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AGENCIES



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INTRODUCTION

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

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

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

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

2007 REGISTER SCHEDULE VOLUME #31

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 26, 2006	January 5, 2007
2	January 2, 2007	January 12, 2007
3	January 8, 2007	January 19, 2007
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5	January 22, 2007	February 2, 2007
6	January 29, 2007	February 9, 2007
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24	June 4, 2007	June 15, 2007
25	June 11, 2007	June 22, 2007
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47	November 12, 2007	November 26, 2007
48	November 19, 2007	December 1, 2006
49	November 26, 2007	December 7, 2007
50	December 3, 2007	December 14, 2007
51	December 10, 2007	December 21, 2007
52	December 17, 2007	December 28, 2007

DEPARTMENT OF MILITARY AFFAIRS

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Use of National Guard Facilities
- 2) Code Citation: 71 Ill. Adm. Code 1510
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1510.100	Amend
1510.110	Amend
1510.120	Amend
1510.130	Amend
1510.140	Amend
1510.150	Amend
1510.200	Amend
1510.210	Amend
1510.300	Amend
1510.310	Amend
1510.320	Amend
1510.330	Amend
1510.340	Amend
1510.350	Repealed
1510.APPENDIX A	Amend
1510.APPENDIX B	Amend
- 4) Statutory Authority: Implementing and authorized by Section 22-8 of the Military Code of Illinois [20 ILCS 1805/22-8]
- 5) A Complete Description of the Subjects and Issues Involved: 20 ILCS1805/65 makes permissible the use and rental of Illinois National Guard armories for any reasonable and legitimate civilian activities so long as the activities do not interfere with their use for military purposes. Effective January 1, 2006 IDMA's relationship with the federal government was altered in such a way as to make the previous program and its rules void. Specifically the "Armory Rental Account" under the control of the Adjutant General has been eliminated. IDMA authority to allow non-official entities to use the federally supported military facilities is now constrained. Further, IDMA is no longer allowed to lease its federally-supported military facilities to unofficial entities in a way that is competitive with area commercial facilities.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: National Guard Regulation NGR 5-1/ANGI 63-101, Management of National Guard Grants and Cooperative Agreements. As well as the current Master

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Cooperative Support Agreement between the Illinois National Guard and the National Guard Bureau.

- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking implements requirements for the use of Illinois National Guard military facilities by official and un-official entities, imposing strict limitations, in accordance with new federal funding formula and associated restrictions, as well as in accordance with new and more restrictive military physical security and force-protection guidelines.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comment on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Department of Military Affairs
Attn: Legislative Liaison
1301 North MacArthur Boulevard
Springfield, Illinois 62702

Telephone: 217/761-3601
Fax: 217/761-3736
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of Professional skills necessary for compliance: None

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- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Department did not publish a regulatory agenda.

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 71: PUBLIC BUILDINGS, FACILITIES, AND REAL PROPERTY
CHAPTER III: DEPARTMENT OF MILITARY AFFAIRS

PART 1510

~~USERENTAL~~ OF NATIONAL GUARD ~~FACILITIES~~ ~~ARMORIES~~SUBPART A: POLICIES REGARDING ~~USERENTAL~~ OF NATIONAL GUARD
~~FACILITIES~~ ~~ARMORIES~~

Section

- 1510.100 General Policy
 1510.110 Insurance Requirements
 1510.120 Use ~~for Specific Purposes~~ ~~by Civilian Agencies~~
 1510.130 Long-Term Space ~~Use~~ ~~Rental~~ and Extended Contracts
 1510.140 Alcoholic Beverage Policy
 1510.150 Areas Available for ~~Use~~ ~~Rental~~

SUBPART B: RESTRICTIONS ON ~~USERENTAL~~ OF NATIONAL GUARD
~~FACILITIES~~ ~~ARMORIES~~

Section

- 1510.200 Restrictions on ~~Use~~ ~~Rental~~ ~~Activities~~
 1510.210 ~~Alteration of Premises~~ ~~Measures Required to Prevent Armory Damage~~
 1510.220 Armory Indoor Range Rental

SUBPART C: STANDARD ~~USE~~ ~~LEASE~~ REQUIREMENTS

Section

- 1510.300 ~~Use Requirements~~ ~~Lease Procedures and Preparation of Paperwork~~
 1510.310 ~~Security Requirements~~ ~~Payment of Rental Fees~~
 1510.320 ~~Clean-up of Facilities After Use~~ ~~Security Requirements~~
 1510.330 ~~Termination of Use Agreement~~ ~~Clean-up of Armory Facilities After Use~~
 1510.340 ~~Vending Machine Procedures~~ ~~Termination of Lease~~
 1510.350 Hold Harmless Provision (~~Repealed~~)
- 1510.APPENDIX A ~~National Guard Facility Use~~ ~~Armory Rental Contract~~ Worksheet
 1510.APPENDIX B ~~Release of Liability~~ ~~Armory Rental Rate Sheet~~

AUTHORITY: Implementing and authorized by Section 22-8 of the Military Code of Illinois

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[20 ILCS 1805/22-8].

SOURCE: Adopted at 13 Ill. Reg. 5098, effective March 27, 1989; amended at 31 Ill. Reg. _____, effective _____.

SUBPART A: POLICIES REGARDING USERENTAL OF NATIONAL GUARD
FACILITIES ARMORIES

Section 1510.100 General Policy

- a) Illinois National Guard facilities will not normally be made available for non-military or non-governmental activities due to security concerns, the high operational tempo of the Illinois National Guard, and a change in federal support for facilities that places restrictions on the use of federally supported military facilities and the funds generated from civilian rentals. Illinois Department of Military Affairs/Illinois National Guard facilities may only be used by external entities under the limited circumstances described in this Section.
- b) Authorized Users of National Guard Facilities - Users must be in one of the following categories:
- 1) Active and Reserve Components of the U.S. Armed Forces, for official use only and with an appropriate Memorandum of Understanding/Memorandum of Agreement (MOU/MOA) or Interservice Support Agreement.
 - 2) Non-Department of Defense (DoD) Federal agencies/entities, for official use only and with an appropriate MOU/MOA or Intergovernmental Support Agreement.
 - 3) State or local governmental agencies/entities, for official use only and with an appropriate Intergovernmental Agreement.
 - 4) Organizations that are specifically affiliated with the U.S. military as follows, for official use only and with an appropriate License Agreement:
 - A) American Red Cross;
 - B) United Service Organizations (USO);

