

- a) ~~For gaseous fossil fuel firing, 0.310 kg/MW-hr (0.20 lbs/mmbtu) of actual heat input;~~
- b) ~~For liquid fossil fuel firing, 0.464 kg/MW-hr (0.30 lbs/mmbtu) of actual heat input;~~
- c) ~~For dual gaseous and liquid fossil fuel firing, 0.464 kg/MW-hr (0.30 lbs/mmbtu) of actual heat input;~~
- d) ~~For solid fossil fuel firing, 1.08 kg/MW-hr (0.7 lbs.mmbtu) of actual heat input;~~

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e) ~~For fuel combustion emission sources burning simultaneously any combination of solid, liquid and gaseous fossil fuels, an allowable emission rate shall be determined by the following equation:~~

~~E = (AG + BL + CS)Q~~

~~Where:~~

~~E = Allowable nitrogen oxides emissions rate~~

~~Q = Actual heat input derived from all fossil fuels~~

~~G = Percent of actual heat input derived from gaseous fossil fuel~~

~~L = Percent of actual heat input derived from liquid fossil fuel~~

~~S = Percent of actual heat input derived from solid fossil fuel~~

~~G + L + S = 100.0~~

~~And, where A, B, C and appropriate metric and English units are determined from the following table:~~

	<u>Metric</u>	<u>English</u>
E	Kg/hr	Lbs/hr
Q	MW	Mmbtu/hr
A	0.023	0.003
B	0.023	0.003
C	0.053	0.007

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

SUBPART C: EXISTING FUEL COMBUSTION EMISSION UNITSSOURCES

Section 217.141 Existing Emission UnitsSources in Major Metropolitan Areas

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No person shall cause or allow the emission of nitrogen oxides into the atmosphere in any one hour period from any existing fuel combustion emission [unitssourcee](#) with an actual heat input equal to or greater than 73.2 MW (250 mmbtu/hr), located in the Chicago or St. Louis (Illinois) major metropolitan areas to exceed the following limitations:

- a) For gaseous and/or liquid fossil fuel firing, 0.46 kg/MW-hr (0.3 lbs/mmbtu) of actual heat input;
- b) For solid fossil fuel firing, 1.39 kg/MW-hr (0.9 lbs/mmbtu) of actual heat input;
- c) For fuel combustion emission [unitssources](#) burning simultaneously any combination of solid, liquid and gaseous fuel, the allowable emission rate shall be determined by the following equation:

$$E = (AG + BL + CS) Q$$

Where:

E	=	allowable nitrogen oxides emissions rate
Q	=	actual heat input
G	=	percent of actual heat input derived from gaseous fossil fuel
L	=	percent of actual heat input derived from liquid fossil fuel
S	=	percent of actual heat input derived from solid fossil fuel
G + L + S	=	100.0

	<u>Metric</u>	<u>English</u>
E	Kg/hr	lbs/hr
Q	MW	Mmbtu/hr
A	0.023	0.003
B	0.023	0.003
C	0.068	0.009

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- d) Exceptions: This ~~Section rule~~ shall not apply to the following:
- 1) ~~Existing~~existing fuel combustion sources ~~that~~which are either cyclone fired boilers burning solid or liquid fuel, or horizontally opposed fired boilers burning solid fuel; or-
 - 2) Emission units that are subject to the emissions limitations of Subpart E, F, G, H, I, M, or Q of this Part.

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

SUBPART D: INDUSTRIAL BOILERSSection 217.150 Applicability

- a) Applicability
- 1) The provisions of this Subpart and Subparts E, F, G, H, I, and M of this Part apply to the following:
 - A) All sources that are located in either one of the following areas and that emit or have the potential to emit NO_x in an amount equal to or greater than 100 tons per year:
 - i) The area composed of the Chicago area counties of Cook, DuPage, Kane, Lake, McHenry, and Will, the Townships of Aux Sable and Goose Lake in Grundy County, and the Township of Oswego in Kendall County; or
 - ii) The area composed of the Metro East area counties of Jersey, Madison, Monroe, and St. Clair, and the Township of Baldwin in Randolph County; and
 - B) Any industrial boiler, process heater, glass melting furnace, cement kiln, lime kiln, iron and steel reheat, annealing, or galvanizing furnace, aluminum reverberatory or crucible furnace, or fossil fuel-fired stationary boiler at such sources described in subsection (a)(1)(A) of this Section that emits NO_x in an amount equal to or

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greater than 15 tons per year and equal to or greater than five tons per ozone season.

- 2) For purposes of this Section, "potential to emit" means the quantity of NO_x that potentially could be emitted by a stationary source before add-on controls based on the design capacity or maximum production capacity of the source and 8,760 hours per year or the quantity of NO_x that potentially could be emitted by a stationary source as established in a federally enforceable permit.
- b) If a source ceases to fulfill the emissions criteria of subsection (a) of this Section, the requirements of this Subpart and Subpart E, F, G, H, I, or M of this Part continue to apply to any emission unit that was ever subject to the provisions of any of those Subparts.
- c) The provisions of this Subpart do not apply to afterburners, flares, and incinerators.
- d) Where a construction permit, for which the application was submitted to the Agency prior to the adoption of this Subpart, is issued that relies on decreases in emissions of NO_x from existing emission units for purposes of netting or emission offsets, such NO_x decreases remain creditable notwithstanding any requirements that may apply to the existing emission units pursuant to this Subpart and Subpart E, F, G, H, I, or M of this Part.
- e) The owner or operator of an emission unit that is subject to this Subpart and Subpart E, F, G, H, I, or M of this Part must operate such unit in a manner consistent with good air pollution control practice to minimize NO_x emissions.

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

Section 217.152 Compliance Date

- a) Compliance with the requirements of Subparts E, F, G, H, I and M by an owner or operator of an emission unit that is subject to any of those Subparts is required beginning January 1, 2012.
- b) Notwithstanding subsection (a) of this Section, compliance with the requirements of Subpart G of this Part by an owner or operator of an emission unit subject to

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Subpart G of this Part shall be extended until December 31, 2014, if such units are required to meet emissions limitations for NO_x, as measured using a continuous emissions monitoring system, and included within a legally enforceable order on or before December 31, 2009, whereby such emissions limitations are less than 30 percent of the emissions limitations set forth under Section 217.204.

- c) Notwithstanding subsection (a) of this Section, the owner or operator of emission units subject to Subpart E or F of this Part and located at a petroleum refinery must comply with the requirements of this Subpart and Subpart E or F of this Part, as applicable, for those emission units beginning January 1, 2012, except that the owner or operator of emission units listed in Appendix H must comply with the requirements of this Subpart, including the option of demonstrating compliance with the applicable Subpart through an emissions averaging plan under Section 217.158 and Subpart E or F of this Part, as applicable, for the listed emission units beginning on the dates set forth in Appendix H. With Agency approval, the owner or operator of emission units listed in Appendix H may elect to comply with the requirements of this Subpart and Subpart E or F of this Part, as applicable, by reducing the emissions of emission units other than those listed in Appendix H, provided that the emissions limitations of such other emission units are equal to or more stringent than the applicable emissions limitations set forth in Subpart E or F of this Part, as applicable, by the dates set forth in Appendix H.

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

Section 217.154 Performance Testing

- a) Performance testing of NO_x emissions for emission units constructed on or before July 1, 2011, and subject to Subpart E, F, G, H, or I of this Part must be conducted in accordance with Section 217.157. This subsection does not apply to owners and operators of emission units demonstrating compliance through a continuous emissions monitoring system.
- b) Performance testing of NO_x emissions for emission units for which construction or modification occurs after July 1, 2011, and that are subject to Subpart E, F, G, H, or I of this Part must be conducted within 60 days after achieving maximum operating rate but no later than 180 days after initial startup of the new or modified emission unit, in accordance with Section 217.157. This subsection does not apply to owners and operators of emission units demonstrating compliance through a continuous emissions monitoring system.

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- c) Notification of the initial startup of an emission unit subject to subsection (b) of this Section must be provided to the Agency no later than 30 days after initial startup.
- d) The owner or operator of an emission unit subject to subsection (a) or (b) of this Section must notify the Agency of the scheduled date for the performance testing in writing at least 30 days before such date and five days before such date.
- e) If demonstrating compliance through an emissions averaging plan, at least 30 days before changing the method of compliance, the owner or operator of an emission unit must submit a written notification to the Agency describing the new method of compliance, the reason for the change in the method of compliance, and the scheduled date for performance testing, if required. Upon changing the method of compliance, the owner or operator of an emission unit must submit to the Agency a revised compliance certification that meets the requirements of Section 217.155.

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

Section 217.155 Initial Compliance Certification

- a) By the applicable compliance date set forth under Section 217.152, an owner or operator of an emission unit subject to Subpart E, F, G, H, or I of this Part who is not demonstrating compliance through the use of a continuous emissions monitoring system must certify to the Agency that the emission unit will be in compliance with the applicable emissions limitation of Subpart E, F, G, H, or I of this Part beginning on such applicable compliance date. The performance testing certification must include the results of the performance testing performed in accordance with Section 217.154(a) and (b) and the calculations necessary to demonstrate that the subject emission unit will be in initial compliance.
- b) By the applicable compliance date set forth under Section 217.152, an owner or operator of an emission unit subject to Subpart E, F, G, H, I, or M of this Part who is demonstrating compliance through the use of a continuous emissions monitoring system must certify to the Agency that the affected emission units will be in compliance with the applicable emissions limitation of Subpart E, F, G, H, I, or M of this Part beginning on such applicable compliance date. The compliance certification must include a certification of the installation and operation of a

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continuous emissions monitoring system required under Section 217.157 and the monitoring data necessary to demonstrate that the subject emission unit will be in initial compliance.

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

Section 217.156 Recordkeeping and Reporting

- a) The owner or operator of an emission unit subject to Subpart E, F, G, H, I, or M of this Part must keep and maintain all records used to demonstrate initial compliance and ongoing compliance with the requirements of those Subparts.
 - 1) Except as otherwise provided under this Subpart or Subpart E, F, G, H, I, or M of this Part, copies of such records must be submitted by the owner or operator of the source to the Agency within 30 days after receipt of a written request by the Agency.
 - 2) Such records must be kept at the source and maintained for at least five years and must be available for immediate inspection and copying by the Agency.

- b) The owner or operator of an emission unit subject to Subpart E, F, G, H, I, or M of this Part must maintain records that demonstrate compliance with the requirements of those Subparts, as applicable, that include the following:
 - 1) Identification, type (e.g., gas-fired), and location of each unit.
 - 2) Calendar date of the record.
 - 3) Monthly, seasonal, and annual operating hours.
 - 4) Type and quantity of each fuel used monthly, seasonally, and annually.
 - 5) Product and material throughput, as applicable.
 - 6) Reports for all applicable emissions tests for NO_x conducted on the unit, including results.

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- 7) The date, time, and duration of any startup, shutdown, or malfunction in the operation of any emission unit subject to Subpart E, F, G, H, I, or M of this Part or any emissions monitoring equipment. The records must include a description of the malfunction and corrective maintenance activity.
 - 8) A log of all maintenance and inspections related to the unit's air pollution control equipment for NO_x that is performed on the unit.
 - 9) A log for the NO_x monitoring device, if present, including periods when not in service and maintenance and inspection activities that are performed on the device.
 - 10) Identification of time periods for which operating conditions and pollutant data were not obtained by the continuous emissions monitoring system, including the reasons for not obtaining sufficient data and a description of corrective actions taken.
 - 11) If complying with the emissions averaging plan provisions of Section 217.158, copies of the calculations used to demonstrate compliance with the ozone season and annual control period limitations, noncompliance reports for the ozone season, and ozone and annual control period compliance reports submitted to the Agency.
- c) The owner or operator of an industrial boiler subject to Subpart E of this Part must maintain records in order to demonstrate compliance with the combustion tuning requirements under Section 217.166.
 - d) The owner or operator of a process heater subject to Subpart F of this Part must maintain records in order to demonstrate compliance with the combustion tuning requirements under Section 217.186.
 - e) The owner or operator of an emission unit subject to Subpart E, F, G, H, I, or M of this Part must maintain records in order to demonstrate compliance with the testing and monitoring requirements under Section 217.157.
 - f) The owner or operator of an emission unit subject to Subpart E, F, G, H, or I of this Part must provide the following information with respect to performance testing pursuant to Section 217.157:

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- 1) Submit a testing protocol to the Agency at least 60 days prior to testing;
 - 2) Notify the Agency at least 30 days in writing prior to conducting performance testing for NO_x emissions and five days prior to such testing;
 - 3) Not later than 60 days after the completion of the test, submit the results of the test to the Agency; and
 - 4) If, after the 30-days' notice for an initially scheduled test is sent, there is a delay (e.g., due to operational problems) in conducting the test as scheduled, the owner or operator of the unit must notify the Agency as soon as practicable of the delay in the original test date, either by providing at least seven days' prior notice of the rescheduled date of the test or by arranging a new test date with the Agency by mutual agreement.
- g) The owner or operator of an emission unit subject to Subpart E, F, G, H, I, or M of this Part must notify the Agency of any exceedances of an applicable emissions limitation of Subpart E, F, G, H, I, or M of this Part by sending the applicable report with an explanation of the causes of such exceedances to the Agency within 30 days following the end of the applicable compliance period in which the emissions limitation was not met.
- h) Within 30 days after the receipt of a written request by the Agency, the owner or operator of an emission unit that is exempt from the requirements of Subpart E, F, G, H, I, or M of this Part must submit records that document that the emission unit is exempt from those requirements to the Agency.
- i) If demonstrating compliance through an emissions averaging plan, by March 1 following the applicable calendar year, the owner or operator must submit to the Agency a report that demonstrates the following:
- 1) For all units that are part of the emissions averaging plan, the total mass of allowable NO_x emissions for the ozone season and for the annual control period;
 - 2) The total mass of actual NO_x emissions for the ozone season and annual control period for each unit included in the averaging plan;

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- 3) The calculations that demonstrate that the total mass of actual NO_x emissions are less than the total mass of allowable NO_x emissions using equations in Section 217.158(f); and
 - 4) The information required to determine the total mass of actual NO_x emissions.
- j) The owner or operator of an emission unit subject to the requirements of Section 217.157 and demonstrating compliance through the use of a continuous emissions monitoring system must submit to the Agency a report within 30 days after the end of each calendar quarter. This report must include the following:
- 1) Information identifying and explaining the times and dates when continuous emissions monitoring for NO_x was not in operation, other than for purposes of calibrating or performing quality assurance or quality control activities for the monitoring equipment; and
 - 2) An excess emissions and monitoring systems performance report in accordance with the requirements of 40 CFR 60.7(c) and (d) and 60.13, or 40 CFR 75, or an alternate procedure approved by the Agency and USEPA.
- k) The owner or operator of an emission unit subject to Subpart M of this Part must comply with the compliance certification and recordkeeping and reporting requirements in accordance with 40 CFR 96, or an alternate procedure approved by the Agency and USEPA.

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

Section 217.157 Testing and Monitoring

- a) Industrial Boilers and Process Heaters
 - 1) The owner or operator of an industrial boiler subject to Subpart E of this Part with a rated heat input capacity greater than 250 mmBtu/hr must install, calibrate, maintain, and operate a continuous emissions monitoring system on the emission unit for the measurement of NO_x emissions discharged into the atmosphere in accordance with 40 CFR 75, as incorporated by reference in Section 217.104.

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- 2) The owner or operator of an industrial boiler subject to Subpart E of this Part with a rated heat input capacity greater than 100 mmBtu/hr but less than or equal to 250 mmBtu/hr must install, calibrate, maintain, and operate a continuous emissions monitoring system on such emission unit for the measurement of NO_x emissions discharged into the atmosphere in accordance with 40 CFR 60, subpart A and appendix B, Performance Specifications 2 and 3, and appendix F, Quality Assurance Procedures, as incorporated by reference in Section 217.104.
- 3) The owner or operator of a process heater subject to Subpart F of this Part with a rated heat input capacity greater than 100 mmBtu/hr must install, calibrate, maintain, and operate a continuous emissions monitoring system on the emission unit for the measurement of NO_x emissions discharged into the atmosphere in accordance with 40 CFR 60, subpart A and appendix B, Performance Specifications 2 and 3, and appendix F, Quality Assurance Procedures, as incorporated by reference in Section 217.104.
- 4) If demonstrating compliance through an emissions averaging plan, the owner or operator of an industrial boiler subject to Subpart E of this Part, or a process heater subject to Subpart F of this Part, with a rated heat input capacity less than or equal to 100 mmBtu/hr and not demonstrating compliance through a continuous emissions monitoring system must have an initial performance test conducted pursuant to subsection (a)(4)(B) of this Section and Section 217.154.
 - A) An owner or operator of an industrial boiler or process heater must have subsequent performance tests conducted pursuant to subsection (a)(4)(B) of this Section at least once every five years. When, in the opinion of the Agency or USEPA, it is necessary to conduct testing to demonstrate compliance with Section 217.164 or 217.184, as applicable, the owner or operator of an industrial boiler or process heater must, at his or her own expense, have such test conducted in accordance with the applicable test methods and procedures specified in this Section within 90 days after receipt of a notice to test from the Agency or USEPA.
 - B) The owner or operator of an industrial boiler or process heater must have a performance test conducted using 40 CFR 60, subpart

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A and appendix A, Method 1, 2, 3, 4, 7E, or 19, as incorporated by reference in Section 217.104, or other alternative USEPA methods approved by the Agency. Each performance test must consist of three separate runs, each lasting a minimum of 60 minutes. NO_x emissions must be measured while the industrial boiler is operating at maximum operating capacity or while the process heater is operating at normal maximum load. If the industrial boiler or process heater has combusted more than one type of fuel in the prior year, a separate performance test is required for each fuel. If a combination of fuels is typically used, a performance test may be conducted, with Agency approval, on such combination of fuels typically used. Except as provided under subsection (e) of this Section, this subsection (a)(4)(B) does not apply if such owner or operator is demonstrating compliance with an emissions limitation through a continuous emissions monitoring system under subsection (a)(1), (a)(2), (a)(3), or (a)(5) of this Section.

- 5) Instead of complying with the requirements of subsections (a)(4), (a)(4)(A), and (a)(4)(B) of this Section, an owner or operator of an industrial boiler subject to Subpart E of this Part, or a process heater subject to Subpart F of this Part, with a rated heat input capacity less than or equal to 100 mmBtu/hr may install and operate a continuous emissions monitoring system on such emission unit in accordance with the applicable requirements of 40 CFR 60, subpart A and appendix B, Performance Specifications 2 and 3, and appendix F, Quality Assurance Procedures, as incorporated by reference in Section 217.104. The continuous emissions monitoring system must be used to demonstrate compliance with the applicable emissions limitation or emissions averaging plan on an ozone season and annual basis.
- 6) Notwithstanding subsection (a)(2) of this Section, the owner or operator of an auxiliary boiler subject to Subpart E of this Part with a rated heat input capacity less than or equal to 250 mmBtu/hr and a capacity factor of less than or equal to 20% is not required to install, calibrate, maintain, and operate a continuous emissions monitoring system on such boiler for the measurement of NO_x emissions discharged into the atmosphere, but must comply with the performance test requirements under subsections (a)(4), (a)(4)(A), and (a)(4)(B) of this Section.