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- C) Junior ROTC Programs; and
- D) Organizations as specifically authorized under 32 USC 508 (e.g., Civil Air Patrol, Special Olympics, Boy Scouts and Girl Scouts, Boys Clubs and Girls Clubs, YWCA and YMCA, Campfire Boys and Campfire Girls, and 4-H Clubs).
- 5) Illinois National Guard units and their associated family readiness groups for social functions, as approved through the appropriate chain of command.
- 6) Organizations and events that are specifically authorized by the Adjutant General or his or her designee, on a case-by-case basis, if the following conditions are met:

 - A) The type of event is not prohibited by Section 1510.200.
 - B) The facility is available for use, and the event will not in any way interfere with military training.
 - C) Use of the National Guard facility will not compete with commercially available facilities. In this regard, the requestor must provide written attestation that there are no such facilities within a 25-mile radius of the National Guard facility or that all such commercial facilities are not available for the event.
 - D) The user is charged fair-market value for use of the facility, as determined by a local average of rental charges for similarly-sized commercial facilities.

~~It is the policy of the Adjutant General that Illinois National Guard armories will be made available for reasonable and legitimate activities and, to that end, armory managers and maintenance/janitorial supervisors (hereinafter referred to as "armory managers") will allow such use.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 1510.110 Insurance Requirements

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- a) Proof of insurance (general liability and property loss/damage) is required from all users except as provided in subsection (b). A certificate of insurance must be provided to the Office of the Adjutant General, along with the signed use agreement, prior to use of the facility. The insurance will include the Illinois Department of Military Affairs as a named additional insured and will be in such amounts as are satisfactory to the Adjutant General.
- b) Exceptions to the requirement for insurance are:
- 1) Use by the Department of Defense, other federal agencies, or State of Illinois agencies; and
 - 2) Use by Illinois National Guard units, including family readiness groups, for social activities or other unit-sponsored activities; however, if liquor is served at such an event, dram shop insurance will be required.
- ~~a) Proof of insurance is required. A certificate of insurance issued by the company/broker must be returned to the Office of the Adjutant General along with the signed contract and must indicate that the lessee's insurance coverage extends to the armory by armory name and address.~~
- ~~b) Dram shop coverage is required in addition to liability and property loss/damage for any event selling or serving alcohol.~~
- ~~e) Exceptions to the requirement for insurance are:~~
- ~~1) Rental to other state or federal agencies; and~~
 - ~~2) Use by military units for social activities or other unit-sponsored activities. However, if liquor is sold/dispensed, dram shop insurance is required.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 1510.120 Use for Specific Purposes~~Use by Civilian Agencies~~

- a) Use of National Guard Armory as a Polling Place: State-owned armories may be made available as polling places, but only in accordance with State law and Department of Defense policy.

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- b) Seniors Walking Program. As a community service, and to the extent a safe and suitable area exists for such purposes, National Guard armories may be used for walking programs during normal duty hours of the facility. However, persons participating in such a program will be required to sign a Release of Liability (see Appendix B) prior to use. The facility manager will keep a copy of each release on file and will ensure participants sign in at the facility prior to each use.
- a) ~~Use as a Polling Place: Armory space will be made available as a polling place without charges. Armory clean up and security will be provided from Department resources.~~
- b) ~~Use as an Emergency Evacuation Shelter: The Adjutant General will consider the use of an armory as an emergency evacuation shelter for hospitals, nursing homes and the like (for periods not exceeding 72 hours) as part of an institutional plan to cope with disasters. However, such prospective users will be advised that in a disaster, the National Guard may need the facility for disaster aid operations at the direction of the Governor.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 1510.130 Long-Term Space UseRental and Extended Contracts

Prior to entering into any Use Agreement requiring long-term (i.e., 30 days or more) relinquishment of offices and classrooms or other space, a letter prepared by the facility manager shall be forwarded through military channels to the Assistant Adjutant General-Army for review of impact on the Illinois National Guard mission (e.g., reduced availability of space, interference with training, or security concerns). Long-term use will not normally be approved and any approved agreements will not be executed for more than a one-year period.

~~Prior to entering into any rentals requiring long term relinquishment of space (i.e., either office, classroom or assembly areas), a letter prepared by the armory manager will be forwarded through military channels to the Assistant Adjutant General—Army, Department of Military Affairs, hereinafter referred to as DMAIL, for review of impact on the Illinois National Guard mission by the loss or reduced availability of the space (e.g., interference with training or operations). The Assistant Adjutant General—Army will advise the Adjutant General on suitability of the rental. Armory rental, vending machine contracts or concession contracts cannot be for more than one year. Charges for these contracts will be computed for the entire rental period when the contract worksheet (see Section 1510.Appendix A) is prepared, and the~~

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~~lessee will submit payment for at least one month's use when the contract is signed. All charges for succeeding months use will be paid within 15 days after receipt of a monthly billing from the Office of the Adjutant General.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 1510.140 Alcoholic Beverage Policy

Alcoholic beverages may not be delivered to, sold at, or consumed in or at any building or facility used as an Illinois State Armory or training facility by any entity external to the Illinois Department of Military Affairs/Illinois National Guard who uses the facility under [this Part](#).

- a) ~~Alcoholic liquors may be delivered to and sold at retail in any building used as an Illinois State Armory provided:~~
- 1) ~~The lessee obtains State and local liquor licenses, and submits them to the Office of the Adjutant General prior to the event;~~
 - 2) ~~The lessee selling or dispensing the alcoholic liquors has provided dram shop liability insurance so as to save harmless the facility and the State from all financial loss, damage or harm; and~~
 - 3) ~~If catered, the caterer must have the required liquor licenses and dram shop insurance to dispense alcoholic beverages for a lessee in the armory.~~
- b) ~~When liquor is not served or sold during rentals, signs must be posted in prominent places stating that all alcoholic beverages are prohibited. If tickets are to be printed by organizations for functions to be held in the armory where no liquor is served or dispensed, a "No Liquor On Premises" statement must be imprinted on the tickets.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 1510.150 Areas Available for UseRental

- a) Assembly areas, classrooms, and vacant offices;
- b) Outdoor parking and grassy areas;

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- c) Firing ranges (military personnel and governmental law enforcement agencies only).