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- b) Glass Melting Furnaces; Cement Kilns; Lime Kilns; Iron and Steel Reheat, Annealing, and Galvanizing Furnaces; and Aluminum Reverberatory and Crucible Furnaces
- 1) An owner or operator of a glass melting furnace subject to Subpart G of this Part, cement kiln or lime kiln subject to Subpart H of this Part, iron and steel reheat, annealing, or galvanizing furnace subject to Subpart I of this Part, or aluminum reverberatory or crucible furnace subject to Subpart I of this Part that has the potential to emit NO_x in an amount equal to or greater than one ton per day must install, calibrate, maintain, and operate a continuous emissions monitoring system on such emission unit for the measurement of NO_x emissions discharged into the atmosphere in accordance with 40 CFR 60, subpart A and appendix B, Performance Specifications 2 and 3, and appendix F, Quality Assurance Procedures, as incorporated by reference in Section 217.104.
 - 2) An owner or operator of a glass melting furnace subject to Subpart G of this Part, cement kiln or lime kiln subject to Subpart H of this Part, iron and steel reheat, annealing, or galvanizing furnace subject to Subpart I of this Part, or aluminum reverberatory or crucible furnace subject to Subpart I of this Part that has the potential to emit NO_x in an amount less than one ton per day must have an initial performance test conducted pursuant to subsection (b)(4) of this Section and Section 217.154.
 - 3) An owner or operator of a glass melting furnace subject to Subpart G of this Part, cement kiln or lime kiln subject to Subpart H of this Part, iron and steel reheat, annealing, or galvanizing furnace subject to Subpart I of this Part, or aluminum reverberatory or crucible furnace subject to Subpart I of this Part that has the potential to emit NO_x in an amount less than one ton per day must have subsequent performance tests conducted pursuant to subsection (b)(4) of this Section as follows:
 - A) For all glass melting furnaces subject to Subpart G of this Part, cement kilns or lime kilns subject to Subpart H of this Part, iron and steel reheat, annealing, or galvanizing furnace subject to Subpart I of this Part, or aluminum reverberatory or crucible furnaces subject to Subpart I of this Part, including all such units included in an emissions averaging plan, at least once every five years; and

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- B) When, in the opinion of the Agency or USEPA, it is necessary to conduct testing to demonstrate compliance with Section 217.204, 217.224, or 217.244 of this Part, as applicable, the owner or operator of a glass melting furnace, cement kiln, lime kiln, iron and steel reheat, annealing, or galvanizing furnace, or aluminum reverberatory or crucible furnace must, at his or her own expense, have such test conducted in accordance with the applicable test methods and procedures specified in this Section within 90 days after receipt of a notice to test from the Agency or USEPA.
- 4) The owner or operator of a glass melting furnace, cement kiln, or lime kiln must have a performance test conducted using 40 CFR 60, subpart A and appendix A, Methods 1, 2, 3, 4, and 7E, as incorporated by reference in Section 217.104 of this Part, or other alternative USEPA methods approved by the Agency. The owner or operator of an iron and steel reheat, annealing, or galvanizing furnace, or aluminum reverberatory or crucible furnace must have a performance test conducted using 40 CFR 60, subpart A and appendix A, Method 1, 2, 3, 4, 7E, or 19, as incorporated by reference in Section 217.104 of this Part, or other alternative USEPA methods approved by the Agency. Each performance test must consist of three separate runs, each lasting a minimum of 60 minutes. NO_x emissions must be measured while the glass melting furnace, cement kiln, lime kiln, iron and steel reheat, annealing, or galvanizing furnace, or aluminum reverberatory or crucible furnace is operating at maximum operating capacity. If the glass melting furnace, cement kiln, lime kiln, iron and steel reheat, annealing, or galvanizing furnace, or aluminum reverberatory or crucible furnace has combusted more than one type of fuel in the prior year, a separate performance test is required for each fuel. Except as provided under subsection (e) of this Section, this subsection (b)(4) does not apply if such owner or operator is demonstrating compliance with an emissions limitation through a continuous emissions monitoring system under subsection (b)(1) or (b)(5) of this Section.
- 5) Instead of complying with the requirements of subsections (b)(2), (b)(3), and (b)(4) of this Section, an owner or operator of a glass melting furnace subject to Subpart G of this Part, cement kiln or lime kiln subject to Subpart H of this Part, iron and steel reheat, annealing, or galvanizing

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furnace subject to Subpart I of this Part, or aluminum reverberatory or crucible furnace subject to Subpart I of this Part that has the potential to emit NO_x in an amount less than one ton per day may install and operate a continuous emissions monitoring system on such emission unit in accordance with the applicable requirements of 40 CFR 60, subpart A and appendix B, Performance Specifications 2 and 3, and appendix F, Quality Assurance Procedures, as incorporated by reference in Section 217.104 of this Part. The continuous emissions monitoring system must be used to demonstrate compliance with the applicable emissions limitation or emissions averaging plan on an ozone season and annual basis.

- c) Fossil Fuel-Fired Stationary Boilers. The owner or operator of a fossil fuel-fired stationary boiler subject to Subpart M of this Part must install, calibrate, maintain, and operate a continuous emissions monitoring system on such emission unit for the measurement of NO_x emissions discharged into the atmosphere in accordance with 40 CFR 96, subpart H.
- d) Common Stacks. If two or more emission units subject to Subpart E, F, G, H, I, M, or Q of this Part are served by a common stack and the owner or operator of such emission units is operating a continuous emissions monitoring system, the owner or operator may, with written approval from the Agency, utilize a single continuous emissions monitoring system for the combination of emission units subject to Subpart E, F, G, H, I, M, or Q of this Part that share the common stack, provided such emission units are subject to an emissions averaging plan under this Part.
- e) Compliance with the continuous emissions monitoring system (CEMS) requirements by an owner or operator of an emission unit who is required to install, calibrate, maintain, and operate a CEMS on the emission unit under subsection (a)(1), (a)(2), (a)(3), or (b)(1) of this Section, or who has elected to comply with the CEMS requirements under subsection (a)(5) or (b)(5) of this Section, or who has elected to comply with the predictive emission monitoring system (PEMS) requirements under subsection (f) of this Section, is required by the following dates:
- 1) For the owner or operator of an emission unit that is subject to a compliance date in calendar year 2012 under Section 217.152, compliance with the CEMS or PEMS requirements, as applicable, under this Section for such emission unit is required by December 31, 2012, provided that,

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during the time between the compliance date and December 31, 2012, the owner or operator must comply with the applicable performance test requirements under this Section and the applicable recordkeeping and reporting requirements under this Subpart. For the owner or operator of an emission unit that is in compliance with the CEMS or PEMS requirements, as applicable, under this Section on January 1, 2012, such owner or operator is not required to comply with the performance test requirements under this Section.

2) For the owner or operator of an emission unit that is subject to a compliance date in a calendar year other than calendar year 2012 under Section 217.152 of this Subpart, compliance with the CEMS or PEMS requirements, as applicable, under this Section for such emission unit is required by the applicable compliance date, and such owner or operator is not required to comply with the performance test requirements under this Section.

f) As an alternative to complying with the requirements of this Section, other than the requirements under subsections (a)(1) and (c) of this Section, the owner or operator of an emission unit who is not otherwise required by any other statute, regulation, or enforceable order to install, calibrate, maintain, and operate a CEMS on the emission unit may comply with the specifications and test procedures for a predictive emission monitoring system (PEMS) on the emission unit for the measurement of NO_x emissions discharged into the atmosphere in accordance with the requirements of 40 CFR 60, subpart A and appendix B, Performance Specification 16. The PEMS must be used to demonstrate compliance with the applicable emissions limitation or emissions averaging plan on an ozone season and annual basis.

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

Section 217.158 Emissions Averaging Plans

a) Notwithstanding any other emissions averaging plan provisions under this Part, an owner or operator of a source with certain emission units subject to Subpart E, F, G, H, I, or M of this Part, or subject to Subpart Q of this Part that are located in either one of the areas set forth under Section 217.150(a)(1)(A) or (B), may demonstrate compliance with the applicable Subpart through an emissions averaging plan. An emissions averaging plan can only address emission units that

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are located at one source and each unit may only be covered by one emissions averaging plan. Such emission units at the source are affected units and are subject to the requirements of this Section.

- 1) The following units may be included in an emissions averaging plan:
 - A) Units that commenced operation on or before January 1, 2002.
 - B) Units that the owner or operator may claim as exempt pursuant to Section 217.162, 217.182, 217.202, 217.222, 217.242, or 217.342 of this Part, as applicable, but does not claim exempt. For as long as such a unit is included in an emissions averaging plan, it will be treated as an affected unit and subject to the applicable emissions limitations, and testing, monitoring, recordkeeping and reporting requirements.
 - C) Units that commence operation after January 1, 2002, if the unit replaces a unit that commenced operation on or before January 1, 2002, or it replaces a unit that replaced a unit that commenced operation on or before January 1, 2002. The new unit must be used for the same purpose and have substantially equivalent or less process capacity or be permitted for less NO_x emissions on an annual basis than the actual NO_x emissions of the unit or units that are replaced. Within 90 days after permanently shutting down a unit that is replaced, the owner or operator of such unit must submit a written request to withdraw or amend the applicable permit to reflect that the unit is no longer in service before the replacement unit may be included in an emissions averaging plan.
- 2) The following types of units may not be included in an emissions averaging plan:
 - A) Units that commence operation after January 1, 2002, except as provided by subsection (a)(1)(C) of this Section.
 - B) Units that the owner or operator is claiming are exempt pursuant to Section 217.162, 217.182, 217.202, 217.222, 217.242, or 217.342 of this Part, as applicable.

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- C) Units that are required to meet emission limits or control requirements for NO_x as provided for in an enforceable order, unless such order allows for emissions averaging.
- b) An owner or operator must submit an emissions averaging plan to the Agency by January 1, 2012. The plan must include, but is not limited to, the following:
- 1) The list of affected units included in the plan by unit identification number; and
 - 2) A sample calculation demonstrating compliance using the methodology provided in subsection (f) of this Section for the ozone season (May 1 through September 30) and calendar year (January 1 through December 31).
- c) An owner or operator may amend an emissions averaging plan only once per calendar year. Such an amended plan must be submitted to the Agency by January 1 of the applicable calendar year. If an amended plan is not received by the Agency by January 1 of the applicable calendar year, the previous year's plan will be the applicable emissions averaging plan.
- d) Notwithstanding subsection (c) of this Section:
- 1) If a unit that is listed in an emissions averaging plan is taken out of service, the owner or operator must submit to the Agency, within 30 days after such occurrence, an updated emissions averaging plan; or
 - 2) If a unit that was exempt from the requirements of Subpart E, F, G, H, I, or M of this Part pursuant to Section 217.162, 217.182, 217.202, 217.222, 217.242, or 217.342 of this Part, as applicable, no longer qualifies for an exemption, the owner or operator may amend its existing averaging plan to include such unit within 30 days after the unit no longer qualifies for the exemption.
- e) An owner or operator must:
- 1) Demonstrate compliance for the ozone season (May 1 through September 30) and the calendar year (January 1 through December 31) by using the methodology and the units listed in the most recent emissions averaging

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plan submitted to the Agency pursuant to subsection (b) of this Section, the monitoring data or test data determined pursuant to Section 217.157, and the actual hours of operation for the applicable averaging plan period; and

2) Submit to the Agency, by March 1 following each calendar year, a compliance report containing the information required by Section 217.156(i).

f) The total mass of actual NO_x emissions from the units listed in the emissions averaging plan must be equal to or less than the total mass of allowable NO_x emissions for those units for both the ozone season and calendar year. The following equation must be used to determine compliance:

$$\underline{N_{act} \leq N_{all}}$$

Where:

$$\underline{N_{act}} \equiv \underline{\sum_{i=1}^n \sum_{j=1}^k EM_{act(i,j)}}$$

$$\underline{N_{all}} \equiv \underline{\sum_{i=1}^n \sum_{j=1}^k EM_{all(i,j)}}$$

$\underline{N_{act}}$ \equiv Total sum of the actual NO_x mass emissions from units included in the averaging plan for each fuel used (tons per ozone season and year).

$\underline{N_{all}}$ \equiv Total sum of the allowable NO_x mass emissions from units included in the averaging plan for each fuel used (tons per ozone season and year).

$\underline{EM_{act(i)}}$ \equiv Total mass of actual NO_x emissions in tons for a unit as determined in subsection (f)(1) of this Section.

\underline{i} \equiv Subscript denoting an individual unit.

\underline{j} \equiv Subscript denoting the fuel type used.

\underline{k} \equiv Number of different fuel types.

\underline{n} \equiv Number of different units in the averaging plan.

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$$\underline{EM_{all(i)}} \equiv \underline{\text{Total mass of allowable NO}_x \text{ emissions in tons for a unit as determined in subsection (f)(2) of this Section.}}$$

For each unit in the averaging plan, and each fuel used by such unit, determine actual and allowable NO_x emissions using the following equations:

- 1) Actual emissions must be determined as follows:

When emission limits are prescribed in lb/mmBtu,

$$\underline{EM_{act(i)}} \equiv \underline{E_{act(i)} \times H_i / 2000}$$

When emission limits are prescribed in lb/ton of processed product,

$$\underline{EM_{act(i)}} \equiv \underline{E_{act(i)} \times P_i / 2000}$$

- 2) Allowable emissions must be determined as follows:

When emission limits are prescribed in lb/mmBtu,

$$\underline{EM_{all(i)}} \equiv \underline{E_{all(i)} \times H_i / 2000}$$

When emission limits are prescribed in lb/ton of processed product,

$$\underline{EM_{all(i)}} \equiv \underline{E_{all(i)} \times P_i / 2000}$$

Where:

$$\underline{EM_{act(i)}} \equiv \underline{\text{Total mass of actual NO}_x \text{ emissions in tons for a unit.}}$$

$$\underline{EM_{all(i)}} \equiv \underline{\text{Total mass of allowable NO}_x \text{ emissions in tons for a unit.}}$$

$$\underline{E_{act}} \equiv \underline{\text{Actual NO}_x \text{ emission rate (lbs/mmBtu or lbs/ton of product) as determined by a performance test, a continuous emissions monitoring system, or an alternative method approved by the Agency.}}$$

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E_{all} ≡ Allowable NO_x emission rate (lbs/mmBtu or lbs/ton of product) as provided in Section 217.164, 217.184, 217.204, 217.224, 217.244, or 217.344, as applicable. For an affected industrial boiler subject to Subpart E of this Part, or process heater subject to Subpart F of this Part, with a rated heat input capacity less than or equal to 100 mmBtu/hr demonstrating compliance through an emissions averaging plan, the allowable NO_x emission rate is to be determined from a performance test after such boiler or heater has undergone combustion tuning. For all other units in an emissions averaging plan, an uncontrolled NO_x emission rate from USEPA's AP-42, as incorporated by reference in Section 217.104, or an uncontrolled NO_x emission rate as determined by an alternative method approved by the Agency, will be used.

H ≡ Heat input (mmBtu/ozone season or mmBtu/year) calculated from fuel flow meter and the heating value of the fuel used.

P ≡ weight in tons of processed product.

- g) An owner or operator of an emission unit subject to Subpart Q of this Part that is located in either one of the areas set forth under Section 217.150(a)(1)(A) or (B) that is complying through an emissions averaging plan under this Section must comply with the applicable provisions for determining actual and allowable emissions under Section 217.390, the testing and monitoring requirements under Section 217.394, and the recordkeeping and reporting requirements under Section 217.396.
- h) The owner or operator of an emission unit located at a petroleum refinery who is demonstrating compliance with an applicable Subpart through an emissions averaging plan under this Section may exclude from the calculation demonstrating compliance those time periods when an emission unit included in the emissions averaging plan is shut down for a maintenance turnaround, provided that such owner or operator notify the Agency in writing at least 30 days in advance of the shutdown of the emission unit for the maintenance turnaround and the shutdown of the emission unit does not exceed 45 days per ozone season or calendar year and NO_x pollution control equipment, if any, continues to operate on all other emission units operating during the maintenance turnaround.

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- i) The owner or operator of an emission unit that combusts a combination of coke oven gas and other gaseous fuels and that is located at a source that manufactures iron and steel who is demonstrating compliance with an applicable Subpart through an emissions averaging plan under this Section may exclude from the calculation demonstrating compliance those time periods when the coke oven gas desulfurization unit included in the emissions averaging plan is shut down for maintenance, provided that such owner or operator notify the Agency in writing at least 30 days in advance of the shutdown of the coke oven gas desulfurization unit for maintenance and such shutdown does not exceed 35 days per ozone season or calendar year and NO_x pollution control equipment, if any, continues to operate on all other emission units operating during the maintenance period.

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

SUBPART E: INDUSTRIAL BOILERSSection 217.160 Applicability

- a) The provisions of Subpart D of this Part and this Subpart apply to all industrial boilers located at sources subject to this Subpart pursuant to Section 217.150, except as provided in subsections (b) and (c) of this Section.
- b) The provisions of this Subpart do not apply to boilers serving a generator that has a nameplate capacity greater than 25 MWe and produces electricity for sale, and cogeneration units, as that term is defined in 35 Ill. Adm. Code 225.130, if such boilers or cogeneration units are subject to the CAIR NO_x Trading Programs under 35 Ill. Adm. Code 225.Subpart D or E.
- c) The provisions of this Subpart do not apply to fluidized catalytic cracking units, their regenerator and associated CO boiler or boilers and CO furnace or furnaces where present, if such units are located at a petroleum refinery and such units are required to meet emission limits or control requirements for NO_x as provided for in an enforceable order.

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

Section 217.162 Exemptions

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Notwithstanding Section 217.160 of this Subpart, the provisions of this Subpart do not apply to an industrial boiler operating under a federally enforceable limit of NO_x emissions from such boiler to less than 15 tons per year and less than five tons per ozone season.

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

Section 217.164 Emissions Limitations

On and after January 1, 2012, no person shall cause or allow emissions of NO_x into the atmosphere from any industrial boiler to exceed the following limitations. Compliance must be demonstrated with the applicable emissions limitation on an ozone season and annual basis.