~~The following armory areas will be considered for rental:~~

- a) ~~Assembly area;~~
- b) ~~Classrooms;~~
- e) ~~Supporting restroom facilities;~~
- d) ~~Indoor ranges; and~~
- e) ~~Armory's kitchen facilities, but only with qualified National Guard personnel on hand to supervise the use and clean up.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART B: RESTRICTIONS ON ~~USERENTAL~~ OF NATIONAL GUARD
FACILITIES ARMORIES

Section 1510.200 Restrictions on UseRental Activities

- a) The Adjutant General may restrict or prohibit the use of any National Guard facility when, in his or her sole discretion, the Adjutant General determines:
- 1) There may be damage to National Guard property as a result of the use (e.g., heavy equipment or vehicles on the assembly area floor);
 - 2) The event may endanger the community, National Guard personnel, or participants;
 - 3) The anticipated use is an unacceptable security risk;
 - 4) The proposed use may reflect negatively on the National Guard;
 - 5) The facility cannot accommodate the anticipated event or crowds; or
 - 6) Civilian facilities are reasonably available where the event could be held.

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- b) A National Guard facility will not be used for any of the following or similar functions:
- 1) Professional sporting events, rock concerts, or similar entertainment events, where admission will be charged or tickets are sold for the event;
 - 2) Amateur athletic events, except those conducted by governmental entities, such as schools or park districts, as part of an official program;
 - 3) Gambling events, or obscene or lewd entertainment, of any kind;
 - 4) Any for-profit activity or event where commercial products are exhibited for sale or re-sale to the public;
 - 5) Wedding receptions, parties, or similar events;
 - 6) Any activity or event where alcohol will be sold or consumed, except as provided in Section 1510.110(b)(2);
 - 7) Any type of partisan political event, including activities sponsored by any partisan political party, political action committee, or registered lobbying organization;
 - 8) Religious services conducted by a religious organization of any denomination or faith;
 - 9) Any fundraising activity or event, except those conducted by organizations listed in Section 1510.100(b)(4) for charitable/nonprofit purposes; and
 - 10) Any event or activity requiring the exclusive use of an assembly area for more than five consecutive days, or that requires the displacement of military vehicles or equipment from an assembly area.
- c) No smoking will be permitted inside any National Guard facility.
- a) ~~Neither the lessee, nor any exhibitor or merchant occupying floor space will engage in the sale of merchandise or services of any kind without prior approval~~

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~~of the Adjutant General. When deciding whether to grant such approval, the Adjutant General will consider the following factors:~~

- ~~1) Whether there will be damage to armory property as a result of the rental;~~
 - ~~2) Whether the event will endanger the community, armory personnel, or participants;~~
 - ~~3) Whether the merchandise or services are of an obscene or lewd nature; and~~
 - ~~4) Whether the armory can accommodate the anticipated event or crowds.~~
- b) ~~The armory will not be rented to any organization or individual for any of the following or similar functions:~~
- ~~1) Professional sports;~~
 - ~~2) Midget auto racing;~~
 - ~~3) Roller skating;~~
 - ~~4) Gambling of any kind;~~
 - ~~5) Obscene or lewd entertainment; and~~
 - ~~6) Rock concerts.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 1510.210 Alterations of Premises~~Measures Required to Prevent Armory Damage~~

No alterations or additions to the facility of any kind shall be made without the prior written approval of the Adjutant General. The user is liable to the State of Illinois for any damages arising out of alterations. In deciding whether to allow a requested alteration or addition, the Adjutant General will consider whether the alteration or addition will:

- a) damage armory property;
- b) be dangerous or hazardous (e.g., exposed electrical cable);

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- c) affect military operations or training or future use;
 - d) adversely affect the appearance of the armory (e.g., bright paint); and
 - e) be temporary or permanent.
- ~~a) The armory will not be rented when such use will cause damage to the floor or other facilities (e.g., heavy equipment). In any event where vehicles are to be on the floor, they must be drained of gasoline prior to being moved in and the floor properly protected from oil drippings.~~
- ~~b) The armory will not be rented for any use where liquified petroleum gases in any form are involved.~~
- ~~c) Arrangements for heavy electrical loads for rentals must be arranged between the lessee and local utility company. Payments for extra electricity will be made by the lessee directly to the utility. The electrical panel boxes in the armory will not be used for running additional power cables.~~
- ~~d) The lessee will make no alterations or additions to the armory without the written approval of the Adjutant General. The lessee is liable to the State of Illinois for damages arising out of the use of the armory. In deciding whether to allow a requested alteration or addition, the Adjutant General will consider the following factors:~~
- ~~1) Whether the alteration or addition will damage armory property;~~
 - ~~2) Whether the alteration or addition will be dangerous or hazardous (e.g., exposed electrical cable);~~
 - ~~3) Whether the alteration or addition will affect military operations or training or future rentals;~~
 - ~~4) Whether the alteration or addition will adversely affect the appearance of the armory (e.g., bright paint); and~~
 - ~~5) Whether the alteration or addition will be temporary or permanent.~~

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- e) ~~No smoking will be permitted on the armory floor.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART C: STANDARD ~~USE~~LEASE REQUIREMENTS**Section 1510.300 ~~Use Requirements~~Lease Procedures and Preparation of Paperwork**

- a) Worksheet: User will complete a Facility Use Worksheet (see Appendix A) that shall be forwarded to the Administrative Assistant at the Office of the Adjutant General. If the proposed use is approved, an appropriate agreement will be drafted and sent to the user for approval and signature.
- b) Charges:
- 1) Governmental agencies and organizations identified in Section 1510.100(b)(1) through (5) will be charged only Identifiable Incremental Costs (IICs) for use of the facility. IICs are those charges the Department incurs that are directly related to the use of the facilities and that the National Guard would not otherwise have incurred. For example, such costs may include additional utility and grass mowing costs, costs of consumables like targets, cleaning and damage repair, and employee overtime. When authorized under the provisions of an Intergovernmental Agreement that also provides for Department use of facilities owned by the other governmental entity, IICs may be offset against costs the Department incurred when using those facilities.
 - 2) Organizations and activities identified in Section 1510.100(b)(6) will be charged fair market value for use of the facility. The Department will prepare a bill showing the calculation of fair market value and will forward it to the user with the proposed use agreement. The user will return the signed agreement, payment, proof of insurance, and any other required documentation to the Administrative Assistant prior to the use date. Unless other arrangements are made, the user will submit payment in full for a one-time use and, in all other cases, the user will pay bills in full within 15 days after receipt or as otherwise provided in the agreement.
 - 3) If a heavy electrical load will be required for the event at the facility, the user will arrange for purchase of that electricity with the local utility

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company. Payments for the connection and electricity will be made by the user directly to the company and electrical panel boxes at the facility will not be used for running additional power cables.