<u>Fuel</u>	<u>Emission Unit Type and Rated Heat Input Capacity (mmBtu/hr)</u>	<u>No_x Emissions Limitation (lb/mmBtu) or Requirement</u>
a) <u>Natural Gas or Other Gaseous Fuels</u>	1) <u>Industrial boiler greater than 100</u>	<u>0.08</u>
	2) <u>Industrial boiler less than or equal to 100</u>	<u>Combustion tuning</u>
b) <u>Distillate Fuel Oil</u>	1) <u>Industrial boiler greater than 100</u>	<u>0.10</u>
	2) <u>Industrial boiler less than or equal to 100</u>	<u>Combustion tuning</u>
c) <u>Other Liquid Fuels</u>	1) <u>Industrial boiler greater than 100</u>	<u>0.15</u>
	2) <u>Industrial boiler less than or equal to 100</u>	<u>Combustion tuning</u>
d) <u>Solid Fuel</u>	1) <u>Industrial boiler greater than 100, circulating fluidized bed combustor</u>	<u>0.12</u>

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- | | |
|--|--------------------------|
| 2) <u>Industrial boiler greater than 250</u> | 0.18 |
| 3) <u>Industrial boiler greater than 100 but less than or equal to 250</u> | 0.25 |
| 4) <u>Industrial boiler less than or equal to 100</u> | <u>Combustion tuning</u> |

- e) For an industrial boiler combusting a combination of natural gas, coke oven gas, and blast furnace gas, the NO_x emissions limitation shall be calculated using the following equation:

$$\text{NO}_x \text{ emissions limitation for period in lb/mmBtu} = \frac{(NO_{x_{NG}} * Btu_{NG} + NO_{x_{COG}} * Btu_{COG} + NO_{x_{BFG}} * Btu_{BFG})}{(Btu_{NG} + Btu_{COG} + Btu_{BFG})}$$

Where:

- | | | |
|-------------------------------------|---|--|
| <u>NO_{x_{NG}}</u> | ≡ | <u>0.084 lb/mmBtu for natural gas</u> |
| <u>Btu_{NG}</u> | ≡ | <u>the heat input of natural gas in Btu over that period</u> |
| <u>NO_{x_{COG}}</u> | ≡ | <u>0.144 lb/mmBtu for coke oven gas</u> |
| <u>Btu_{COG}</u> | ≡ | <u>the heat input of coke oven gas in Btu over that period</u> |
| <u>NO_{x_{BFG}}</u> | ≡ | <u>0.0288 lb/mmBtu for blast furnace gas</u> |
| <u>Btu_{BFG}</u> | ≡ | <u>the heat input of blast furnace gas in Btu over that period</u> |

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

Section 217.165 Combination of Fuels

The owner or operator of an industrial boiler subject to this Subpart and operated with any combination of fuels must comply with a heat input weighted average emissions limitation to demonstrate compliance with Section 217.164.

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

Section 217.166 Methods and Procedures for Combustion Tuning

The owner or operator of an industrial boiler subject to the combustion tuning requirements of Section 217.164 must have combustion tuning performed on the boiler at least annually. The combustion tuning must be performed by an employee of the owner or operator or a contractor who has successfully completed a training course on the combustion tuning of boilers firing the fuel or fuels that are fired in the boiler. The owner or operator must maintain the following records that must be made available to the Agency upon request:

- a) The date the combustion tuning was performed;
- b) The name, title, and affiliation of the person who performed the combustion tuning;
- c) Documentation demonstrating the provider of the combustion tuning training course, the dates the training course was taken, and proof of successful completion of the training course;
- d) Tune-up procedure followed and checklist of items (such as burners, flame conditions, air supply, scaling on heating surface, etc.) inspected prior to the actual tune-up; and
- e) Operating parameters recorded at the start and at conclusion of combustion tuning.

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

SUBPART F: PROCESS HEATERS**Section 217.180 Applicability**

The provisions of Subpart D of this Part and this Subpart apply to all process heaters located at sources subject to this Subpart pursuant to Section 217.150.

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

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Section 217.182 Exemptions

Notwithstanding Section 217.180, the provisions of this Subpart do not apply to a process heater operating under a federally enforceable limit of NO_x emissions from such heater to less than 15 tons per year and less than five tons per ozone season.

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

Section 217.184 Emissions Limitations

On and after January 1, 2012, no person shall cause or allow emissions of NO_x into the atmosphere from any process heater to exceed the following limitations. Compliance must be demonstrated with the applicable emissions limitation on an ozone season and annual basis.

<u>Fuel</u>	<u>Emission Unit Type and Rated Heat Input Capacity (mmBtu/hr)</u>	<u>No_x Emissions Limitation (lb/mmBtu) or Requirement</u>
a) <u>Natural Gas or Other Gaseous Fuels</u>	1) <u>Process heater greater than 100</u>	<u>0.08</u>
	2) <u>Process heater less than or equal to 100</u>	<u>Combustion tuning</u>
b) <u>Residual Fuel Oil</u>	1) <u>Process heater greater than 100, natural draft</u>	<u>0.10</u>
	2) <u>Process heater greater than 100, mechanical draft</u>	<u>0.15</u>
	3) <u>Process heater less than or equal to 100</u>	<u>Combustion tuning</u>
c) <u>Other Liquid Fuels</u>	1) <u>Process heater greater than 100, natural draft</u>	<u>0.05</u>
	2) <u>Process heater greater than 100, mechanical draft</u>	<u>0.08</u>

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- 3) Process heater less than or equal to 100 Combustion tuning

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

Section 217.185 Combination of Fuels

The owner or operator of a process heater subject to this Subpart and operated with any combination of fuels must comply with a heat input weighted average emissions limitation to demonstrate compliance with Section 217.184.

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

Section 217.186 Methods and Procedures for Combustion Tuning

The owner or operator of a process heater subject to the combustion tuning requirements of Section 217.184 must have combustion tuning performed on the heater at least annually. The combustion tuning must be performed by an employee of the owner or operator or a contractor who has successfully completed a training course on the combustion tuning of heaters firing the fuel or fuels that are fired in the heater. The owner or operator must maintain the following records that must be made available to the Agency upon request:

- a) The date the combustion tuning was performed;
- b) The name, title, and affiliation of the person who performed the combustion tuning;
- c) Documentation demonstrating the provider of the combustion tuning training course, the dates the training course was taken, and proof of successful completion of the training course;
- d) Tune-up procedure followed and checklist of items (such as burners, flame conditions, air supply, scaling on heating surface, etc.) inspected prior to the actual tune-up; and
- e) Operating parameters recorded at the start and at conclusion of combustion tuning.

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

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SUBPART G: GLASS MELTING FURNACESSection 217.200 Applicability

The provisions of Subpart D of this Part and this Subpart apply to all glass melting furnaces located at sources subject to this Subpart pursuant to Section 217.150.

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

Section 217.202 Exemptions

Notwithstanding Section 217.200, the provisions of this Subpart do not apply to a glass melting furnace operating under a federally enforceable limit of NO_x emissions from such furnace to less than 15 tons per year and less than five tons per ozone season.

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

Section 217.204 Emissions Limitations

- a) On and after January 1, 2012, no person shall cause or allow emissions of NO_x into the atmosphere from any glass melting furnace to exceed the following limitations. Compliance must be demonstrated with the emissions limitation on an ozone season and annual basis.

<u>Product</u>	<u>Emission Unit Type</u>	<u>No_x Emissions Limitation (lb/ton glass produced)</u>
<u>1) Container Glass</u>	<u>Glass melting furnace</u>	<u>5.0</u>
<u>2) Flat Glass</u>	<u>Glass melting furnace</u>	<u>7.9</u>
<u>3) Other Glass</u>	<u>Glass melting furnace</u>	<u>11.0</u>

- b) The emissions limitations under this Section do not apply during glass melting furnace startup (not to exceed 70 days) or idling (operation at less than 35% of furnace capacity). For the purposes of demonstrating seasonal and annual

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compliance, the emissions limitation during such periods shall be calculated as follows:

$$\text{NO}_x \text{ emissions limitation (lb/day)} = (\text{ANL})/(\text{PPC})$$

Where:

ANL = The applicable NO_x emissions limitation under this Section in pounds per ton of glass produced

PPC = Permitted production capacity in tons of glass produced per day

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

SUBPART H: CEMENT AND LIME KILNS

Section 217.220 Applicability

- a) Notwithstanding Subpart T of this Part, the provisions of Subpart D of this Part and this Subpart apply to all cement kilns located at sources subject to this Subpart pursuant to Section 217.150.
- b) The provisions of Subpart D of this Part and this Subpart apply to all lime kilns located at sources subject to this Subpart pursuant to Section 217.150.

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

Section 217.222 Exemptions

Notwithstanding Section 217.220, the provisions of this Subpart do not apply to a cement kiln or lime kiln operating under a federally enforceable limit of NO_x emissions from such kiln to less than 15 tons per year and less than five tons per ozone season.

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

Section 217.224 Emissions Limitations

- a) On and after January 1, 2012, no person shall cause or allow emissions of NO_x into the atmosphere from any cement kiln to exceed the following limitations.

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Compliance must be demonstrated with the applicable emissions limitation on an ozone season and annual basis.

	<u>Emission Unit Type</u>	<u>No_x Emissions Limitation (lb/ton clinker produced)</u>
1)	<u>Long dry kiln</u>	<u>5.1</u>
2)	<u>Short dry kiln</u>	<u>5.1</u>
3)	<u>Preheater kiln</u>	<u>3.8</u>
4)	<u>Preheater/precalciner kiln</u>	<u>2.8</u>

- b) On and after January 1, 2012, no person shall cause or allow emissions of NO_x into the atmosphere from any lime kiln to exceed the following limitations. Compliance must be demonstrated with the applicable emissions limitation on an ozone season and annual basis.

	<u>Fuel</u>	<u>Emission Unit Type</u>	<u>No_x Emissions Limitation (lb/ton lime produced)</u>
1)	<u>Gas</u>	<u>Rotary kiln</u>	<u>2.2</u>
2)	<u>Coal</u>	<u>Rotary kiln</u>	<u>2.5</u>

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

SUBPART I: IRON AND STEEL AND ALUMINUM MANUFACTURING

Section 217.240 Applicability

- a) The provisions of Subpart D of this Part and this Subpart apply to all reheat furnaces, annealing furnaces, and galvanizing furnaces used in iron and steel making located at sources subject to this Subpart pursuant to Section 217.150.
- b) The provisions of Subpart D of this Part and this Subpart apply to all reverberatory furnaces and crucible furnaces used in aluminum melting located at sources subject to this Subpart pursuant to Section 217.150.

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

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Section 217.242 Exemptions

Notwithstanding Section 217.240, the provisions of this Subpart do not apply to an iron and steel reheat furnace, annealing furnace, or galvanizing furnace, or aluminum reverberatory furnace or crucible furnace operating under a federally enforceable limit of NO_x emissions from such furnace to less than 15 tons per year and less than five tons per ozone season.

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

Section 217.244 Emissions Limitations

- a) On and after January 1, 2012, no person shall cause or allow emissions of NO_x into the atmosphere from any reheat furnace, annealing furnace, or galvanizing furnace used in iron and steel making to exceed the following limitations. Compliance must be demonstrated with the applicable emissions limitation on an ozone season and annual basis.

	<u>Emission Unit Type</u>	<u>No_x Emissions Limitation (lb/mmBtu)</u>
1)	<u>Reheat furnace, regenerative</u>	<u>0.18</u>
2)	<u>Reheat furnace, recuperative, combusting natural gas</u>	<u>0.09</u>
3)	<u>Reheat furnace, recuperative, combusting a combination of natural gas and coke oven gas</u>	<u>0.142</u>
4)	<u>Reheat furnace, cold-air</u>	<u>0.03</u>
5)	<u>Annealing furnace, regenerative</u>	<u>0.38</u>
6)	<u>Annealing furnace, recuperative</u>	<u>0.16</u>
7)	<u>Annealing furnace, cold-air</u>	<u>0.07</u>
8)	<u>Galvanizing furnace, regenerative</u>	<u>0.46</u>
9)	<u>Galvanizing furnace, recuperative</u>	<u>0.16</u>
10)	<u>Galvanizing furnace, cold air</u>	<u>0.06</u>

- b) On and after January 1, 2012, no person shall cause or allow emissions of NO_x into the atmosphere from any reverberatory furnace or crucible furnace used in

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aluminum melting to exceed the following limitations. Compliance must be demonstrated with the applicable emissions limitation on an ozone season and annual basis.

	<u>Emission Unit Type</u>	<u>No_x Emissions Limitation (lb/mmBtu)</u>
1)	<u>Reverberatory furnace</u>	<u>5.1</u>
2)	<u>Crucible furnace</u>	<u>5.1</u>

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

SUBPART M: ELECTRICAL GENERATING UNITSSection 217.340 Applicability

Notwithstanding Subpart V or W of this Part, the provisions of Subpart D of this Part and this Subpart apply to any fuel-fired stationary boiler serving a generator that has a nameplate capacity greater than 25 MWe and produces electricity for sale, excluding any units listed in Appendix D of this Part, located at sources subject to this Subpart pursuant to Section 217.150.

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

Section 217.342 Exemptions

- a) Notwithstanding Section 217.340, the provisions of this Subpart do not apply to a fossil fuel-fired stationary boiler operating under a federally enforceable limit of NO_x emissions from such boiler to less than 15 tons per year and less than five tons per ozone season.
- b) Notwithstanding Section 217.340, the provisions of this Subpart do not apply to a coal-fired stationary boiler that commenced operation before January 1, 2008, that is complying with 35 Ill. Adm. Code 225.Subpart B through the multi-pollutant standard under 35 Ill. Adm. Code 225.233 or the combined pollutant standards under 35 Ill. Adm. Code 225.Subpart F.

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

Section 217.344 Emissions Limitations

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On and after January 1, 2012, no person shall cause or allow emissions of NO_x into the atmosphere from any fossil fuel-fired stationary boiler to exceed the following limitations. Compliance must be demonstrated with the applicable emissions limitation on an ozone season and annual basis.

<u>Fuel</u>	<u>Emission Unit Type</u>	<u>No_x Emissions Limitation (lb/mmBtu)</u>
a) <u>Solid</u>	<u>Boiler</u>	<u>0.12</u>
b) <u>Natural gas</u>	<u>Boiler</u>	<u>0.06</u>
c) <u>Liquid</u>	1) <u>Boiler that commenced operation before January 1, 2008</u>	<u>0.10</u>
	2) <u>Boiler that commenced operation on or after January 1, 2008</u>	<u>0.08</u>

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

Section 217.345 Combination of Fuels

The owner or operator of a fossil fuel-fired stationary boiler subject to this Subpart and operated with any combination of fuels must comply with a heat input weighted average emissions limitation to demonstrate compliance with Section 217.344.

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

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Section 217.APPENDIX H Compliance Dates for Certain Emission Units at Petroleum RefineriesExxonMobil Oil Corporation (Facility ID 197800AAA)

<u>Point</u>	<u>Emission Unit Description</u>	<u>Compliance Date</u>
<u>0019</u>	<u>Crude Vacuum Heater (13-B-2)</u>	<u>December 31, 2014</u>
<u>0038</u>	<u>Alky Iso-Stripper Reboiler (7-B-1)</u>	<u>December 31, 2014</u>
<u>0033</u>	<u>CHD Charge Heater (3-B-1)</u>	<u>December 31, 2014</u>
<u>0034</u>	<u>CHD Stripper Reboiler (3-B-2)</u>	<u>December 31, 2014</u>
<u>0021</u>	<u>Coker East Charge Heater (16-B-1A)</u>	<u>December 31, 2014</u>
<u>0021</u>	<u>Coker East Charge Heater (16-B-1B)</u>	<u>December 31, 2014</u>
<u>0018</u>	<u>Crude Atmospheric Heater (1-B-1A)</u>	<u>December 31, 2014</u>
<u>0018</u>	<u>Crude Atmospheric Heater (1-B-1B)</u>	<u>December 31, 2014</u>
<u>0017</u>	<u>BEU HM-1</u>	<u>December 31, 2012</u>
<u>0018</u>	<u>BEU HM-2</u>	<u>December 31, 2012</u>
<u>0004</u>	<u>CR-1 Feed Preheat, H-1</u>	<u>December 31, 2012</u>
<u>0005</u>	<u>CR-1 1st Interreactor Heater, H-2</u>	<u>December 31, 2012</u>
<u>0009</u>	<u>CR-1 3rd Interreactor Heater, H-7</u>	<u>December 31, 2012</u>
<u>0091</u>	<u>CR-3 Charge Heater</u>	<u>December 31, 2012</u>
<u>0092</u>	<u>CR-3 1st Reheat Heater, H-5</u>	<u>December 31, 2012</u>
<u>0082</u>	<u>Boiler 17</u>	<u>December 31, 2012</u>
<u>0080</u>	<u>Boiler 15</u>	<u>December 31, 2012</u>
<u>0073</u>	<u>Alky HM-2 Heater</u>	<u>December 31, 2012</u>
<u>0662</u>	<u>VF-4 Charge Heater, H-28</u>	<u>December 31, 2012</u>
<u>0664</u>	<u>DU-4 Charge Heater, H-24</u>	<u>December 31, 2014</u>
<u>0617</u>	<u>DCU Charge Heater, H-20</u>	<u>December 31, 2014</u>
<u>0014</u>	<u>HCU Fractionator Reboil, H-3</u>	<u>December 31, 2016</u>
<u>0024</u>	<u>DU-1 Primary Heater South, F-301</u>	<u>December 31, 2016</u>
<u>0025</u>	<u>DU-1 Secondary Heater North, F-302</u>	<u>December 31, 2016</u>
<u>0081</u>	<u>Boiler 16</u>	<u>December 31, 2016</u>
<u>0083</u>	<u>Boiler 18</u>	<u>December 31, 2016</u>

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0095	DHT Charge Heater	December 31, 2016
0028	DU-2 Lube Crude Heater, F-200	December 31, 2016
0029	DU-2 Mixed Crude Heater West, F-202	December 31, 2016
0030	DU-2 Mixed Crude Heater East, F-203	December 31, 2016
0084	CR-2 North Heater	December 31, 2016
0017	BEU HM-1	December 31, 2012

[ConocoPhillips Company Wood River Refinery \(Facility ID 119090AAA\)](#)

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Annual Financial Reporting
- 2) Code Citation: 50 Ill. Adm. Code 925
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
925.20	Amendment
925.30	Amendment
925.40	Amendment
925.50	Amendment
925.60	Amendment
925.70	Amendment
925.80	Amendment
925.90	Amendment
925.100	Amendment
925.110	Amendment
925.115	Renumbered
925.120	Renumbered, Amendment
925.130	Renumbered, Amendment
925.140	Renumbered, New Section
925.145	Renumbered
925.150	Renumbered, New Section
925.160	New Section
925.170	Renumbered, Amendment
925.180	New Section
925.190	Renumbered, Amendment
925.200	Renumbered, Amendment
925.EXHIBIT A	Amendment
- 4) Statutory Authority: Implementing Sections 132.1 through 132.7, 136, 401, and 402 of the Illinois Insurance Code [215 ILCS 5/132.1 through 132.7, 136, 401, and 402], and Section 2-7 of the Health Maintenance Organization Act [215 ILCS 125/2-7], and Section 2007 of the Limited Health Service Organization Act [215 ILCS 130/2007], and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401]
- 5) Effective Date of Rulemaking: May 11, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes

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- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the principal office of the Division of Insurance and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 32 Ill. Reg. 17619; November 14, 3008
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between proposal and final version:
 - a) In the table of contents, "Section 925.170", add "and Transactions" following "Exemptions".
 - b) In Section 925.60(a), in the second sentence; add "(July 9, 1975)" following "Part".
 - c) In Section 925.70(d), on the first line, add "for use of an independent certified accountant" and strike "of the subsection (d)".
 - d) In Section 925.70(h), on the second to the last line, change "subsection (g)" to "this Part".
 - e) In Section 925.70(j)(1), on the sixth line, change "the" to "2) The" before "services".
 - f) In Section 925.70(j)(2), change "2)" back to "3)".
 - g) In Section 925.90(a), in the third and fourth sentence, in the parenthetical reference, replace "Copyright 2007" with "(no later amendments or editions)" and following "Inc.," add "1211 Avenue of the Americas,".
 - h) In Section 925.90(a), in the fifth sentence, delete ", or its replacement" following "Standards".
 - i) In Section 925.90(b), on the third line, following "bulk and", add "incurred but not reported" and strike "IBNR".

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- j) In Section 925.90(c), on the last line, following "with the", add "Division" and strike "~~Department~~".
- k) In Section 925.100(d), on the seventh line, in the parenthetical reference, replace "Copyright 2007" with "(no later amendments or editions)" and following "Inc.", add "1211 Avenue of the Americas".
- l) In Section 925.110(a)(1), on the fifth line, in the parenthetical reference, replace "Copyright 2007" with "(no later amendments or editions)" and following "Inc.", add "1211 Avenue of the Americas," and delete ", or its replacement" following "Audit".
- m) In Section 925.120(a), on the third line, following "pronouncements," add "(June 1, 2008 (no later amendments or editions), by American Institute of Certified Public Accountants, Inc., 1211 Avenue of the Americas, New York NY 10036-8775)".
- n) In Section 925.140(e), on the second line, delete "regulation" and add "Part".
- o) In Section 925.140(f)(1), in the parenthetical reference, on the sixth line, in the parenthetical reference, replace "Copyright 2007" with "(no later amendments or editions)" and following "Inc.", add "1211 Avenue of the Americas," and delete ", or its replacement" following the closed parenthesis.
- p) In Section 925.140(f)(2), on the second line, delete "(A)".
- q) In Section 925.140(g), in the "Note A", on the third line, following "insurer is in", add "risk based capital" and following "event," add "as defined in 215 ILCS 5/35A-15, 20, 25 or 30 of the Code".
- r) Section 925.160(c) has been revised and reformatted as follows:
- "c) An insurer or a group of insurers that is directly subject to Section 404, part of a holding company system whose parent is directly subject to Section 404, not directly subject to Section 404 but is a SOX Compliant Entity, or a member of a holding company system whose parent is not directly subject to Section 404 but is a SOX Compliant Entity may file its or its parent's Section 404 Report and an addendum in satisfaction of this requirement, provided that those internal controls of the insurer or group

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of insurers having a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements (those items included in Section 925.50(b)(2) through (8)) were included in the scope of the Section 404 Report. The addendum shall be a positive statement by management that there are no material processes with respect to the preparation of the insurer's or group of insurers' audited statutory financial statements (those items included in Section 925.50(b)(2) through (8)) excluded from the Section 404 Report. If there are internal controls of the insurer or group of insurers that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements and those internal controls were not included in the scope of the Section 404 Report, the insurer or group of insurers may file either:

- 1) a Section 925.160 Report; or
 - 2) the Section 404 Report and a Section 925.160 Report for those internal controls that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements not covered by the Section 404 Report."
- s) In Section 925.170, in the title of this Section, add "and Transactions" following "Exemptions".
- t) In Section 925.170(b), the text of this existing subsection was inadvertently not published during first notice, so it has been added back for purposes of publication of these amendments at final adoption. In addition, the remaining new subsections that are added have been relabeled accordingly.
- u) In Section 925.170(c), on the first line, delete "on the effective date of this regulation", change "qualify" to "qualifies", and replace "this regulation" with "the January 1, 2010 revisions".
- v) In Section 925.170(g), on the second to the last line, change "1" to "one".
- w) Section 925.170(h) has been revised as follows:
- "h) The requirements of this Section and other modified Sections (925.20, 925.30, 925.40, 925.50, 925.60, 925.70, 925.90, 925.100, 925.110, 925.120, 925.130, 925.150, 925.160 and 925.180) are effective beginning

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with the reporting period ending December 31, 2010 and each year thereafter. An insurer or group of insurers that is not required to file a report because the total written premium is below the threshold and subsequently becomes subject to the reporting requirements shall have 2 years following the year the threshold is exceeded (but not earlier than December 31, 2010) to file a report. Likewise, an insurer acquired in a business combination shall have 2 calendar years following the date of acquisition or combination to comply with the reporting requirements."

- x) In Section 925.200, strike "This Part is effective July 12, 1975".
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of rulemaking: These Illinois amendments have revised existing requirements and standards consistent with National Association of Insurance Commissioners Model #280. In addition, the Division has added four new Sections that address Requirements for Audit Committees, Conduct of Insurer in Connection with the Preparation of Required Reports and Documents, Management's Report of Internal Control over Financial Reporting and Canadian and British Companies to this Part. Companies should be advised that these amendments will be applied to the December 31, 2010, CPA audit report due in 2011.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Paul Ebelherr
L/A&H Financial Analysis Unit
Department of Financial and Professional Regulation
Division of Insurance
320 West Washington, 4th Floor
Springfield, Illinois 62767-0001

217/785-5755

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

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TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF [FINANCIAL AND PROFESSIONAL REGULATION](#)
[INSURANCE](#)

SUBCHAPTER 1: PROVISIONS APPLICABLE TO ALL COMPANIES

PART 925

ANNUAL ~~AUDITED~~ FINANCIAL ~~REPORTING~~ [REPORT](#)

Section

925.10	Authority (Repealed)
925.20	Purpose and Scope
925.30	Definitions
925.40	General Requirements Related to Filing and Extensions for Filing of Annual Audited Financial Report and Audit Committee Appointment Reports
925.50	Contents of Annual Audited Financial Report
925.60	Designation of Independent Certified Public Accountant
925.70	Qualifications of Independent Certified Public Accountant
925.80	Consolidated or Combined Audits
925.90	Scope of Audit and Report of Independent Certified Public Accountant
925.100	Notification of Adverse Financial Condition
925.110	Communication of Internal Control Related Matters Noted in an Audit Report on Internal Control
925.115	Accountant's Letter of Qualifications (Renumbered)
925.120 925.115	Accountant's Letter of Qualifications
925.130 925.120	Definition, Availability and Maintenance of Independent Certified Public Accountant Workpapers
925.130	Definition, Availability and Maintenance of Accountant Workpapers
925.130	Examinations (Repealed)
925.140	Requirements for Audit Committees Exemptions
925.145	Penalties (Renumbered)
925.150	Conduct of Insurer in Connection with the Preparation of Required Reports and Documents Severability Provision
925.160	Management's Report of Internal Control over Financial Reporting
925.170 925.140	Exemptions and Transitions
925.180	Canadian and British Companies
925.190 925.145	Penalties
925.200 925.150	Severability Provision
925.EXHIBIT A	CPA Letter of Representation

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AUTHORITY: Implementing Sections 132.1 through 132.7, 136, 401, and 402 of the Illinois Insurance Code [215 ILCS 5/132.1 through 132.7, 136, 401, and 402], and Section 2-7 of the Health Maintenance Organization Act [215 ILCS 125/2-7], and Section 2007 of the Limited Health Service Organization Act [215 ILCS 130/2007], and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

SOURCE: Filed July 9, 1975, effective July 21, 1975; codified at 7 Ill. Reg. 2359; amended at 11 Ill. Reg. 18204, effective October 26, 1987; amended at 19 Ill. Reg. 12229, effective August 14, 1995; amended at 21 Ill. Reg. 1666, effective January 28, 1997; amended at 27 Ill. Reg. 16121, effective October 6, 2003; amended at 33 Ill. Reg. 6974, effective May 11, 2009.

Section 925.20 Purpose and Scope

- a) The purpose of this Part is to improve the Director of the Division of Insurance's surveillance of the financial condition of insurers by requiring:
 - 1) An annual audit of financial statements reporting the financial position and the results of operations of insurers by independent certified public accountants;
 - 2) Communication of Internal Control Related Matters Noted in an Audit;
and
 - 3) Management's Report of Internal Control over Financial Reporting.

- b) Foreign or alien insurers filing the audited financial reports in another state, pursuant to that state's requirement for filing of audited financial reports, which has been found by the Director to be substantially similar to the requirements of this Part, are exempt from Sections 925.40 through 925.130 of this Part if:
 - 1) A copy of the audited financial report, Communication of Internal Control Related Matters Noted in an Audit, and Accountant's Letter of Qualifications that are filed with the other state are filed with the Director of the other state in accordance with the filing dates specified in Sections 925.40, 925.110 and 925.120, respectively (Canadian insurers may submit accountants' reports as filed with the Office of the Superintendent of Financial Institutions, Canada).

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- 2) A copy of any Notification of Adverse Financial Condition Report filed with the other state is filed with the Director within the time specified in Section 925.100.
- c) Foreign or alien insurers required to file Management's Report of Internal Control over Financial Reporting in another state are exempt from filing the Report in this State provided the other state has substantially similar reporting requirements and the Report is filed with the Director of the other state within the time specified.
- d) This Part shall not prohibit, preclude or in any way limit the Director of the Division of Insurance from ordering and/or conducting and/or performing examinations of insurers under his or her jurisdiction in the operations, practices, procedures, or other matters, including financial condition and operations of thesueh insurers. Such examinations shall be conducted as currently established and/or performed or to be established and/or performed under the Statutes of the State of Illinois, the Rules of the Illinois DivisionDepartment of Insurance and the practices and procedures of the Illinois DivisionDepartment of Insurance. ~~The purpose of this Part is to improve the Director's surveillance of the financial condition of insurers by requiring an annual audit by accountants of the financial statements reporting the financial position and the results of operations of insurers. Every insurer, as defined in Section 925.30 of this Part, shall be subject to this Part except those insurers exempt under Section 925.140 of this Part.~~

(Source: Amended at 33 Ill. Reg. 6974, effective May 11, 2009)

Section 925.30 Definitions

Accountant or independent certified public accountant means an independent certified public accountant or independent accounting firm in good standing with the American Institute of Certified Public Accountants (AICPA) and all states in which the accountant is licensed to practice. For Canadian and British companies, accountant means a Canadian-chartered or British-chartered accountant generally referred to hereinafter in this Part as accountant.

Affiliate of, or person affiliated with, a specific person is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

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Audit Committee means a committee (or equivalent body) established by the board of directors of an entity for the purpose of overseeing the accounting and financial reporting processes of an insurer or group of insurers, and audits of financial statements of the insurer or group of insurers. The audit committee of any entity that controls a group of insurers may be deemed to be the audit committee for one or more of these controlled insurers solely for the purposes of this Part at the election of the controlling person. Refer to Section 925.140(e) of this Part for exercising this election. If an audit committee is not designated by the insurer, the insurer's entire board of directors shall constitute the audit committee.

~~Annual~~-Audited Financial Report means and includes those items specified in Section 925.50 of this Part.

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

Department means the Department of Financial and Professional Regulation.

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

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

Group of Insurers means those licensed insurers included in the reporting requirements of Article VIII½ of the Code, or a set of insurers as identified by management, for the purpose of assessing the effectiveness of internal control over financial reporting.

Health Maintenance Organization Act means 215 ILCS 125.

Idemnification means an agreement of indemnity or a release from liability where the intent or effect is to shift or limit in any manner the potential liability of the person or firm for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from known or other misrepresentations made by the insurer or its representatives.

Independent Board Member has the same meaning as described in Section 925.140(c) of this Part.

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~~Independent for purposes of this Part means an accountant who is not affiliated with an insurer.~~

Insurer, for purposes of this Part, means a licensed insurer or accredited reinsurer as defined in Sections 2(f), (g) and (h) and 173.1 of the Code ~~[215 ILCS 5/2(f), (g) and (h) and 173.1]~~ or a Health Maintenance Organization as defined in Section 1-2(9) of the Health Maintenance Organization Act ~~[215 ILCS 125/1-2(9)]~~ or a Limited Health Service Organization as defined in Section 1002 of the Limited Health Service Organization Act ~~[215 ILCS 130/1002]~~.

Internal Control Over Financial Reporting means a process effected by an entity's board of directors, management and other personnel designed to provide reasonable assurance regarding the reliability of the financial statements, i.e., those items specified in Section 925.50(b)(2) through (8) of this Part, and includes those policies and procedures that:

Pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets;

Provide reasonable assurance that transactions are recorded as necessary to permit preparation of the financial statements, i.e., those items specified in Section 925.50(b)(2) through (9) of this Part, and that receipts and expenditures are being made only in accordance with authorizations of management and directors; and

Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of assets that could have a material effect on the financial statements, i.e., those items specified in Section 925.50(b)(2) through (9) of this Part.

Limited Health Service Organization Act means 215 ILCS 130.

SEC means the United States Securities and Exchange Commission.

Section 404 means Section 404 of the Sarbanes-Oxley Act of 2002, as codified in 15 USC 7262.

Section 404 Report means Management's Report of Internal Control over Financial Reporting as defined by the SEC (17 CFR 240.13a-15(f)) and the

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related attestation report of the independent certified public accountant as described in Section 925.160.

SOX Compliant Entity means an entity that either is required to be compliant with, or voluntarily is compliant with, all of the following provisions of the Sarbanes-Oxley Act of 2002:

the preapproval requirements of 15 USC 78j-1(i);

the audit committee independence requirements of 15 USC 78j-1 (m)(3);
and

the internal control over financial reporting requirements of 17 CFR 229.308.

(Source: Amended at 33 Ill. Reg. 6974, effective May 11, 2009)

Section 925.40 General Requirements Related to Filing and Extensions for Filing of Annual Audited Financial Report and Audit Committee Appointment Reports

- a) All insurers shall have an annual audit performed by an independent certified public accountant and shall file an annual audited financial report with the Director on or before June 1 for the year ended December 31 immediately preceding. The Director may require an insurer to file an annual audited financial report earlier than June 1 with 90 days advance notice to the insurer.
- b) Extensions of the June 1 filing date may be granted by the Director for 30 day periods upon a showing by the insurer and its independent certified public accountant of the reasons for requesting such extension and a determination by the Director of good cause for an extension. Examples of "good cause" include, but are not limited to, an Act of God or fortuitous or unintentional destruction of documents. The request for extension must be submitted in writing not less than 10 days prior to the due date and must provide sufficient detail to permit the Director to make an informed decision with respect to the requested extension.
- c) If an extension is granted in accordance with the provisions in Section 925.40(b), a similar extension of 30 days is granted to the filing of Management's Report of Internal Control over Financial Reporting.

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- d) [Every insurer required to file an annual audited financial report pursuant to this Part shall designate a group of individuals as constituting its audit committee, as defined in Section 925.30. The audit committee of an entity that controls an insurer may be deemed to be the insurer's audit committee for purposes of this Part at the election of the controlling person.](#)

(Source: Amended at 33 Ill. Reg. 6974, effective May 11, 2009)

Section 925.50 Contents of Annual Audited Financial Report

- a) The annual audited financial report shall report the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flows and changes in capital and surplus for the report year in conformity with statutory accounting practices for preparation of the annual statement as described in Section 136 of the Code, Section 2-7 of the Health Maintenance Organization Act, [\[215 ILCS 125/2-7\]](#) Section 2007 of the Limited Health Service Organization Act, [\[215 ILCS 130/2007\]](#) or as otherwise permitted by the insurance regulatory authority of the insurer's state of domicile.
- b) The annual audited financial report shall include the following:
- 1) Report of the [independent certified public](#) accountant.
 - 2) Balance sheet reporting admitted assets, liabilities, capital and surplus or net worth.
 - 3) Statement of operations or statement of revenues and expenses and net worth.
 - 4) Statement of cash flows.
 - 5) Statement of changes in capital and surplus or net worth.
 - 6) Notes to financial statements. These notes shall be those required by the appropriate NAIC Annual Statement Instructions and the NAIC Accounting Practices and Procedures Manual, pursuant to Section 136(1) of the Code, Section 2-7(a) of the Health Maintenance Organization Act and Section 2007(a) of the Limited Health Service Organization Act. The notes shall include a reconciliation with a written description of

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differences, if any, between the annual audited financial report and the annual statement filed pursuant to Section 136 of the Code, Section 2-7 of the Health Maintenance Organization Act, or Section 2007 of the Limited Health Service Organization Act.

- 7) The financial statements included in the annual audited financial report shall be prepared in a format using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the Director and:
 - A) The financial statements shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. (However, in the first year in which an insurer is required to file an annual audited financial report, the comparative data may be omitted.)
 - B) Amounts may be rounded to the nearest thousand dollars.
- 8) Supplementary Data and Information. This shall include any additional clarifying information or data which the Director may require to be disclosed.
- 9) ~~In the case of Canadian and British insurers, the annual audited financial report shall be defined as the annual statement of total business on the form filed by such companies with their domiciliary supervision authority duly audited by an independent chartered accountant. For such insurers, the letter required by Section 925.60 of this Part shall state that the accountant is aware of the requirements relating to the annual audited financial report filed with the Director pursuant to Section 925.40 and shall affirm that the opinion expressed is in conformity with such requirements.~~

(Source: Amended at 33 Ill. Reg. 6974, effective May 11, 2009)

Section 925.60 Designation of Independent Certified Public Accountant

- a) Each insurer required by this Part to file an annual audited financial report must, within 60 days after becoming subject to such requirement, register with the Director in writing the name and address of the independent certified public

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accountant retained to conduct the annual audit set forth in this Part. Insurers not retaining an [independent certified public](#) accountant on the effective date of this Part ([July 9, 1975](#)) shall register the name and address of their retained [independent certified public](#) accountant not less than 6 months before the date when the first audited financial report is to be filed.