~~In order to initiate the rental of an armory, the interested party should contact the armory manager who will prepare an Armory Rental Contract Worksheet (DMAIL Form 22) for each lease. See Section 1510. Appendix A. Rent, operating costs, security and clean-up costs, and any additional costs will be computed and recorded on the worksheet, but the armory manager will not collect monies from the lessee. The armory manager will brief the lessee on the rental and insurance requirements. The worksheet will then be forwarded to the Administrative Assistant at the Office of the Adjutant General where, if the proposed rental is approved, a contract will be drafted and sent to the lessee for approval and signature.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 1510.310 Security Requirements ~~Payment of Rental Fees~~

- a) If the use of the facility will be after normal duty hours, the facility and military equipment must be safeguarded by National Guard personnel. The user will be provided contact information for National Guard personnel who are willing to provide security, and the user shall hire sufficient National Guard personnel, at hourly base rates established by the Illinois Department of Central Management Services for State employees performing security guard duties. Payment shall be made by the user directly to the National Guard personnel hired to perform the security function.
- b) Even though hired by the user, such security personnel are accountable to the facility manager and not to the user. They are hired to ensure that the facility and State/federal government property are safeguarded and they will not be engaged in maintaining order or crowd control at the user's event.
- c) Should the organization or entity require assistance maintaining order or crowd control at the event, the local law enforcement agency must be notified and support must be coordinated with that agency in advance of the event.
- d) Should the organization or activity wishing to use the National Guard facility be unable to arrange for sufficient National Guard personnel, as determined by the facility manager, to provide security for the event, the event will not be held.

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- a) ~~The Administrative Assistant will prepare a bill in accordance with the rate schedule shown at Section 1510. Appendix B for the rental payment and forward it to the lessee with the proposed contract. The lessee will return the signed contract, check, proof of insurance, and any other required documentation to the Administrative Assistant.~~
- b) ~~Unless other arrangements are made with the armory manager at the time of preparation of the armory rental worksheet, the lessee will submit payment in full for a one time rental of the armory at the time the contract is signed. In all other cases, the lessee will pay all bills in full within 15 days after receipt.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 1510.320 Clean-up of Facilities After Use~~Security Requirements~~

- a) Clean-up must be accomplished within 24 hours after use to an "as found" condition, as determined by the facility manager. The facility manager shall inspect the area prior to the use with a representative of the user if he or she desires to be present. It is the user's responsibility to either clean the areas used or to hire personnel to clean the area.
- b) Clean-up shall be under the supervision of and to the standards of the facility manager and shall be accomplished without interfering with National Guard operations or personnel.
- a) ~~All after normal duty hours rentals require that the facility and the military equipment be safeguarded by National Guard personnel. The lessee will be charged for the required security personnel if they are not normally working at the time of the event.~~
- b) ~~Security personnel are accountable to the armory manager and not to the lessee. They are hired to insure that the facility and government property are safeguarded. They will not be engaged in maintaining order or crowd control at the lessee's activity.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 1510.330 Termination of Use Agreement~~Clean-up of Armory Facilities After Use~~

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The Adjutant General reserves the right to terminate any event without prior notice to the user whenever the facility is required for military purposes (e.g., training, mobilization, or disaster aid operations). In all other cases, either the Adjutant General or the user may terminate the use agreement upon two weeks' advance notice, in writing, to the other party.

- a) ~~Clean up after a rental will be accomplished within 24 hours to an "as found" condition as determined by the armory manager who shall inspect the area prior to the rental with a representative of the lessee if he desires to be present. This is the lessee's responsibility to either clean the armory or hire personnel to clean the armory. If the lessee desires, the armory manager is authorized to hire personnel for this task and charge the lessee.~~
- b) ~~If clean up is done by the lessee, it will be under the supervision of and to the standards of the armory manager.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 1510.340 Vending Machine Procedures~~Termination of Lease~~

- a) All coin operated vending machines located in Illinois National Guard facilities shall be commercially contracted with proceeds going to the Military Affairs Trust Fund.
- b) All unit requests for vending machines shall be forwarded to the Adjutant General, ATTN: Administrative Assistant. The Administrative Assistant will process approved requests to the State Procurement Officer for appropriate action and copies of any resulting contracts will be sent to the facility manager and the Department Comptroller for action.

~~The Adjutant General reserves the right to terminate the lease without notice to the lessee whenever the armory is required for military purposes (e.g. training or Federal mobilization) or disaster aid operations at the direction of the Governor. In all other cases, either the Adjutant General or the lessee may terminate the lease upon two weeks' advance notice, in writing, to the other party.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 1510.350 Hold Harmless Provision (Repealed)

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~~All lessees, except State and Federal agencies or military units, will be required to enter into "hold harmless" agreements to provide for indemnification of the State of Illinois or its agents and employees.~~

(Source: Repealed at 31 Ill. Reg. _____, effective _____)

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Section 1510.APPENDIX A National Guard Facility Use Armory Rental Contract
Worksheet

Part I
To Be Completed by User/Requestor

1. **Requestor**

Complete name of requesting organization

Street

City

Zip

Phone

Email

As Applicable:

Illinois Tax ID # or Individual's SSN

Federal Tax-Exempt Number

Not-For-Profit Certification Number

2. **Facility Requested and Specific Portions of the Facility Requested**

3. **Dates and Time Facility Requested** *(attach schedule sheet if required)*

date *from* *am/pm* *to* *am/pm* *total # hours*

4. **Detailed Description of Proposed Facility Use**

5. **Number of Persons Estimated at Activity or Event**

Remarks:

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6. Acknowledgements (initial appropriate box)

User is a DoD, other federal or State Agency. Use is for official activity of agency and user agrees to pay Identifiable Incremental Costs (IIC) as billed by the Illinois Department of Military Affairs.