- b) If ~~the~~ [independent certified public](#) accountant, who was not the accountant for the immediately preceding filed annual audited financial report, is engaged to audit the insurer's financial statements, the insurer shall within 30 days after the date the [independent certified public](#) accountant is engaged notify the Director of this event. The insurer shall obtain a letter from the accountant and file a copy with the Director stating that the accountant is aware of the provisions of the Code and/or Health Maintenance Organization Act and/or the Limited Health Service Organization Act and the Rules and Regulations of the insurance regulatory authority of the state of domicile that relate to accounting and financial matters and affirming that the accountant will express its opinion on the financial statements in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by that insurance regulatory authority, specifying such exceptions as the accountant may believe appropriate.
- c) If an accountant who was the accountant for the immediately preceding filed annual audited financial report is dismissed or resigns, the insurer shall within 5 business days notify the Director of this event. The insurer shall also furnish the Director with a separate letter within 10 business days after the above notification stating whether in the 24 months preceding such event there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements, if not resolved to the satisfaction of the former accountant, would have caused the accountant to make reference to the subject matter of the disagreement in connection with the accountant's ~~opinion report~~. The disagreements required to be reported in response to this subsection include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this subsection are those that occur at the decisionmaking level, between personnel of the insurer responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering the accountant's report. The insurer shall also in writing request such former accountant to furnish it a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons for which the accountant does

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not agree; and the insurer shall furnish such responsive letter from the former accountant to the Director together with its own.

(Source: Amended at 33 Ill. Reg. 6974, effective May 11, 2009)

Section 925.70 Qualifications of Independent Certified Public Accountant

- a) The Director shall not recognize any person or firm as a qualified independent certified public accountant if the person or firm:
- 1) Is not in good standing with the AICPA American Institute of Certified Public Accountants and in all states in which the accountant is licensed to practice or, for a Canadian or British company, that is not a chartered accountant; or
 - 2) Has either directly or indirectly entered into an agreement of indemnity or release from liability (collectively referred to as indemnification) with respect to the audit of the insurer; or
 - 3) Has repeatedly failed to timely comply with the written requests of the Director's examiners for copies of the workpapers as required pursuant to Sections 925. 120445 and 925. 130420 of this Part.
- b) Except as otherwise provided in this Section, the Director shall recognize an independent certified public accountant as qualified as long as the accountant conforms to the standards of the profession, as contained in the Code of Professional Ethics of the AICPA American Institute of Certified Public Accountants or similar code.
- c) A qualified independent certified public accountant may enter into an agreement with an insurer to have disputes relating to an audit resolved by mediation or arbitration. However, in the event of a delinquency proceeding commenced against the insurer under Article XIII½ of the Code [215 ILCS 5/Art. XIII½], the mediation or arbitration provisions shall operate at the option of the statutory successor.
- d) The requirements for use of an independent certified accountant of this subsection ~~(d)~~ shall become effective for years beginning after December 31, 20091994.

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- 1) The lead (or coordinating) audit partner (having primary responsibility for the audit)~~No partner or other person responsible for rendering a report~~ may not act in that capacity for more than 57 consecutive years. The person shall be disqualified from acting~~Following any such period of service such person shall be disqualified from acting~~ in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of 5 consecutive~~2~~ years. An insurer may make application to the Director for relief from ~~this~~~~the above~~ rotation requirement on the basis of unusual circumstances. This application should be made at least 30 days before the end of the calendar year. The Director may consider the following factors in determining if the relief should be granted:
- A~~1~~) Number of partners, expertise of the partners or the number of insurance clients in the currently registered firm;
- B~~2~~) Premium volume of the insurer; or
- C~~3~~) Number of jurisdictions in which the insurer transacts business.
- 2) The insurer shall file, with its annual statement filing, the approval for relief from subsection (d)(1) of this Section with the states that it is licensed in or doing business in and with the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.
- e) The Director shall not recognize as a qualified independent certified public accountant, nor accept any annual audited financial report prepared in whole or in part by any natural person who:
- 1) Has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act (18 USC ~~Sections~~ 1961-1968), or any dishonest conduct or practices under federal or state law;
 - 2) Has been found to have violated the insurance laws of this State with respect to any previous reports submitted under this Part; or
 - 3) Has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of this Part.

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- f) The Director, as provided in Section 401 of the Code ~~[215 ILCS 5/401]~~, may, as provided in Administrative Hearing Procedures (50 Ill. Adm. Code 2402), hold a hearing to determine whether an independent certified public accountant is qualified and, considering the evidence presented, may rule that the accountant is not qualified for purposes of expressing an opinion on the financial statements in the annual audited financial report made pursuant to this Part and require the insurer to replace the accountant with another whose relationship with the insurer is qualified within the meaning of this Part.
- g) Qualified Independent Certified Public Accountant
- 1) The Director shall not recognize as a qualified independent certified public accountant, nor accept an annual audited financial report prepared in whole or in part by an accountant, who provides to an insurer, contemporaneously with the audit, the following non-audit services:
- A) Bookkeeping or other services related to the accounting records or financial statements of the insurer;
- B) Financial information systems design and implementation;
- C) Appraisal or valuation services, fairness opinions, or contribution-in-kind reports;
- D) Actuarially-oriented advisory services involving the determination of amounts recorded in the financial statements. The accountant may assist an insurer in understanding the methods, assumptions and inputs used in the determination of amounts recorded in the financial statement only if it is reasonable to conclude that the services provided will not be subject to audit procedures during an audit of the insurer's financial statements. An accountant's actuary may also issue an actuarial opinion or certification (opinion) on an insurer's reserves if the following conditions have been met:
- i) Neither the accountant nor the accountant's actuary has performed any management functions or made any management decisions;

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in subsection (g) or that do not conflict with subsection (g)(2), only if the activity is approved in advance by the audit committee, in accordance with subsection (j).

- j) All auditing services and non-audit services provided to an insurer by the qualified independent certified public accountant of the insurer shall be preapproved by the audit committee. The preapproval requirement is waived with respect to non-audit services if the insurer is a SOX Compliant Entity or a direct or indirect wholly-owned subsidiary of a SOX Compliant Entity or:
- 1) The aggregate amount of all such non-audit services provided to the insurer constitutes not more than 5% of the total amount of fees paid by the insurer to its qualified independent certified public accountant during the fiscal year in which the non-audit services are provided, or
 - 2) The services were not recognized by the insurer at the time of the engagement to be non-audit services; and
 - 3) The services are promptly brought to the attention of the audit committee and approved prior to the completion of the audit by the audit committee or by one or more members of the audit committee who are the members of the board of directors to whom authority to grant this approval has been delegated by the audit committee.
- k) The audit committee may delegate to one or more designated members of the audit committee the authority to grant the preapprovals required by subsection (j). The decisions of any member to whom this authority is delegated shall be presented to the full audit committee at each of its scheduled meetings.
- l) The Director shall not recognize an independent certified public accountant as qualified for a particular insurer if a member of the board, president, chief executive officer, controller, chief financial officer, chief accounting officer, or any person serving in an equivalent position for that insurer was employed by the independent certified public accountant and participated in the audit of that insurer during the one-year period preceding the date that the most current statutory opinion is due. This subsection shall only apply to partners and senior managers involved in the audit. An insurer may make application to the Director for relief from the requirement of this subsection on the basis of unusual circumstances.

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m) The insurer shall file, with its annual statement filing, the approval for relief from subsection (l) with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

(Source: Amended at 33 Ill. Reg. 6974, effective May 11, 2009)

Section 925.80 Consolidated or Combined Audits

- a) An insurer may make written application to the Director for approval to file a consolidated or combined annual audited financial report in lieu of separate annual audited financial reports if the insurer is part of a group of insurance companies which utilizes a pooling or 100% reinsurance agreement that affects the solvency and integrity of the insurer's reserves and ~~thesueh~~ insurer cedes all of its direct and assumed business to the pool. In ~~thesesueh~~ cases, a columnar consolidating or combining worksheet shall be bound into and filed with the report as follows:
- 1) Amounts shown on the consolidated or combined annual audited financial report shall be shown on the worksheet~~:-~~
 - 2) Amounts for each insurer subject to this Section shall be stated separately~~:-~~
 - 3) Noninsurance operations may be shown on the worksheet on a combined or individual basis~~:-~~
 - 4) Explanations of consolidating and eliminating entries shall be included~~:-~~ and
 - 5) A reconciliation shall be included of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the annual statements of the insurers.
- b) The Director shall require any insurer to file separate annual audited financial reports although permission had previously been given to file on a consolidated or combined basis if the Director determines the reasons and/or circumstances given for approval of the consolidated audit, pursuant to subsection (a), no longer exist.

(Source: Amended at 33 Ill. Reg. 6974, effective May 11, 2009)

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Section 925.90 Scope of Audit and Report of Independent Certified Public Accountant

- a) Financial statements furnished pursuant to Section 925.50 of this Part shall be examined by an independent certified public accountant. The ~~audit examination~~ of the insurer's financial statements shall be conducted in accordance with generally accepted auditing standards. In accordance with AU Section 319, Consideration of Internal Control in a Financial Statement Audit, AICPA Professional Standards, Volume 1, U.S. Auditing Standards – AICPA, Attestations Standards (as of July 7, 2007 (no later amendments or editions), by American Institute of Certified Public Accountants, Inc., 1211 Avenue of the Americas, New York NY 10036-8775) the independent certified public accountant should obtain an understanding of internal control sufficient to plan the audit. To the extent required by AU 319, for those insurers required to file a Management's Report of Internal Control over Financial Reporting pursuant to Section 925.160 of this Part, the independent certified public accountant (as that term is defined in AU Section 120, Defining Professional Requirements in Statements on Auditing Standards, AICPA Professional Standards, Volume 1, U.S. Auditing Standards – AICPA, Attestations Standards (as of July 7, 2007 (no later amendments or editions), by American Institute of Certified Public Accountants, Inc., 1211 Avenue of the Americas, New York NY 10036-8775)). Statement on Auditing Standards (SAS) No. 102, Defining Professional Requirements in Statements on Auditing Standards should consider the most recently available report in planning and performing the audit of the statutory financial statements. Consideration should also be given to ~~such~~ other procedures illustrated in the Financial Condition Examiners' Handbook promulgated by the National Association of Insurance Commissioners as the independent certified public accountant deems necessary.
- b) Property and casualty insurers shall require the independent certified public accountant to subject the current "Schedule P – Part 1" (excluding those amounts related to bulk and incurred but not reported ~~IBNR~~ reserves and claims counts) to the auditing procedures applied in the audit of the current statutory financial statements to determine whether Schedule P – Part 1 is fairly stated in all material respects in relation to the basic statutory financial statements taken as a whole. It is expected that the auditing procedures applied by the independent certified public accountant to the claim loss and loss adjustment expense data from which Schedule P – Part 1 is prepared would be applied to activity that occurred in the current calendar year (e.g., tests of payments on claims for all accident years that

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were paid during the current calendar year).

- c) Life, accident, and health insurers shall require the [independent certified public accountant](#) to subject the information included in the "Supplemental Schedule of Assets and Liabilities" and exhibits [of the Schedule thereof](#) to the auditing procedure applied in the audit of the current statutory financial statements to determine whether [thesueh](#) information is fairly stated in all material respects in relation to the basic statutory financial statements taken as a whole and agrees to the insurer's annual statement filed with the [DivisionDepartment](#).

(Source: Amended at 33 Ill. Reg. 6974, effective May 11, 2009)

Section 925.100 Notification of Adverse Financial Condition

- a) The insurer required to furnish the annual audited financial report shall require the [independent certified public accountant](#) to report, in writing within 5 business days, to the board of directors or its audit committee, any determination by the [independent certified public accountant](#) that the insurer has materially misstated its financial condition as reported to the Director as of the balance sheet date currently under [auditexamination](#), or of any other determination that the insurer does not meet the minimum capital and surplus requirements of the Code and the net worth requirements of the Health Maintenance Organization Act and the Limited Health Service Organization Act, as of that date.
- b) An insurer who has received a report pursuant to subsection (a)-~~above~~ shall forward a copy of the report to the Director within 5 business days after receipt of [thesueh](#) report and shall provide the [independent certified public accountant](#) making the report with evidence of the report being furnished to the Director. If the [independent certified public accountant](#) fails to receive [thesueh](#) evidence within the required 5 business day period, the [independent certified public accountant](#) shall furnish to the Director a copy of the accountant's report within the next 5 business days.
- c) No [independent certified public accountant](#) shall be liable in any manner to any person for any statement made in connection with subsections (a) and (b)-~~above~~ if [thesueh](#) statement is made in good faith in compliance with subsections (a) and (b)-~~above~~.
- d) If the accountant, subsequent to the date of the annual audited financial report

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filed pursuant to this Part, becomes aware of facts ~~that~~^{which} might have affected the accountant's report, the Director notes the obligation of the accountant to take ~~such~~ action as prescribed in [AU Section 561, Subsequent Discovery of Facts Existing at the Date of the Auditor's Report, AICPA Professional Standards, Volume 1, U.S. Auditing Standards – AICPA, Attestations Standards \(as of July 7, 2007 \(no later amendments or editions\), by American Institute of Certified Public Accountants, Inc., 1211 Avenue of the Americas, New York NY 10036-8775\) Volume 1, Section AU561 of the Professional Standards of the American Institute of Certified Public Accountants as of June 1, 2003, with no later amendments or editions.](#)

(Source: Amended at 33 Ill. Reg. 6974, effective May 11, 2009)

Section 925.110 Communication of Internal Control Related Matters Noted in an Audit Report on Internal Control

- a) In addition to the annual audited financial report, each insurer shall furnish the Director with a written [communication as to any unremediated material weaknesses in its internal control over financial reporting noted during the audit. The communication shall be reported prepared by the accountant within 60 days after the filing of the annual audited financial report, and shall contain: stating the accountant's evaluation of the accounting procedures of the insurer and the insurer's system of internal control, including any remedial action taken or proposed. The written report shall include a description of any significant deficiencies in the insurer's internal control structure noted by the accountant during the audit. SAS No. 60, Communication of Internal Control Structure Matters Noted in an Audit \(AU Section 325 of the Professional Standards of the American Institute of Certified Public Accountants\) requires an accountant to communicate significant deficiencies \(known as "reportable conditions"\) noted during a financial statement audit to the appropriate parties within an entity. The written report shall be filed annually by the insurer with the Director, on or before June 1, along with the filing of the annual audited financial reports. The insurer is required to provide a description of remedial actions taken or proposed to correct significant deficiencies, if such actions are not described in the accountant's report.](#)
- 1) [A description of any unremediated material weaknesses \(as the term material weakness is defined by AU Section 325, Communicating Internal Control Related Matters Identified in an Audit, AICPA Professional](#)

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Standards, Volume 1, U.S. Auditing Standards – AICPA, Attestations Standards (as of July 7, 2007 (no later amendments or editions), by American Institute of Certified Public Accountants, Inc., 1211 Avenue of the Americas, New York NY 10036-8775), Statement on Auditing Standard 60, Communication of Internal Control Related Matters Noted in an Audit) as of December 31 immediately preceding (so as to coincide with the audited financial report discussed in Section 925.40(a) of this Part) in the insurer's internal control over financial reporting noted by the accountant during the course of the audit of the financial statements. If no unremediated material weaknesses were noted, the communication should so state.

- 2) The insurer is required to provide a description of remedial actions taken or proposed to correct unremediated material weaknesses, if the actions are not described in the accountant's communication.

(Source: Amended at 33 Ill. Reg. 6974, effective May 11, 2009)

Section 925.115 Accountant's Letter of Qualifications (Renumbered)

(Source: Section 925.115 renumbered to Section 925.120 at 33 Ill. Reg. 6974, effective May 11, 2009)

Section 925.120~~925.115~~ Accountant's Letter of Qualifications

The accountant shall furnish the insurer, in connection with, and for inclusion in, the filing of the annual audited financial report, a letter stating that:

- a) The accountant is independent with respect to the insurer and conforms to the standards of the profession as contained in the AICPA Code of Conduct and Rules Code of Professional Ethics and pronouncements (June 1, 2008 (no later amendments or editions), by American Institute of Certified Public Accountants, Inc., 1211 Avenue of the Americas, New York NY 10036-8775)~~of the American Institute of Certified Public Accountants~~ or similar code.
- b) The background and experience in general, and the experience in audits of insurers, of the staff assigned to the engagement and whether each is an independent certified public accountant. Nothing within this Part shall be construed as prohibiting the accountant from utilizing such staff as deemed

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appropriate ~~when that~~^{where} use is consistent with the standards prescribed by generally accepted auditing standards.

- c) The accountant understands the annual audited financial report and the accountant's opinion ~~on that report~~^{thereon} will be filed in compliance with this Part and that the Director will be relying on this information in the monitoring and regulation of the financial position of insurers.
- d) The accountant consents to the requirements of Section 925. ~~130120~~ of this Part and ~~that the accountant~~ consents and agrees to make available to the Director, the Director's designee or the Director's appointed agent the workpapers, as defined in Section 925. ~~130120~~, in hard copy or electronic format.
- e) ~~A representation that the~~^{The} accountant is properly licensed by an appropriate state licensing authority and is a member in good standing of the ~~AICPA~~^{American Institute of Certified Public Accountants}.
- f) ~~A representation that the~~^{The} accountant is in compliance with the requirements of Section 925.70 of this Part.

(Source: Section 925.120 renumbered from Section 925.115 and amended at 33 Ill. Reg. 6974, effective May 11, 2009)

Section ~~925.130~~^{925.120} Definition, Availability and Maintenance of Independent Certified Public Accountant Workpapers~~Definition, Availability and Maintenance of Accountant Workpapers~~

- a) Workpapers are the records kept by the independent certified public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the accountant's audit examination of the financial statements of an insurer. Workpapers, accordingly, may include audit planning documentation, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of its audit of the financial statements of an insurer and ~~that~~^{which} support the accountant's opinion ~~thereof~~.
- b) Every insurer required to file an annual audited financial report pursuant to this Part shall require the accountant to make available for review by the Director's

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examiners all workpapers prepared in the conduct of the accountant's ~~audit examination~~ and any communications related to the audit between the accountant and the insurer, at the offices of the insurer, at the offices of the Director, or at any other reasonable place designated by the Director. The insurer shall require that the accountant retain the audit workpapers and communications until the Director has filed a report on examination covering the period of the audit, but no longer than 7 years from the date of the audit report.

- c) In the conduct of the aforementioned periodic review by the Director's examiners, it shall be agreed that photocopies of pertinent audit workpapers may be made and retained by the Director's examiners. ~~The~~Such review by the Director's examiners shall be considered an investigation and all workpapers and communications obtained during the course of ~~the~~such investigation shall be afforded the same confidentiality as other examination workpapers generated by the Director's examiners, pursuant to Section 132.5(e) and (f) of the Code ~~[215 ILCS 5/132.5(e) and (f)]~~.

(Source: Old Section 925.130 repealed at 19 Ill. Reg. 12229, effective August 14, 1995 and new Section 925.130 renumbered from Section 925.120 and amended at 33 Ill. Reg. 6974, effective May 11, 2009)

Section 925.140 Requirements for Audit Committees~~Exemptions~~

This Section shall not apply to foreign or alien insurers licensed in this State or an insurer that is a SOX Compliant Entity or a direct or indirect wholly-owned subsidiary of a SOX Compliant Entity.

- a) The audit committee shall be directly responsible for the appointment, compensation and oversight of the work of any accountant (including resolution of disagreements between management and the accountant regarding financial reporting) for the purpose of preparing or issuing the audited financial report or related work pursuant to this Part. Each accountant shall report directly to the audit committee.
- b) Each member of the audit committee shall be a member of the board of directors of the insurer or a member of the board of directors of an entity elected pursuant to both subsection (e) and the definition of audit committee found in Section 925.30.

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- c) In order to be considered independent for purposes of this Section, a member of the audit committee may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee, accept any consulting, advisory or other compensatory fee from the entity or be an affiliated person of the entity or any subsidiary of the entity. However, if law requires board participation by otherwise non-independent members, that law shall prevail and the members may participate in the audit committee and be designated as independent for audit committee purposes, unless they are officer's or employee's of the insurer or one of its affiliates.
- d) If a member of the audit committee ceases to be independent for reasons outside the member's reasonable control, that person, with notice by the responsible entity to the State, may remain an audit committee member of the responsible entity until the earlier of the next annual meeting of the responsible entity or one year from the occurrence of the event that caused the member to be no longer independent.
- e) To exercise the election of the controlling person to designate the audit committee for purposes of this Part, the ultimate controlling person shall provide written notice to the domiciliary commissioners of the affected insurers. Notification shall be made timely prior to the issuance of the statutory audit report and include a description of the basis for the election. The election can be changed through notice to the Director by the insurer, which shall include a description of the basis for the change. The election shall remain in effect for perpetuity, until rescinded.
- f) Report to Audit Committee
- 1) The audit committee shall require the accountant that performs for an insurer any audit required by this Part to timely report to the audit committee in accordance with the requirements of AU Section 380A, Communication With Audit Committees, AICPA Professional Standards, Volume 1, U.S. Auditing Standards – AICPA, Attestations Standards (as of July 7, 2007 (no later amendments or editions), by American Institute of Certified Public Accountants, Inc., 1211 Avenue of the Americas, New York NY 10036-8775), including:
- A) All significant accounting policies and material permitted practices;

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- B) All material alternative treatments of financial information within statutory accounting principles that have been discussed with management officials of the insurer, ramifications of the use of the alternative disclosures and treatments, and the treatment preferred by the accountant; and
- C) Other material written communications between the accountant and the management of the insurer, such as any management letter or schedule of unadjusted differences.
- 2) If an insurer is a member of an insurance holding company system, the reports required by subsection (f)(1) may be provided to the audit committee on an aggregate basis for insurers in the holding company system, provided that any substantial differences among insurers in the system are identified to the audit committee.
- g) The proportion of independent audit committee members shall meet or exceed the following criteria:

Prior Calendar Year Direct Written and Assumed Premiums

<u>\$0 - \$300,000,000</u>	<u>Over \$300,000,000 - \$500,000,000</u>	<u>Over \$500,000,000</u>
<u>No minimum requirements. See also Note A and B.</u>	<u>Majority (50% or more) of members shall be independent. See also Note A and B.</u>	<u>Supermajority of members (75% or more) shall be independent. See also Note A.</u>

Note A: The Director has authority afforded by State law to require the entity's board to enact improvements to the independence of the audit committee membership if the insurer is in a risk based capital (RBC) action level event, as defined in 215 ILCS 5/35A-15, 20, 25 or 30 of the Code, meets one or more of the standards of an insurer deemed to be in hazardous financial condition, or otherwise exhibits qualities of a troubled insurer.

Note B: All insurers with less than \$500,000,000 in prior year direct written and assumed premiums are encouraged to structure their audit committees with at least a supermajority of independent audit committee members.

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Note C: Prior calendar year direct written and assumed premiums shall be the combined total of direct premiums and assumed premiums from non-affiliates for the reporting entities.

- h) An insurer with direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$500,000,000 may make application to the Director for a waiver from the requirements of this Section based upon hardship. The insurer shall file, with its annual statement filing, the approval for relief from this Section with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

(Source: Old Section 925.140 renumbered to Section 925.170 and new Section 925.140 added at 33 Ill. Reg. 6974, effective May 11, 2009)

Section 925.145 Penalties (Renumbered)

(Source: Section 925.145 renumbered to Section 925.190 at 33 Ill. Reg. 6974, effective May 11, 2009)

Section 925.150 Conduct of Insurer in Connection with the Preparation of Required Reports and Documents
Severability Provision

- a) No director or officer of an insurer shall, directly or indirectly:
- 1) Make or cause to be made a materially false or misleading statement to an accountant in connection with any audit, review or communication required under this Part; or
 - 2) Omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in light of the circumstances under which the statements were made, not misleading to an accountant in connection with any audit, review or communication required under this Part.
- b) No officer or director of an insurer, or any other person acting under the direction of that person, shall directly or indirectly take any action to coerce, manipulate, mislead or fraudulently influence any accountant engaged in the performance of

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an audit pursuant to this Part if that person knew or should have known that the action, if successful, could result in rendering the insurer's financial statements materially misleading.

- c) For purposes of subsection (b) of this Section, actions that, "if successful, could result in rendering the insurer's financial statements materially misleading" include, but are not limited to, actions taken at any time with respect to the professional engagement period to coerce, manipulate, mislead or fraudulently influence an accountant:
- 1) To issue or reissue a report on an insurer's financial statements that is not warranted in the circumstances (due to material violations of statutory accounting principles prescribed by the Director, generally accepted auditing standards, or other professional or regulatory standards);
 - 2) Not to perform audit, review or other procedures required by generally accepted auditing standards or other professional standards;
 - 3) Not to withdraw an issued report; or
 - 4) Not to communicate matters to an insurer's audit committee.

(Source: Old Section 925.150 renumbered to Section 925.200 and new Section 925.150 added at 33 Ill. Reg. 6974, effective May 11, 2009)

Section 925.160 Management's Report of Internal Control over Financial Reporting

- a) Every insurer required to file an audited financial report pursuant to this Part that has annual direct written and assumed premiums, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of \$500,000,000 or more shall prepare a report of the insurer's or group of insurers' internal control over financial reporting, as these terms are defined in Section 925.30. The report shall be filed with the Director along with the Communication of Internal Control Related Matters Noted in an Audit described under Section 925.110. Management's Report of Internal Control over Financial Reporting shall be as of December 31 immediately preceding.
- b) Notwithstanding the premium threshold in subsection (a), the Director may require an insurer to file a Management's Report of Internal Control over

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Financial Reporting if the insurer is in any RBC level event, or meets any one or more of the standards of an insurer deemed to be in hazardous financial condition as referenced in Section 186.1 of the Code.

- c) An insurer or a group of insurers that is directly subject to Section 404, part of a holding company system whose parent is directly subject to Section 404, not directly subject to Section 404 but is a SOX Compliant Entity, or a member of a holding company system whose parent is not directly subject to Section 404 but is a SOX Compliant Entity may file its or its parent's Section 404 Report and an addendum in satisfaction of this requirement, provided that those internal controls of the insurer or group of insurers having a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements (those items included in Section 925.50(b)(2) through (8)) were included in the scope of the Section 404 Report. The addendum shall be a positive statement by management that there are no material processes with respect to the preparation of the insurer's or group of insurers' audited statutory financial statements (those items included in Section 925.50(b)(2) through (8)) excluded from the Section 404 Report. If there are internal controls of the insurer or group of insurers that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements and those internal controls were not included in the scope of the Section 404 Report, the insurer or group of insurers may file either:
- 1) a Section 925.160 Report; or
 - 2) the Section 404 Report and a Section 925.160 Report for those internal controls that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements not covered by the Section 404 Report.
- d) Management's Report of Internal Control over Financial Reporting shall include:
- 1) A statement that management is responsible for establishing and maintaining adequate internal control over financial reporting;
 - 2) A statement that management has established internal control over financial reporting and an assertion, to the best of management's knowledge and belief, after diligent inquiry, as to whether its internal control over financial reporting is effective to provide reasonable

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assurance regarding the reliability of financial statements in accordance with statutory accounting principles;

- 3) A statement that briefly describes the approach or processes by which management evaluated the effectiveness of its internal control over financial reporting;
 - 4) A statement that briefly describes the scope of work that is included and whether any internal controls were excluded;
 - 5) Disclosure of any unremediated material weaknesses in the internal control over financial reporting identified by management as of December 31 immediately preceding. Management is not permitted to conclude that the internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles if there is one or more unremediated material weaknesses in its internal control over financial reporting;
 - 6) A statement regarding the inherent limitations of internal control systems; and
 - 7) Signatures of the chief executive officer and the chief financial officer (or equivalent position/title).
- e) Management shall document and make available upon financial condition examination the basis upon which its assertions, required in subsection (d), are made. Management may base its assertions, in part, upon its review, monitoring and testing of internal controls undertaken in the normal course of its activities.
- 1) Management shall have discretion as to the nature of the internal control framework used, and the nature and extent of documentation, in order to make its assertion in a cost effective manner and, as such, may include assembly of or reference to existing documentation.
 - 2) Management's Report of Internal Control over Financial Reporting, required by subsection (a), and any documentation provided in support of that report during the course of a financial condition examination, will be kept confidential by the Division.

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(Source: Added at 33 Ill. Reg. 6974, effective May 11, 2009)

Section 925.170925.140 Exemptions and Transitions

- a) Upon written application of any domestic insurer, the Director may grant an exemption from compliance with any and all provisions of this Part if the Director finds, upon review of the application, that compliance with this Part would constitute a financial or organizational hardship upon the insurer. An exemption may be granted at any time, and from time to time, for a specified period or periods. Within 10 days from a denial of an insurer's written request for an exemption from this Part, the insurer may request in writing a hearing on its application for an exemption. The hearing shall be held in accordance with the rules of the Division Illinois Department of Insurance pertaining to administrative hearing procedures (50 Ill. Adm. Code 2402).
- b) Foreign and alien insurers, except those insurers licensed under the Health Maintenance Organization Act and the Limited Health Service Organization Act, shall be exempt from this Part unless the Director makes a specific finding that compliance is necessary for the Director to carry out statutory responsibilities.
- c) Domestic insurers retaining a certified public accountant who qualifies as independent shall comply with the January 1, 2010 revisions for the year ending December 31, 2010 and each year thereafter, unless the Director permits otherwise.
- d) Domestic insurers not retaining a certified public accountant on the effective date of this regulation who qualifies as independent may meet the following schedule for compliance unless the Director permits otherwise.
- 1) As of December 31, 2010, file with the Director an audited financial report.
 - 2) For the year ending December 31, 2010 and each year thereafter, these insurers shall file with the Director all reports and communication required by this Part.
- e) Foreign insurers shall comply with this regulation for the year ending December 31, 2010, and each year thereafter, unless the Director permits otherwise.

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- f) The requirements of Section 925.70(d) of this Part shall be in effect for audits of the year beginning January 1, 2010 and thereafter.
- g) The requirements of Section 925.140 of this Part are to be in effect January 1, 2010. An insurer or group of insurers that is not required to have independent audit committee members or only a majority of independent audit committee members (as opposed to a supermajority) because the total written and assumed premium is below the threshold, and subsequently becomes subject to one of the independence requirements due to changes in premium, shall have 1 year following the year the threshold is exceeded (but not earlier than January 1, 2010) to comply with the independence requirements. Likewise, an insurer that becomes subject to one of the independence requirements as a result of a business combination shall have one calendar year following the date of acquisition or combination to comply with the independence requirements.
- h) The requirements of this Section and other modified Sections (925.20, 925.30, 925.40, 925.50, 925.60, 925.70, 925.90, 925.100, 925.110, 925.120, 925.130, 925.150, 925.160 and 925.180) are effective beginning with the reporting period ending December 31, 2010 and each year thereafter. An insurer or group of insurers that is not required to file a report because the total written premium is below the threshold and subsequently becomes subject to the reporting requirements shall have 2 years following the year the threshold is exceeded (but not earlier than December 31, 2010) to file a report. Likewise, an insurer acquired in a business combination shall have 2 calendar years following the date of acquisition or combination to comply with the reporting requirements.

(Source: Section 925.170 renumbered from Section 925.140 and amended at 33 Ill. Reg. 6974, effective May 11, 2009)

Section 925.180 Canadian and British Companies

- a) In the case of Canadian and British insurers, the annual audited financial report shall be defined as the annual statement of total business on the form filed by those companies with their supervision authority, duly audited by an independent chartered accountant.
- b) For these insurers, the letter required in Section 925.60 shall state that the accountant is aware of the requirements relating to the annual audited financial

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report filed with the Director pursuant to Section 925.40 and shall affirm that the opinion expressed is in conformity with those requirements.

(Source: Added at 33 Ill. Reg. 6974, effective May 11, 2009)

Section ~~925.190~~925.145 Penalties

Failure of a company to meet any provisions of this Part shall subject the company to penalty provisions of Sections ~~139~~132.4(b) and 403A of the Code ~~[215 ILCS 5/132.4(b) and 403A]~~, or other such action as the Director may deem necessary.

(Source: Section 925.190 renumbered from Section 925.145 and amended at 33 Ill. Reg. 6974, effective May 11, 2009)

Section ~~925.200~~925.150 Severability Provision

If any Section or portion of a Section of this Part or the applicability of that Section or portion of a Section thereof to any person or circumstance is held invalid by a court, the remainder of the Part or the applicability of thesueh provision to other persons or circumstances shall not be affected by that determination of invaliditythereby. ~~This Part is effective July 21, 1975.~~

(Source: Section 925.200 renumbered from Section 925.150 and amended at 33 Ill. Reg. 6974, effective May 11, 2009)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section 925.EXHIBIT A CPA Letter of Representation

Upon completion of the review by the Department's examiners, the accountant shall submit a "[CPA Letter of Representation](#)" in this format.

CPA LETTER OF REPRESENTATION

Date: _____

Attention: Illinois Department of [Financial and Professional Regulation](#)~~Insurance~~
[Division of Insurance](#)
[Financial Examination Section](#)
Attn: (Examiner-in-~~Charge~~~~charge~~)
[James R. Thompson Center](#)
100 West Randolph, Suite ~~9-3015-570~~
Chicago, Illinois 60601
(312) 814-2423

Re: Examination of (Insurance Company Name)
As of December 31, 20__

Dear (Examiner-in-[Charge](#)~~charge~~)

(CPA Firm) confirms the following information related to your review of our 20__ audit workpapers for (Insurance Company Name).

(CPA Firm) have made available for review to the Examiners of the [Division](#)~~Illinois Department~~ of Insurance all workpapers prepared during the course of the audit of the financial position of the insurer, and the results of its operations, cash flows and changes in capital and surplus of (Insurance Company Name) for the period ending December 31, 20__. Workpapers include, but are not limited to, all electronic and paper schedules, analyses, reconciliations, memorandums (including emails), permanent files, budgets, progress reports, engagement letters, audit programs, planning documents, internal audit reports, letters of representation, legal liability correspondence, letters of confirmation, summaries of audit differences, and other supporting audit evidence.

The photocopies of workpapers that were requested by the Examiners of the [Division](#)~~Illinois Department of Insurance~~ are true and complete copies of ~~those~~~~such~~ workpapers.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Sincerely,

(CPA Partner)
(CPA Firm)

(Source: Amended at 33 Ill. Reg. 6974, effective May 11, 2009)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

- a) Heading of the Part: Child Health Examination Code
- b) Code Citation: 77 Ill. Adm. Code 665
- c) Section Number: 665.140 Adopted Action:
Amendment
- d) Statutory Authority: Authorized by and implementing Section 27-8.1 of the School Code [105 ILCS 5/27-8.1] and the Communicable Disease Prevention Act [410 ILCS 315]
- e) Effective Date of Rulemaking: May 11, 2009
- 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 and available for public inspection at the Illinois Department of Public Health, 525 W. Jefferson Street, Springfield, Illinois 62761-0001.
- 9) Notices of Proposal Published in the Illinois Register: 32 Ill. Reg. 8545; June 13, 2008
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: The following change was made in response to comments and suggestions of JCAR:

In Section 665.140(a)(3), delete "and including" and after "also" add "be deemed to"
- 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>Ill. Reg. Citation:</u>
665.100	Repeal	32 Ill. Reg. 14465; September 5, 2008
665.105	Amendment	32 Ill. Reg. 14465; September 5, 2008

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

665.115	Amendment	32 Ill. Reg. 14465; September 5, 2008
655.120	Amendment	32 Ill. Reg. 14465; September 5, 2008
665.130	Amendment	32 Ill. Reg. 14465; September 5, 2008
665.150	Amendment	32 Ill. Reg. 14465; September 5, 2008
665.160	Amendment	32 Ill. Reg. 14465; September 5, 2008
665.510	Amendment	32 Ill. Reg. 14465; September 5, 2008
665.610	Amendment	32 Ill. Reg. 14465; September 5, 2008
665.620	Repeal	32 Ill. Reg. 14465; September 5, 2008
665.630	Amendment	32 Ill. Reg. 14465; September 5, 2008
665.640	Repeal	32 Ill. Reg. 14465; September 5, 2008
665.650	New	32 Ill. Reg. 14465; September 5, 2008
665.APPENDIX A	Amendment	32 Ill. Reg. 14465; September 5, 2008
665.APPENDIX D	New	32 Ill. Reg. 14465; September 5, 2008
665.APPENDIX E	New	32 Ill. Reg. 14465; September 5, 2008
665.APPENDIX F	New	32 Ill. Reg. 14465; September 5, 2008

- 15) Summary and Purpose of Amendment: Existing rules set forth the required physical examinations, immunizations and acceptable exemptions for children entering school-operated programs below the kindergarten level and kindergarten through 12th grade. Changes to the rules align the physical examination requirement with that established by P.A. 95-422.
- 16) Information and questions regarding this adopted amendment shall be directed to:
Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761

217/782-2043
(E-mail: DPH.RULES@illinois.gov)

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER i: MATERNAL AND CHILD HEALTH

PART 665
CHILD HEALTH EXAMINATION CODE

SUBPART A: GENERAL PROVISIONS

Section	
665.100	Statutory Authority
665.105	Definitions
665.110	General Considerations (Repealed)
665.115	Referenced Materials

SUBPART B: HEALTH EXAMINATION

Section	
665.120	Health Examination Requirement
665.130	Performance of Health Examination and Verification of Certificate of Child Health Examination
665.140	Timetable for Examinations
665.150	Report Forms
665.160	Proof of Examination
665.210	Proof of Immunizations
665.220	Local School Authority (Repealed)
665.230	School Entrance
665.240	Basic Immunization
665.250	Proof of Immunity
665.260	Booster Immunizations
665.270	Compliance with the School Code
665.280	Physician Statement of Immunity
665.290	List of Non-immunized Students

SUBPART C: VISION AND HEARING SCREENING

Section	
665.310	Vision and Hearing Screening

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

SUBPART D: DENTAL EXAMINATION

Section

- 665.410 Dental Examination Requirement
- 665.420 Dental Examination Timetable
- 665.430 Dental Examination
- 665.440 Guidelines (Repealed)
- 665.450 Waiver of Dental Examination Requirement

SUBPART E: EXCEPTIONS

Section

- 665.510 Objection of Parent or Legal Guardian
- 665.520 Medical Objection

SUBPART F: VISION EXAMINATION

Section

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

SUBPART G: DIABETES SCREENING

Section

- 665.700 Diabetes Screening Requirement
- 665.710 Diabetes Screening
- 665.720 Testing Recommendations

665.APPENDIX A Vision Examination Report

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

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

SOURCE: Emergency rule adopted at 4 Ill. Reg. 38, p. 275, effective September 10, 1980, for a maximum of 150 days; emergency rule adopted at 4 Ill. Reg. 41, p. 176, effective October 1,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

1980, for a maximum of 150 days; adopted at 5 Ill. Reg. 1403, effective January 29, 1981; codified at 8 Ill. Reg. 8921; amended at 11 Ill. Reg. 11791, effective June 29, 1987; amended at 13 Ill. Reg. 11565, effective July 1, 1989; amended at 13 Ill. Reg. 17047, effective November 1, 1989; emergency amendment at 14 Ill. Reg. 5617, effective March 30, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14543, effective August 27, 1990; amended at 15 Ill. Reg. 7706, effective May 1, 1991; amended at 18 Ill. Reg. 4296, effective March 5, 1994; amended at 20 Ill. Reg. 11950, effective August 15, 1996; emergency amendment at 21 Ill. Reg. 11966, effective August 15, 1997, for a maximum of 150 days; emergency expired on January 1, 1998; amended at 26 Ill. Reg. 5921, effective July 1, 2002; amended at 26 Ill. Reg. 10689, effective July 1, 2002; amended at 29 Ill. Reg. 18127, effective October 24, 2005; emergency amendment at 32 Ill. Reg. 8778, effective May 30, 2008, for a maximum of 150 days; emergency expired October 26, 2008; emergency amendment at 32 Ill. Reg. 9055, effective June 6, 2008, for a maximum of 150 days; emergency expired November 2, 2008; amended at 33 Ill. Reg. 7011, effective May 11, 2009.