User is an official governmental agency (other than State or federal) or one of the following organizations:

- | | | |
|-----------------------------|--|---------------------------|
| <u>? American Red Cross</u> | <u>Organizations specified under 32 USC 508:</u> | |
| <u>? USO</u> | <u>? Civil Air Patrol</u> | <u>? YWCA/YMCA</u> |
| <u>? ROTC</u> | <u>? Boy/Girl Scouts of America</u> | <u>? Special Olympics</u> |
| <u>? JROTC</u> | <u>? Boys/Girls Club of America</u> | <u>? 4-H</u> |
| | <u>? Camp Fire Boys/Girls</u> | |

Use by this entity is for an official activity of the agency and user agrees to pay IIC as billed by the Department. User agrees to submit a certificate of insurance showing proof of liability and property damage coverage, along with the signed agreement, prior to occupancy. Insurance certificates MUST include the Department as an additional named insured and insurance shall be provided in the amount specified by the Department.

User is not one of the agencies or organizations described above. User requests the use of the National Guard facility because there is no commercially available alternative facility or venue within a 25-mile radius of the requested facility. In support of this request, the user certifies that it has contacted the following alternative facilities or venues within a 25-mile radius and that the facilities are not available. Attach bid or price quote provided by the alternative facility or venue.

The following facilities or venues exist within a 25-mile radius:

<u>Name of Facility or Venue</u>	<u>Phone #</u>
_____	_____
_____	_____
_____	_____
_____	_____

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If request is approved, user agrees to pay fair-market value for use of the National Guard facility, to include IIC that reflect all costs incurred by the Department as a direct result of the use, as billed by the Department. User agrees to submit a certificate of insurance showing proof of liability and property damage coverage, along with the signed agreement, prior to occupancy. Insurance certificates MUST include the Department as an additional named insured and insurance shall be provided in amount specified by the Department.

Signature of User Representative

Title

Date

Part II

To Be Completed by Facility Manager and Military Chain-of-Command

1. Facility: _____

Manager

Phone

Fax

2. Endorsements

I endorse the above request for use of the facility and certify that the request is feasible, supportable and acceptable. No known conflict with the military use of the facility exists.

Facility Manager

Date

OIC

Date

3. Requirements

If approved, the following planning considerations are recommended:

- a. Total number of usage hours
b. Total number of security personnel required
c. Total number of security hours required
d. Total number of facility manager administrative hours required
e. Total number of set-up/clean-up personnel required

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SSN: _____

Address: _____

City, St, Zip: _____

Phone: Business: _____ Home: _____

4. ~~DESCRIBE IN DETAIL HOW THE ARMORY WILL BE USED:~~ _____

5. ~~WILL THERE BE INCOME TO THE LESSEE BEECAUSE OF THIS USE THROUGH:~~ _____

a. Ticket sales	_____	Program sales	_____
b. Sale of Advertising	_____	Concessions	_____
c. Contributions	_____	Vending	_____
d. Subletting	_____	Other	_____

6. ~~HOW IS THE LESSEE USING THE INCOME FROM THIS RENTAL:~~ _____

7. ~~ESTIMATED NUMBER OF PEOPLE ATTENDING THE EVENT:~~ _____

8. ~~DATE/HRS REQUESTED: (attach schedule sheet if required)~~ _____

_____	_____	_____
Date(s)	Time (From—To)	Total # Hours

9. Will alcohol be served	_____	or sold	_____
	Yes or No		Yes or No

10. ~~AREAS OF ARMORY TO BE RENTED:~~ _____

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Assembly area: _____ (Includes supporting hallways and restrooms)

Classrooms: Room numbers or identification _____

11. INSURANCE

I understand I MUST submit a certificate of insurance as proof of liability and property damage coverage along with the signed contract. I understand also that if liquor is to be served, I will be required to show proof of Dram Shop Insurance. The insurance certificate must reflect that liability and property damage/loss coverage has been extended to the armory being rented.

12. RENTAL CHARGES:

a. Total number of hours this rental (to be multiplied times the hourly rate shown in Appendix B which includes routine clean-up and security charges). _____

b. Subletting fees (if applicable). Number of spaces to be sublet: _____; at \$ _____ each, for a total of \$ _____. DMAIL fee 15% of total: _____

c. Total number of hours Armory Manager administration (preparation of payrolls and rental oversight) _____

d. Adjustments to rental charges (to be multiplied times the hourly fee for that service as shown in Appendix B); may be adjusted upward or downward: _____

1. Total of number of hours clean up required:

a) By DMAIL janitorial personnel _____

b) By personnel hired by DMAIL pursuant to contractor's authorization _____

2. Total number of hours security required: _____

a) By security personnel during normal duty hours _____

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b) ~~By personnel hired by DMAIL during non-duty hours pursuant to contractor's authorization~~

13. ~~How is contract to be paid:~~

a. ~~Paid in advance in full when contract is signed (required payment method for all one-time use rentals and lessee's option for all others)~~

b. ~~*Semi-Annually~~

c. ~~*Quarterly~~

d. ~~*Monthly~~

~~* Lessee's option for all leases except one-time use rentals — payments will be due 15 days after each billing from DMAIL~~

~~I have read the foregoing and understand the charges for my rental will be determined by the Office of the Adjutant General upon receipt of this worksheet, and that a contract will be prepared and forwarded to me for my signature. I further understand that I am under no obligation to enter into this contract when forwarded to me for signature.~~

~~_____
Lessee's Signature~~

~~I recommend approval of the proposed rental on the term described on this worksheet.~~

~~_____
Armory Manger~~

~~ALL QUESTIONS MUST BE ANSWERED TO ENSURE PROMPT PROCESSING OF CONTRACT, IF NOT APPLICABLE ENTER N/A.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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Section 1510.APPENDIX B Release of Liability Armory Rental Rate Sheet

I, representative, the undersigned duly authorized representative of user organization (user) in consideration of being permitted to use property of the State of Illinois at the facility for the purpose of , do hereby release and agree to hold harmless the Illinois Department of Military Affairs, the State of Illinois, the United States Government and their agents, officers, and employees from any and all liability, claims, demands, actions and causes of actions whatsoever arising out of or related to any loss, damage or injury, including death, that may be sustained by user or user's guests or to any property of the user or user's guests, while in or on the above premises or while en route to or from the premises.

User recognizes that there are certain risks involved to user and user's guests and to the property of the user and the user's guests while using the above premises and that those risks include, but are not limited to, injuries from falling and vehicular traffic. Knowing the present condition of the premises and knowing that those conditions may become more hazardous and dangerous during the time that user and user's guests are on the premises, user voluntarily elects to use the premises and assume all risks of loss, damage or injury, including death. Furthermore, this release of liability shall be binding on the heirs, next of kin, executors, administrators and personal representatives of the user and the user's guests.

User acknowledges that it has carefully read the foregoing release and knows the contents of this release, that execution of this release is a voluntary act on user's behalf, and that the signatory is 18 years of age or older and of sound mind.

Date: _____ Organization: _____

Representative: _____
Signature

Printed Name

Street Address

City, State, Zip

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Date: _____

Witness: _____

~~ARMORY RENTAL RATE SHEET~~

~~Rates shown include routine security and clean up. Rates are subject to increase when an activity will require additional clean up and/or security. Rates will be adjusted downward when an activity requires less than usual clean up and security. Rates for clean up and security are \$8.00 for each hour required. Administration fees are \$9.50 per hour. Fees for subletting are 15% of total planned space/exhibitor fees.~~

~~HOURLY RATES~~

	Assembly Area		Classroom
	20,000 SF or less	*More than 20,000 SF	
1. Charities (with federal tax exempt number); or other groups which donate 100% of net profit to humanitarian efforts on behalf of the physically or mentally handicapped or the underprivileged, or for the treatment or prevention of illness.	25.50	36.40	19.00
2. Government Agencies (Federal, State, or local)	22.60	30.60	18.00
3. Park & Recreation Districts for recreational programs; or school athletic programs/team practices	28.50	42.40	22.00
4. Not for profit groups organized under the Illinois GENERAL NOT FOR PROFIT CORPORATION ACT OF 1986 (Ill. Rev. Stat. 1987, ch. 32, par. 101.01, et seq.)	33.00	51.40	25.00
5. Other persons, groups, or organizations	48.00	81.40	32.00

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~~*Broadway, Chicago Avenue, General Jones, Northwest and Rockford Armories.~~

~~Rates for Indoor Ranges (Beardstown, Marseilles, North Riverside and Springfield only). Use by any group is limited to 2 hours per week at Marseilles and Springfield. Rates include routine clean-up and security.~~

~~1. Government Agencies: \$ 16.00 per hour~~

~~2. All Others: \$ 20.00 per hour~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: General Rules
- 2) Code Citation: 35 Ill. Adm. Code 101
- 3) Section Number: 101.202 Proposed Action: Amend
- 4) Statutory Authority: Implementing Sections 5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7 of the Environmental Protection Act (Act) [415 ILCS 5/5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27] as amended by Public Act 94-0824
- 5) A Complete Description of the Subjects and Issues Involved: For a more detailed discussion of these amendments, see the Board's April 19, 2007 opinion and order in docket R07-17. This rulemaking proposes amendments to Parts 101, 732, and 734 to incorporate recent statutory changes to the Environmental Protection Act (Act) [415 ILCS 5].

The amendments to Part 101 are driven by changes to the Act found in Public Act (PA) 94-824. P.A. 94-824, effective June 2, 2006, amended the Act's definition of "pollution control facility". See 415 ILCS 5/3.330(a)(11.5). Specifically, P.A. 94-824 added a sixteenth exception to that definition to include processing sites or facilities that receive used oil for purposes of recycling the used oil. This exemption applies to facilities that are:

- (i) located within a home rule unit of local government with a population of at least 30,000 according to the 2000 federal census, that home rule unit of local government has been designated as an Urban Round II Empowerment Zone by the United States Department of Housing and Urban Development, and that home rule unit of local government has enacted an ordinance approving the location of the site or facility and provided funding for the site or facility; and (ii) in compliance with all applicable zoning requirements [415 ILCS 5/3.330(a)(11.5)].

The Board is amending the definition of "pollution control facility" in its procedural rules to include this additional exemption.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

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- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This 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) (2004)].
- 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 R07-17 and be addressed to:

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

The Board has scheduled two hearings in this rulemaking as follows:

First hearing:

Wednesday, May 16, 2007
1:00 pm
Illinois Pollution Control Board conference room
Room 11-512
James R. Thompson center
100 W. Randolph Street
Chicago, Illinois

Second hearing:

Thursday June 7, 2007
1:00 pm
Illinois Pollution Control Board conference room
Illinois Environmental Protection Agency building, north entrance
1021 N. Grand Ave. East

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Springfield, Illinois

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

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking would affect any used oil processing facility that qualifies under the new exemption of the definition of a "pollution control facility".
 - B) Reporting, bookkeeping or other procedures required for compliance: This rulemaking does not impose any additional reporting or recordkeeping requirements.
 - C) Types of Professional skills necessary for compliance: None
- 14) Reason this rulemaking was not included on the most recent regulatory agenda: This rulemaking was not included in the Board's most recent regulatory agenda because: the Board did not anticipate incorporating these statutory amendments into its rules at this time.