SUBPART B: HEALTH EXAMINATION

Section 665.140 Timetable for Examinations

- a) The examination shall be conducted within one year:
 - 1) Prior to the date of entering school (this includes nursery school, special education, Head Start or other pre-kindergarten programs operated by elementary school systems or secondary level school units or institutions of higher learning; and students transferring into Illinois from outside of the State or outside of the country);
 - 2) Prior to the date of entering kindergarten or first grade;
 - 3) Prior to the date of entering the ~~sixth~~^{fifth} grade. For the 2008-2009 school year only, a health examination conducted from August 2006 through September 2007 (for a child who was entering fifth grade for the 2007-2008 school year) shall also be deemed to meet the requirements of the School Code [105 ILCS 5/27-8.1];
 - 4) Prior to the date of entering the ninth grade.
- b) For students attending school programs where grade levels are not assigned, examinations shall be completed prior to the date of entering and within one year

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

prior to the school year in which the child reaches the ages of 5, ~~11~~¹⁰, and 15.

- c) For students from other countries who attend classes, regardless of the duration of stay, examinations shall be completed within one year prior to the date of entering the school and at other intervals as provided in this Section.
- d) Additional health examinations and further evaluations of students may be required when deemed necessary by local school authorities.
- e) In programs operated by elementary school systems or secondary level school units or institutions of higher learning, health examinations are recommended for children under 5 years of age at intervals of not less than 2 years.
- f) Lead screening is required as follows:
 - 1) Lead screening is a required part of the health examination for children age six years or younger *prior to admission* to kindergarten or first grade. *Each parent or legal guardian shall provide a statement from a physician or health care provider that the child has been risk assessed if the child resides in an area defined as low risk by the Department, or screened for lead poisoning if the child resides in an area defined as high risk.* (Section 7.1 of the Lead Poisoning Prevention Act)
 - 2) *Physicians and other health care providers shall also screen children age six years and older for lead poisoning in conjunction with the school health examination when, in the medical judgment of the physician, advanced practice nurse, or physician assistant, the child is potentially at high risk of lead poisoning.* (Section 6.2 of the Lead Poisoning Prevention Act).

(Source: Amended at 33 Ill. Reg. 7011, effective May 11, 2009)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Provider Requirements, Type Services, and Rates of Payment
- 2) Code Citation: 89 Ill. Adm. Code 686
- 3)

<u>Section Numbers:</u>	<u>Emergency Action:</u>
686.200	Amendment
686.210	Amendment
686.220	Amendment
686.230	Amendment
686.235	New Section
686.240	Amendment
686.250	Amendment
686.260	Amendment
686.280	Amendment
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3]
- 5) Effective Date of Amendments: May 5, 2009
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency rule will expire at the end of the 150 day period, or upon adoption of permanent rules, whichever comes first.
- 7) Date filed with the Index Department: May 5, 2009
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: These emergency amendments are being filed in order to authorize payment of an enhanced rate for health insurance costs to qualified in-home service provider agencies for the Home Services Program and to establish monitoring guidelines for provider agencies who are eligible for the enhanced rate for health insurance. Expedited action will aid Departmental implementation efforts of new program rates and encourage more provider agencies to offer health insurance as a benefit to direct service workers who are essential to reduce persons with disabilities' risk of premature institutionalization in long-term care facilities.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

These rules are a result of Public Act 95-713, which affects the Department on Aging's Community Care Program and became effective July 1, 2008. This law was subject to an amendatory veto that was accepted by both houses of the General Assembly on March 6, 2008, and certified by the Governor on April 7, 2008. The Community Care Program and the Department of Human Services' Home Services Program are "sister programs" and they provide comparable services under Medicaid waivers. The Department on Aging has already filed similar rules under an Emergency Rule and is providing the enhanced rate to providers. With that said, the Department of Human Services finds that a threat to the public interest exists that this rulemaking will address by preventing a disparity between the two programs. Expedited action will aid Departmental implementation efforts of new program rates and encourage more provider agencies to offer health insurance as a benefit to direct service workers who are essential to reduce persons with disabilities' risk of premature institutionalization in long-term care facilities.

- 10) A Complete Description of the Subject and Issues: Language was added for homemaker agency appeals so that it is all encompassing, rather than just for compliance reviews. Additional language states appeal requests must be filed within a 30-day time period. A new Section was added for the enhanced rate for health insurance costs for eligible homemaker agencies that addresses the type of health insurance plans, eligibility requirements and the annual insurance review for participating agencies. New language was also added to the payment information and financial reporting sections to address the additional requirements for agencies receiving the enhanced rate.
- 11) Are there any other amendments pending on this Part? No
- 12) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 13) Information and questions regarding this amendment shall be directed to:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Bldg., 3rd Floor
Springfield, Illinois 62762

217/785-9772

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAMPART 686
PROVIDER REQUIREMENTS, TYPE SERVICES, AND RATES OF PAYMENT

SUBPART A: PERSONAL ASSISTANTS

Section	
686.10	Personal Assistant (PA) Requirements
686.20	Services Which May Be Provided by a PA
686.25	Criminal Background Check
686.30	Annual Review of PA Performance
686.40	Payment for PA Services

SUBPART B: ADULT DAY CARE PROVIDERS

Section	
686.100	Adult Day Care (ADC) Provider Requirements
686.110	Services Which Must Be Provided by ADC Providers
686.120	Compliance Review of ADC Providers
686.130	Appeal of Compliance Review for ADC Providers
686.140	Payment for ADC Services

SUBPART C: HOMEMAKER SERVICES

Section	
686.200	Homemaker Service Provider Requirements
EMERGENCY	
686.210	Services that ^{Which} Must Be Provided by Homemaker Agencies
EMERGENCY	
686.220	Compliance Review of Homemaker Agencies
EMERGENCY	
686.230	Appeal of Program Decision or Compliance Review for Homemaker Agencies
EMERGENCY	
686.235	Enhanced Rate for Health Insurance Costs
EMERGENCY	
686.240	Payment Information for Homemaker Services

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

EMERGENCY

686.250 Financial Reporting of Homemaker Services

EMERGENCY

686.260 Unallowable ~~Expenses~~Costs for ~~Direct Service Worker Costs~~Homemaker Service

EMERGENCY

686.270 Minimum Direct Service Worker Costs for Homemaker Services

686.280 Cost Categories for Homemaker Services

EMERGENCY

SUBPART D: ELECTRONIC HOME RESPONSE SERVICES

Section

- 686.300 Electronic Home Response Services (EHRS) Provider Requirements
- 686.310 Services Which Must Be Provided by EHRS Providers
- 686.320 Minimum Specifications for EHRS Equipment
- 686.330 Compliance Review of EHRS Providers
- 686.340 Appeal of Compliance Review for EHRS Providers
- 686.350 Rate of Payment for EHRS Services

SUBPART E: MAINTENANCE HOME HEALTH SERVICE

Section

- 686.400 Maintenance Home Health Provider Requirements
- 686.410 Rate of Payment for Maintenance Home Health Services

SUBPART F: HOME DELIVERED MEALS

Section

- 686.500 Home Delivered Meals Provider Requirements
- 686.510 Rate of Payment for Home Delivered Meals

SUBPART G: ENVIRONMENTAL MODIFICATION

Section

- 686.600 Description
- 686.605 Criteria for the Provision of Environmental Modifications
- 686.608 Environmental Modification Provider Requirements
- 686.610 Cost of Environmental Modification (Repealed)
- 686.615 Environmental Modification Bidding Procedures and Requirements

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

686.620	Permanency of Environmental Modification
686.630	Reason for Denial of Environmental Modification
686.640	Verification of Environmental Modification

SUBPART H: ASSISTIVE EQUIPMENT

Section	Description
686.700	Description
686.705	Criteria for the Purchase, Rental, or Repair of Assistive Equipment
686.708	Purchase, Rental, or Repair of Assistive Equipment
686.710	Provision of Assistive Equipment (Repealed)
686.715	Assistive Equipment Provider Requirements
686.720	Verification of Receipt of Assistive Equipment (Repealed)
686.722	Assistive Equipment Bidding Procedures and Requirements
686.730	Verification of Receipt of, and Customer Satisfaction with, Assistive Equipment

SUBPART I: RESPITE CARE

Section	
686.800	Respite Care Provider Requirements

SUBPART J: CASE MANAGEMENT SERVICES TO PERSONS WITH AIDS

Section	
686.900	Program Overview
686.910	Case Management Provider Responsibilities
686.920	Provider Staffing Requirements, Qualifications, and Training
686.930	Monitoring and Liability of Provider
686.940	Provider Compliance Requirements

SUBPART K: CASE MANAGEMENT SERVICES
TO PERSONS WITH BRAIN INJURIES

Section	
686.1000	Program Overview
686.1010	Case Management Provider Responsibilities
686.1020	Case Manager Staffing Requirements, Qualifications and Training
686.1025	Provisional Case Manager
686.1030	Monitoring and Liability

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

686.1040 Provider Compliance Requirements

SUBPART L: BEHAVIORAL SERVICES
FOR PERSONS WITH BRAIN INJURIES

Section

686.1100 Behavioral Services Provider Requirements

686.1110 Rate of Payment for Behavioral Services

SUBPART M: DAY HABILITATION SERVICES
FOR PERSONS WITH BRAIN INJURIES

Section

686.1200 Day Habilitation Services Provider Requirements

686.1210 Rate of Payment for Day Habilitation Services

SUBPART N: PREVOCATIONAL SERVICES
FOR PERSONS WITH BRAIN INJURIES

Section

686.1300 Prevocational Services Provider Requirements

686.1310 Rate of Payment for Prevocational Services

SUBPART O: SUPPORTED EMPLOYMENT SERVICES
FOR PERSONS WITH BRAIN INJURIES

Section

686.1400 Supported Employment Service Provider Requirements

686.1410 Rate of Pay for Supported Employment Services

686.APPENDIX A Acceptable Human Service Degrees

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5104, effective March 21, 1995; amended at 20 Ill. Reg. 12479, effective August 28, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 18945, effective October 1, 1998; amended at 22 Ill. Reg. 19262, effective October 1, 1998; amended at 23 Ill.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Reg. 499, effective December 22, 1998; amended at 23 Ill. Reg. 6457, effective May 17, 1999; amended at 24 Ill. Reg. 7501, effective May 6, 2000; amended at 24 Ill. Reg. 10212, effective July 1, 2000; amended at 24 Ill. Reg. 18174, effective November 30, 2000; amended at 25 Ill. Reg. 6282, effective May 15, 2001; amended at 26 Ill. Reg. 3994, effective February 28, 2002; amended at 28 Ill. Reg. 6453, effective April 8, 2004; amended at 29 Ill. Reg. 16508, effective October 17, 2005; amended at 31 Ill. Reg. 14238, effective September 27, 2007; emergency amendment at 33 Ill. Reg. 7017, effective May 5, 2009, for a maximum of 150 days.

SUBPART C: HOMEMAKER SERVICES

Section 686.200 Homemaker Service Provider Requirements**EMERGENCY**

- a) Only those vendors with approved Homemaker Agreements may be used to provide Homemaker Services to individuals being served through [the](#) Home Services Program (HSP).
- b) In order to be approved by DHS, the Homemaker Agency must comply with the following, to the satisfaction of DHS:
 - 1) provide a comprehensive array of services which include, but are not limited to, those services described in Section 686.210;
 - 2) assure DHS that all referrals will be responded to within 48 hours after receipt from DHS;
 - 3) have written billing procedures and provide a copy to DHS as part of the compliance review;
 - 4) have documented procedures to cover unexpected absences and emergencies to ensure services will be provided in an adequate and safe manner to all individuals served by the agency;
 - 5) have written procedures to respond to customer and counselor complaints regarding services;
 - 6) maintain comprehensive written job descriptions for, at a minimum, the positions of Executive Director/Administrator, supervisory staff, and direct service providers;

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- 7) have established a local presence to ensure regular and on-going contact with DHS and other appropriate community groups;
- 8) have procedures for regular and on-going recruitment of direct service providers through local resources;
- 9) be either incorporated or provide DHS with a copy of a written statement of purpose and function;
- 10) maintain adequate records for planning, budgeting, administration and program evaluation and planning. These records shall be available at all times to DHS and the United States Department of Health and Human Services (HHS), or any entity designated by DHS or HHS, and shall be maintained for a period of at least 5 years, or until advised that all State and federal audits are completed. These records must include, but not be limited to:
 - A) records of all referrals, including the disposition of each referral;
 - B) customer records, which include:
 - i) dates and times services were provided to each individual;
 - ii) dates and times of supervisor-homemaker weekly conferences;
 - iii) semi-annual reports of supervisory visits with each customer served;
 - iv) monthly service reports for each customer served that document a summary of services, actual or anticipated changes in the customer's condition, recommended changes in the current HSP Service Plan, and all customer contacts;
 - v) records of all staffings held pertaining to the customer;
 - vi) records of all financial transactions between the customer and any agency employee;

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- C) administrative records, which include:
 - i) cumulative service statistics pertaining to any agreement with DHS;
 - ii) billing and payment records which pertain to DHS;
- D) personnel records, which include:
 - i) attendance records;
 - ii) schedules for all direct service staff;
 - iii) documentation regarding each individual's qualification for the position held;
 - iv) wage rate and effective date for each staff member;
 - v) job performance evaluations for each staff person that include annual evaluations and at least one probationary evaluation completed within the first six months of employment;
 - vi) orientation and training attendance information for each staff member, which must include the name of each instructor, the date, the time and the title of each training program attended; and
 - vii) verification of liability insurance in the amounts of at least \$15,000 per person bodily injury, \$30,000 minimum per occurrence, and \$10,000 in property damage, per occurrence, if the employee will or could be expected to transport customers in the course of his/her work;
- 11) maintain insurance coverage against any and all liability, loss, damage and/or expense from wrongful or negligent acts of the agency or any of its employees and provide DHS with written verification of such coverage;

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- 12) maintain written procedures on reporting loss and damage arising from the wrongful or negligent acts of the agency or any of its employees;
 - 13) agree to hold harmless DHS against any and all liability, loss, damage, cost, or expense arising from wrongful or negligent acts of the agency or any of its employees;
 - 14) assist DHS in monitoring and evaluating the agency's performance under any agreement with DHS;
 - 15) maintain any and all information regarding individuals referred to the agency by DHS as confidential and not for public release without the written consent of DHS and the customer;
 - 16) maintain and have available for review by customers and purchasers of services policies governing:
 - A) the nature and scope of each service provided by the agency;
 - B) a two-way receipt system for any time an employee of the agency handles an individual's money, food stamps or other negotiable items or tender;
 - C) personnel policies governing salary, leave time, hours of work, employee grievance procedures, and attendance at in and out-service trainings; and
 - 17) have in place an Affirmative Action Plan which is approved by its governing body.
- c) At a minimum, each Homemaker Agency must employ qualified staff in the positions of:
- 1) Executive Director or Administrator for each local unit providing services, who is responsible for the administration of the Homemaker Services program and who, at a minimum, has or is making continued progress towards:
 - A) a Bachelor's degree in health, human services, or a related field;

DEPARTMENT OF HUMAN SERVICES

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- B) licensure as a Registered Nurse pursuant to the [Nurse Practice Nursing and Advanced Practice Nursing](#) Act [225 ILCS 65];
- C) certification as a home health care administrator, medical clinic administrator, or other health services administrator; or
- D) one year of related job experience in social services or in a health agency to replace each year of education required in subsections (c)(1)(A) through (C), provided that at least 1 year of experience was in a program that provides services to individuals with disabilities.