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER I: POLLUTION CONTROL BOARD

PART 101
GENERAL RULES

SUBPART A: GENERAL PROVISIONS

Section	
101.100	Applicability
101.102	Severability
101.104	Repeals
101.106	Board Authority
101.108	Board Proceedings
101.110	Public Participation
101.112	Bias and Conflict of Interest
101.114	Ex Parte Communications

SUBPART B: DEFINITIONS

Section	
101.200	Definitions Contained in the Act
101.202	Definitions for Board's Procedural Rules

SUBPART C: COMPUTATION OF TIME, FILING, SERVICE
OF DOCUMENTS, AND STATUTORY DECISION DEADLINES

Section	
101.300	Computation of Time
101.302	Filing of Documents
101.304	Service of Documents
101.306	Incorporation of Documents by Reference
101.308	Statutory Decision Deadlines and Waiver of Deadlines

SUBPART D: PARTIES, JOINDER, AND CONSOLIDATION

Section	
101.400	Appearances, Withdrawals, and Substitutions of Attorneys in Adjudicatory

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Proceedings

101.402	Intervention of Parties
101.403	Joinder of Parties
101.404	Agency as a Party in Interest
101.406	Consolidation of Claims
101.408	Severance of Claims

SUBPART E: MOTIONS

Section

101.500	Filing of Motions and Responses
101.502	Motions Directed to the Hearing Officer
101.504	Contents of Motions and Responses
101.506	Motions Attacking the Sufficiency of the Petition, Complaint, or Other Pleading
101.508	Motions to Board Preliminary to Hearing
101.510	Motions to Cancel Hearing
101.512	Motions for Expedited Review
101.514	Motions to Stay Proceedings
101.516	Motions for Summary Judgment
101.518	Motions for Interlocutory Appeal from Hearing Officer Orders
101.520	Motions for Reconsideration
101.522	Motions for Extension of Time

SUBPART F: HEARINGS, EVIDENCE, AND DISCOVERY

Section

101.600	Hearings
101.602	Notice of Board Hearings
101.604	Formal Board Transcript
101.606	Informal Recordings of the Proceedings
101.608	Default
101.610	Duties and Authority of the Hearing Officer
101.612	Schedule to Complete the Record
101.614	Production of Information
101.616	Discovery
101.618	Admissions
101.620	Interrogatories
101.622	Subpoenas and Depositions
101.624	Examination of Adverse, Hostile or Unwilling Witnesses

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- 101.626 Information Produced at Hearing
- 101.628 Statements from Participants
- 101.630 Official Notice
- 101.632 Viewing of Premises

SUBPART G: ORAL ARGUMENT

- Section
- 101.700 Oral Argument

SUBPART H: SANCTIONS

- Section
- 101.800 Sanctions for Failure to Comply with Procedural Rules, Board Orders, or Hearing Officer Orders
- 101.802 Abuse of Discovery Procedures

SUBPART I: REVIEW OF FINAL BOARD OPINIONS AND ORDERS

- Section
- 101.902 Motions for Reconsideration
- 101.904 Relief from and Review of Final Opinions and Orders
- 101.906 Judicial Review of Board Orders
- 101.908 Interlocutory Appeal

- 101.APPENDIX A Captions
 - 101.ILLUSTRATION A Enforcement Case
 - 101.ILLUSTRATION B Citizen's Enforcement Case
 - 101.ILLUSTRATION C Variance
 - 101.ILLUSTRATION D Adjusted Standard Petition
 - 101.ILLUSTRATION E Joint Petition for an Adjusted Standard
 - 101.ILLUSTRATION F Permit Appeal
 - 101.ILLUSTRATION G Underground Storage Tank Appeal
 - 101.ILLUSTRATION H Pollution Control Facility Siting Appeal
 - 101.ILLUSTRATION I Administrative Citation
 - 101.ILLUSTRATION J General Rulemaking
 - 101.ILLUSTRATION K Site-specific Rulemaking
- 101.APPENDIX B Appearance Form
- 101.APPENDIX C Withdrawal of Appearance Form

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- 101.APPENDIX D Notice of Filing
- 101.APPENDIX E Certificate of Service
 - 101.ILLUSTRATION A Service by Non-Attorney
 - 101.ILLUSTRATION B Service by Attorney
- 101.APPENDIX F Notice of Withdrawal (Repealed)
- 101.APPENDIX G Comparison of Former and Current Rules (Repealed)

AUTHORITY: Implementing Sections 5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7 of the Environmental Protection Act (Act) [415 ILCS 5/5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27].

SOURCE: Filed with Secretary of State January 1, 1978; codified 6 Ill. Reg. 8357; Part repealed, new Part adopted in R88-5A at 13 Ill. Reg. 12055, effective July 10, 1989; amended in R90-24 at 15 Ill. Reg. 18677, effective December 12, 1991; amended in R92-7 at 16 Ill. Reg. 18078, effective November 17, 1992; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 446, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8743, effective June 8, 2005; amended in R06-9 at 29 Ill. Reg. 19666, effective November 21, 2005; amended in R07-17 at 31 Ill. Reg. _____, effective _____.

SUBPART B: DEFINITIONS

Section 101.202 Definitions for Board's Procedural Rules

Unless otherwise provided in 35 Ill. Adm. Code 101-130, or unless a different meaning of a word or term is clear from the context, the following definitions also apply to the Board's procedural rules, found in 35 Ill. Adm. Code 101 through 130:

"Act" means the Environmental Protection Act [415 ILCS 5/1].

"Adjudicatory proceeding" means an action of a quasi-judicial nature brought before the Board pursuant to authority granted to the Board under Section 5(d) of the Act or as otherwise provided by law. Adjudicatory proceedings include enforcement, variance, permit appeal, pollution control facility siting appeal, Underground Storage Tank (UST) Fund determination, water well set back exception, adjusted standard, and administrative citation proceedings. Adjudicatory proceedings do not include regulatory, quasi-legislative, or informational proceedings.

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"Adjusted standard" or "AS" means an alternative standard granted by the Board in an adjudicatory proceeding pursuant to Section 28.1 of the Act and 35 Ill. Adm. Code 104.Subpart D. The adjusted standard applies instead of the rule or regulation of general applicability.

"Administrative citation" or "AC" means a citation issued pursuant to Section 31.1 of the Act by the Agency, or by a unit of local government acting as the Agency's delegate pursuant to Section 4(r) of the Act.

"Administrative citation review (appeal)" means a petition for review of an administrative citation filed pursuant to Section 31.1(d) of the Act. (See 35 Ill. Adm. Code 108.)

"Affidavit" means a sworn, signed statement witnessed by a notary public.

"Affidavit of service" means an affidavit that states that service of a document upon specified persons was made, and the manner in which, and date upon which, service was made.

"Agency" means the Illinois Environmental Protection Agency as established by Section 4 of the Act.

"Agency recommendation" means the document filed by the Agency pursuant to Sections 37(a) and 28.1(d)(3) of the Act in which the Agency provides its recommended disposition of a petition for variance or an adjusted standard. This includes a recommendation to deny, or a recommendation to grant with or without conditions. (See 35 Ill. Adm. Code 104.218 and 104.416.)