For the purposes of subsections (c)(1)(A) through (C) "continued progress" shall mean current registration and evidence of successful completion of course work in an accredited junior college, college, or university for a minimum of 2 semesters or 3 quarters of each academic year. Successful completion shall mean a grade of at least "C" in undergraduate course work or a grade of "B" in graduate course work;

- 2) Supervisors, in a ratio of no less than the equivalent of 1 full-time supervisor to the equivalent of every 20 full-time direct service providers, who is responsible for the supervision of direct service staff and who, at a minimum, has:
 - A) a Bachelor's degree with course work in social science, home economics, or nursing;
 - B) knowledge and skill equivalent to completion of a Bachelor's degree, as described in subsection (c)(1)(A); or
 - C) a high school diploma or its equivalent plus health service experience including at least 2 years supervisory experience;
- 3) direct service providers who have:
 - A) been determined to be in good health;
 - B) knowledge and skill equivalent to a high school diploma;

DEPARTMENT OF HUMAN SERVICES

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- C) experience as a homemaker, either in his/her own home or through employment; and
 - D) knowledge of:
 - i) nursing care;
 - ii) first aid;
 - iii) personal and environmental hygiene;
 - iv) household budgeting;
 - v) housekeeping;
 - vi) nutrition;
 - vii) food preparation; and
 - viii) clothing care.
- d) Each supervisor and direct service provider must, at a minimum, participate in the following training programs:
- 1) Orientation, which shall include:
 - A) the philosophy and purpose of homemaker services; and
 - B) the functions of homemaker services;
 - 2) In-service training, directed at increasing the direct service provider's knowledge and skills, of not less than 12 hours each year in areas including:
 - A) disability awareness; and
 - B) Acquired Immunodeficiency Syndrome (AIDS).

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- e) The Homemaker Agency shall have a written policy and procedures governing a self-evaluation process to evaluate services and case management with an outcome of written recommendations to the governing body of the agency to improve the services the agency provides.
- f) The Homemaker ~~Agency~~agency shall abide by provisions of the following federal and State laws and regulations regarding employment practices and compliance:
- 1) Title VI of the Civil Rights Act of 1964 (42 USC 2000d);
 - 2) Section 504 of the Rehabilitation Act of 1973 (29 USC 794);
 - 3) the Americans with Disabilities Act (42 USC 12101);
 - 4) the Illinois Human Rights Act [775 ILCS 5];
 - 5) the Health Care Worker's Background Check Act [225 ILCS 46]; and
 - 6) the Health Insurance Portability and Accountability Act (42 USC 1320(d) et seq.).

Further, the agency shall provide DHS with a letter certifying compliance with the provisions of the laws listed in this subsection (f) and a copy of the Affirmative Action Plan for the agency.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 7017, effective May 5, 2009, for a maximum of 150 days)

Section 686.210 Services ~~that~~Which Must Be Provided by Homemaker Agencies
EMERGENCY

The Homemaker Agency must provide professionally directed home management and personal care services directly provided by trained homemakers to individuals served through HSP who require supportive, protective or teaching functions because of the lack of a responsible person or entity to provide such for the individual in the areas of:

- a) teaching, performance and/or assistance with household, financial and time management;

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- b) teaching, performance and/or assistance with meal planning and preparation and nutrition, including the preparation of specially prescribed diets and snacks;
- c) teaching, performance and/or assistance with personal care and hygiene which is of a non-medical nature;
- d) observation and reporting of the individual's behavior and activities to [HSPDHS](#) for the purpose of assessment and service planning; and
- e) emergency services to meet an unforeseen need in the areas listed in subsections (a) through (d) above when contacted by the individual or [HSPDHS](#) and preapproved by [HSPDHS](#).

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 7017, effective May 5, 2009, for a maximum of 150 days)

Section 686.220 Compliance Review of Homemaker Agencies**EMERGENCY**

- a) DHS-[DRSORS](#) shall conduct a compliance review of any Homemaker Agency seeking an approved rate agreement with DHS and, at least every two years, shall conduct a compliance review of all Homemaker Agencies that have current rate agreements with DHS-[DRSORS](#) for the purpose of determining compliance or continued compliance with the criteria set forth in this Subpart.
- b) DHS-[DRSORS](#) shall notify all Homemaker Agencies having current approved rate agreements, in writing, at least 10 working days prior to the date of the review to determine continued compliance.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 7017, effective May 5, 2009, for a maximum of 150 days)

Section 686.230 Appeal of Program Decision or Compliance Review for Homemaker Agencies**EMERGENCY**

- a) Homemaker Agencies ~~not satisfied with a determined not to be in compliance with DHS-ORS requirements, as a result of the program decision or compliance review;~~ may submit an appeal request in writing the decision to the Chief of the

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Bureau of Home Services. [The appeal request must be filed within 30 days after the program decision or compliance review.](#) The Bureau Chief shall conduct a review of the facts ~~related to the rating~~ and shall, within 15 working days, provide a written decision to the Homemaker Agency.

- b) If the Homemaker Agency is not satisfied with the decision of the Bureau Chief, the Homemaker Agency may request review of the Bureau Chief's decision by [the DHS-DRSORS Associate Director](#). The request must be in writing and received by [the DHS-DRSORS Associate Director](#) within 10 working days after the date the decision was rendered by the Bureau Chief. The decision of [the DHS-DRSORS Associate Director](#) shall be final.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 7017, effective May 5, 2009, for a maximum of 150 days)

[Section 686.235 Enhanced Rate for Health Insurance Costs](#)
[EMERGENCY](#)

[The Home Services Program will pay an enhanced rate to Homemaker Agencies that meet the definitions and criteria described in this Section:](#)

a) [Definitions](#)

[For purposes of this Section:](#)

["Homemaker" means an employee who is employed by an agency with an enhanced rate approved by the Home Services Program and who delivers the services defined in Section 686.210.](#)

["Health insurance" means a Type 1 or Type 2 plan.](#)

1) [Type 1 Plan](#)

[A Type 1 plan must comply with, be comparable to, or exceed required mandated benefits, coverages, and co-payment levels for individuals and group insurance policies and individual and group contracts for health maintenance organizations under the Illinois Insurance Code \[215 ILCS 5\], the Health Maintenance Organization Act \[215 ILCS 125\], and associated regulations.](#)

2) [Type 2 Plan](#)

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A Type 2 plan is employer-paid health insurance as part of collective bargaining with unionized homemaker employees through a Taft-Hartley Multi-employer Health and Welfare Plan that defines the eligibility requirements and coverage under section 302(c)(5) of the Labor Management Relations Act of 1947 (29 USC 141).

b) Initial Application

An interested Homemaker Agency may submit an initial application at any time for consideration by the Home Services Program. The application must be submitted to the: Home Services Liaison for Health Insurance, Department of Human Services, 400 West Lawrence, Springfield, Illinois 62704.

c) Eligibility

Eligibility requirements include:

- 1) The Homemaker Agency must be in good standing with the Home Services Program. Agencies not in good standing with HSP will not be approved for the enhanced rate until deficiencies are corrected to the satisfaction of the Department.
- 2) Verification of a current rate agreement as a Homemaker Agency with the Home Services Program.
- 3) A copy of a health insurance plan or a certification of insurance, and the effective date of that document, to establish that:
 - A) the Homemaker Agency provides a Type 1 health insurance plan at its own expense for its homemaker employees, which may include coverage for those employees' dependents, through an:
 - i) individual and group insurance policy; or
 - ii) individual and group contract for a health maintenance organization; or
 - B) the Homemaker Agency provides a Type 2 health insurance plan for its homemaker employees, which may include coverage for those employees' dependents, through a Taft-Hartley Multi-

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employer Health and Welfare Plan under section 302(c)(5) of the Labor Management Relations Act of 1947.

- 4) Specification of the total number of employees and the total number of homemaker employees, together with a certification from a responsible party for the Homemaker Agency to the effect that:
- A) under a Type 1 health insurance plan:
- i) health insurance coverage is offered to all homemaker employees who have worked at least an average of 20 hours per week for three consecutive months under the Home Services Program and thereafter are required to continue to work at least an average of 20 hours per week under HSP for the remainder of the year;
 - ii) the three consecutive months of work completed by homemaker employees described in subsection (c)(4)(A)(i) must have been completed during the time immediately preceding their eligibility for coverage; and
 - iii) at least one quarter of the total number of homemaker employees who are eligible accept the offer of health insurance.
- B) under a Type 2 health insurance plan:
- i) health insurance coverage is offered to all of the homemaker employees subject to the collective bargaining agreement who have worked at least an average of 20 hours per week for three consecutive months under the Home Services Program and thereafter are required to continue to work at least an average of 20 hours per week under HSP for the remainder of the year;
 - ii) the three consecutive months of work completed by homemaker employees described in subsection (c)(4)(B)(i) must have been completed during the time immediately preceding their eligibility for coverage; and

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- A) the Homemaker Agency is no longer eligible for continued payment of the enhanced rate for health insurance costs;
- B) the total revenue from the enhanced rate for health insurance costs exceeds the actual, documented expenses for health insurance costs for the reporting period;
- C) there was an error in eligibility of a Homemaker Agency for the prior reporting period;
- D) there was an error in the amount of revenue from the enhanced rate for health insurance costs; or
- E) there was an error in the amount of the health insurance costs.

(Source: Added by emergency rulemaking at 33 Ill. Reg. 7017, effective May 5, 2009, for a maximum of 150 days)

**Section 686.240 Payment Information for Homemaker Services
EMERGENCY**

- a) Payment Information for all Homemaker Agencies:
 - 1a) Payment for Homemaker Services shall be at the rate specified in the rate agreement signed by DHS and the approved Homemaker Agency.
 - 2b) Services shall be paid in increments of not less than one-quarter hour, pursuant to the Service Plan developed for the individual.
 - 3e) Homemaker Agencies shall submit monthly billings for approved services provided the previous month and monthly progress reports for each customer served by the agency for the month being billed. Billings may be submitted less frequently at the discretion of the Homemaker Agency.
 - 4d) Payment for Homemaker Services shall be allowed only for those hours services are being provided to the individual being served through HSP. No payment shall be claimed for those periods which the agency employee spends traveling, in conferences, etc., or for expenses incurred by the agency employee.

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- b) Additional Payment Information for Homemaker Agencies with the Enhanced Rate for Health Insurance Costs
- 1) If a Homemaker Agency is determined eligible for this enhanced rate, the Department will thereafter calculate the appropriate payment based on the number of units of homemaker service accepted as billed for the eligible dates of service.
 - 2) By accepting payment under the Home Services Program, a Homemaker Agency agrees to repay the State of Illinois if:
 - A) the total revenue from the enhanced rate for health insurance costs exceeds the actual, documented expenses for its health insurance costs under this Section for the reporting period; or
 - B) it is subsequently determined by the Homemaker Agency or the Home Services Program that:
 - i) the Homemaker Agency is determined to be ineligible under this Section; or
 - ii) the amount of revenue generated from the enhanced rate is inaccurate; or
 - iii) the amount of health insurance costs is inaccurate.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 7017, effective May 5, 2009, for a maximum of 150 days)

Section 686.250 Financial Reporting of Homemaker Service
EMERGENCY

- a) Financial Reporting for All Homemaker Agencies~~Homemaker Agencies will be required to submit a cost report, the Direct Service Worker Cost Certification, as specified below. The report must be based upon actual, documented expenditures.~~
- 1) Homemaker Agencies will be required to submit a cost report, the Direct

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Service Worker Cost Certification, as specified in this subsection (a). The report must be based upon actual, documented expenditures.

A1) The report must be submitted annually, within 60 days~~6 months~~ after the end of the reporting period, and may be prepared as a part of the Homemaker Agency's annual audit.

B2) The report may be on either a calendar year basis or the Homemaker Agency's fiscal year, however, once a Homemaker Agency has elected to base the report on a calendar or fiscal year, this election can be changed only upon written approval of the Department.

2b) The cost report must demonstrate that the Homemaker Agency has expended a minimum of 73% of the total revenues due from the Department, to include the customer~~client~~ incurred expense, for Direct Service Worker costs as enumerated in Section 686.280. For purposes of this report, the phrase "total revenues due from the Department" does not include any amount received as an enhanced rate under this Section by a qualifying Homemaker Agency on or after July 1, 2008.

3e) The cost report shall identify the Homemaker Agency's expenditures for Direct Service Worker costs of Program Support costs, and Administrative costs as enumerated in Section 686.280.

4d) The accuracy of the report must be attested to by an authorized representative of the Homemaker Agency.

5e) The Department reserves the right to require the Homemaker Agency to engage an independent certified public accounting firm to verify the information and data submitted by the Homemaker Agency if the Department is in possession of evidence to suggest the information and data submitted is inaccurate, incomplete or fraudulent. This audit will be performed at the Homemaker Agency's expense.

b) Additional Financial Reporting for Homemaker Agencies with the Enhanced Rate for Health Insurance Costs

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- 1) A Homemaker Agency shall not report the enhanced rate for health insurance costs paid by the Department as part of its revenue for purposes of the required financial reporting under this Section.
 - 2) A Homemaker Agency shall not report health insurance for homemaker employees as an incurred cost for purposes of the required financial reporting under this Section, except for an amount in excess of the enhanced rate paid by the Department during a reporting period.
- c) Financial Reporting of Rate-Based Wage Increases for Homemaker Employees
- 1) Homemaker agencies will be required to submit a cost report to the Department to document compliance with any rate increase authorized for the purpose of increasing wages paid by a provider agency to homemaker employees who provide homemaker services under the Home Services Program.
 - 2) The cost report must be submitted within 60 calendar days after issuance of written notification of such rate increase by the Department.
 - 3) The accuracy of the cost report must be attested to by an authorized representative of the Homemaker Agency.
 - 4) The Home Services Program reserves the right to require the Homemaker Agency to engage an independent certified public accounting firm to verify the information and data submitted by the provider if the Home Services Program is in possession of evidence to suggest the information and data submitted is inaccurate, incomplete or fraudulent. This audit will be performed at the provider agency's expense.
 - 5) The Department may take appropriate enforcement action in the following instances:
 - A) a Homemaker Agency did not submit a cost report;
 - B) a cost report is inaccurate, incomplete, or fraudulent; or

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C) a Homemaker Agency did not increase the wages paid to its homemaker employees in the required amount as authorized by a rate increase under the Home Services Program.

6) Possible enforcement action includes, but is not limited to, imposition of a corrective action plan, suspension of referrals from HSP, and termination of rate agreements with the Home Services Program.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 7017, effective May 5, 2009, for a maximum of 150 days)

**Section 686.260 Unallowable ExpensesCosts for Direct Service Worker Costs~~Homemaker Service~~
EMERGENCY**

The following expenses~~Certain costs~~ shall not be considered by the Department in establishing direct service worker costs~~a fixed rate of reimbursement for homemaker service~~:

- a) expenses resulting from transactions with related parties/parent organizations that are greater than the going market cost of the transactions to the provider;
- b) non-straightline depreciation;
- c) bad debts;
- d) special benefits to owners, including owner and key-man life insurance;
- e) compensation to non-working owners and officers;
- f) discounts, rebates, allowances, and charity grants offered by the agency;
- g) entertainment expenses;
- h) fund-raising;
- i) legal fees for litigation with governmental agencies;
- j) awards, grants and gifts to individuals;

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- k) fines and penalties;
- l) contingency funds; ~~and~~
- m) losses on other grants and contracts; ~~and~~
- n) [health coverage costs as described under Section 682.250\(b\)\(2\)](#).

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 7017, effective May 5, 2009, for a maximum of 150 days)

Section 686.280 Cost Categories for Homemaker Services**EMERGENCY**

Providers of homemaker service ~~for which a fixed rate is established~~ will provide for cost reporting based on the following categories:

- a) Direct Service Worker costs (costs paid to or on behalf of direct service workers) that may include:
 - 1) wages, time paid on behalf of the worker (i.e., vacation, sick leave, holiday and personal leave);
 - 2) health coverage [for any provider that does not qualify for an enhanced rate under this Section for such purpose from the Department, or the amount of such cost incurred in excess of the enhanced rate paid to the provider during a reporting period](#), life insurance and disability insurance;
 - 3) retirement coverage;
 - 4) [Federal Insurance Contributions Act \(FICA\)](#);
 - 5) uniforms;
 - 6) worker's compensation;
 - 7) [Federal Unemployment Tax Act \(FUTA\)](#);
 - 8) travel time and travel reimbursement;

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- 9) unemployment insurance; and
 - 10) other costs approved, in advance, as direct service costs by the Department.
- b) Administrative Costs:
- 1) personnel:
 - A) administrator;
 - B) assistant administrator;
 - C) accountant/bookkeeper;
 - D) clerical;
 - E) other office staff;
 - F) supervisor of homemakers;
 - G) other personnel expenses;
 - 2) consultant:
 - A) auditors;
 - B) management consultants;
 - C) management fees from the parent organization;
 - D) other related consultant costs;
 - E) other consultant expenses;
 - 3) non-personnel:
 - A) office supplies;

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- B) office equipment (expense or depreciation based upon company policy);
 - C) telephone/facsimile;
 - D) conferences, conventions, meeting expenses;
 - E) subscriptions and reference materials;
 - F) postage and shipping;
 - G) advertising;
 - H) outside printing and art work;
 - I) membership dues;
 - J) moving and recruiting;
 - K) other general operating expenses;
 - L) profit;
- 4) occupancy:
- A) depreciation;
 - B) amortization of leasehold improvements;
 - C) rent;
 - D) property taxes;
 - E) interest;
 - F) other related occupancy costs.
- c) Program Support Costs that include all allowable costs not specifically made a

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part of direct service costs or administrative costs. These may include:

- 1) training expenses;
- 2) malpractice insurance;
- 3) direct service worker supervisor costs.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 7017, effective May 5, 2009, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notice was received by the Joint Committee on Administrative Rules during the period of May 5, 2009 through May 11, 2009 and has been scheduled for review by the Committee at its June 16, 2009 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>
6/18/09	<u>Department of Central Management Services, Standard Procurement (44 Ill. Adm. Code 1)</u>	2/13/09 33 Ill. Reg. 2874	6/16/09

PROCLAMATIONS

2009-170**GUBERNATORIAL PROCLAMATION**

Severe storms moved through Southern Illinois on the afternoon of May 8, 2009, producing heavy rain, extremely high wind and possibly tornadoes. The storms caused widespread damage to homes, businesses and other structures in towns as well as in rural areas. Downed trees and power lines resulted in the loss of electric power and communications. State highways, county roads and city streets were blocked by debris and the general disruption of essential services resulted in an emergency throughout the area.

In the interest of aiding the citizens of Illinois and the impacted local governments responsible for ensuring public health and safety, I hereby proclaim that a disaster exists in the State of Illinois and specifically declare Jackson County, Williamson County, and Franklin County as State Disaster Areas pursuant to the provisions of Section 3305/7 of the Illinois Emergency Management Agency Act, 20ILCS 3305/7.

This gubernatorial proclamation of disaster will assist the Illinois Emergency Management Agency in coordinating State resources to support local governments in disaster response and recovery operations.

Date: May 9, 2009

Filed: May 11, 2009

ILLINOIS ADMINISTRATIVE CODE
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Rules acted upon in Volume 33, Issue 21 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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