"Amicus curiae brief" means a brief filed in a proceeding by any interested person who is not a party. (See Sections 101.110 and 101.628 of this Part.)

"Applicant" means any person who submits, or has submitted, an application for a permit or for local siting approval pursuant to any of the authorities to issue permits or granting of siting approval identified in Sections 39, 39.1, and 39.5 of the Act.

"Article" means *any object, material, device or substance, or whole or partial copy thereof, including any writing, record, document, recording, drawing, sample, specimen, prototype, model, photograph, culture, microorganism,*

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blueprint or map [415 ILCS 5/7.1].

"Attorney General" means the Attorney General of the State of Illinois or representatives thereof.

"Authorized representative" means any person who is authorized to act on behalf of another person.

"Board" means the Illinois Pollution Control Board as created in Section 5 of the Act or, if applicable, its designee.

"Board decision" means an opinion or an order voted in favor of by at least three members of the Board at an open Board meeting except in a proceeding to remove a seal under Section 34(d) of the Act.

"Board designee" means an employee of the Board who has been given authority by the Board to carry out a function for the Board (e.g., the Clerk, Assistant Clerk of the Board, or hearing officer).

"Board meeting" means an open meeting held by the Board pursuant to Section 5(a) of the Act in which the Board makes its decisions and determinations.

"Board's procedural rules" means the Board's regulations set forth at 35 Ill. Adm. Code 101 through 130.

"Brief" means a written statement that contains a summary of the facts of a proceeding, the pertinent laws, and an argument of how the law applies to the facts supporting a position.

"CAAPP" means the Clean Air Act Permit Program, as adopted in Section 39.5 of the Act.

"Certificate of acceptance" means a certification, executed by a successful petitioner in a variance proceeding, in which the petitioner agrees to be bound by all terms and conditions that the Board has affixed to the grant of variance.

"Chairman" means the Chairman of the Board designated by the Governor pursuant to Section 5(a) of the Act.

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"Citizen's enforcement proceeding" means an enforcement action brought before the Board pursuant to Section 31(d) of the Act by any person who is not authorized to bring the action on behalf of the People of the State of Illinois.

"Clean Air Act" or "CAA" means the federal *Clean Air Act, as now and hereafter amended, 42 USC 7401 et seq.* [415 ILCS 5/39.5]

"Clean Water Act" means the federal Clean Water Act, 33 USC 1251 et seq.

"Clerk" means the Clerk of the Board.

"Complaint" means the initial filing that begins an enforcement proceeding pursuant to Section 31 of the Act and 35 Ill. Adm. Code 103.

"Compliance plan" means a detailed description of a program designed to achieve compliance with the Act and Board regulations.

"Copy" means *any facsimile, replica, photograph or other reproduction of an article, and any note, drawing or sketch made of or from an article* [415 ILCS 5/7.1].

"Counter-complaint" means a pleading that a respondent files setting forth a claim against a complainant. (See 35 Ill. Adm. Code 103.206.)

"Cross-complaint" means a pleading that a party files setting forth a claim against a co-party. (See 35 Ill. Adm. Code 103.206.)

"Cross-media impacts" means impacts that concern multiple environmental areas, such as air, land and/or water.

"Decision date" means the Board meeting immediately preceding the decision deadline.

"Decision deadline" means the last day of any decision period, as established by law, within which the Board is required to render a decision in an adjudicatory proceeding. (See Subpart C of this Part.) (See also Sections 38(a), 40, and 40.1 of the Act that establish 120-day decision deadlines for variances, permit appeals, and review of pollution control facility siting decisions respectively.)

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"Decision period" means the period of time established by the Act within which the Board is required to make a Board decision in certain adjudicatory proceedings. (See Subpart C of this Part.) (See also Sections 38(a), 40, and 40.1 of the Act that establish 120-day decision deadlines for variances, permit appeals, and review of pollution control facility siting decisions, respectively.)

"Deinked stock" *means paper that has been processed to remove inks, clays, coatings, binders and other contaminants* [415 ILCS 20/2.1].

"Delegated unit" means the unit of local government to which the Agency has delegated its administrative citation or other function pursuant to Section 4(r) of the Act.

"DNR" means the Illinois Department of Natural Resources.

"Discovery" means a pre-hearing process that can be used to obtain facts and information about the adjudicatory proceeding in order to prepare for hearing. The discovery tools include depositions upon oral and written questions, written interrogatories, production of documents or things, and requests for admission.

"DOA" means the Illinois Department of Agriculture.

"Duplicative" means the matter is identical or substantially similar to one brought before the Board or another forum.

"Environmental Management System Agreement" or "EMSA" means the agreement between the Agency and a sponsor, entered into under Section 52.3 of the Act and 35 Ill. Adm. Code 187, that describes the innovative environmental measures to be implemented, schedules to attain goals, and mechanisms for accountability.

"Enforcement proceeding" means an adjudicatory proceeding brought upon a complaint filed pursuant to Section 31 of the Act by the Attorney General, State's Attorney, or other persons, in which the complaint alleges violation of the Act, any rule or regulation adopted under the Act, any permit or term or condition of a permit, or any Board order.

"Ex parte communication" means *any written or oral communication by any person that imparts or requests material information or makes a material*

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argument regarding potential action concerning regulatory, quasi-adjudicatory, investment, or licensing matters pending before or under consideration by the Board. "Ex parte communication" does not include the following:

statements by a person publicly made in a public forum, including pleadings, transcripts, and public comments made part of the proceeding's record;

statements regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter; and

statements made by a State employee of the Board to Board members or other employees of the Board. [5 ILCS 430/5-50(b)]. For purposes of this definition, "Board employee" means a person the Board employs on a full-time, part-time, contract or intern basis. (See Section 101.114 of this Part.)

"Fast Track rulemaking" means a Clean Air Act rulemaking conducted pursuant to Section 28.5 of the Act.

"Federally required rule" means *a rule that is needed to meet the requirements of the federal Clean Water Act, Safe Drinking Water Act, Clean Air Act (including required submission of a State Implementation Plan), or Resource Conservation and Recovery Act, other than a rule required to be adopted under subsection (c) of Section 13, Section 13.3, Section 17.5, subsection (a) or (d) of Section 22.4, or subsection (a) of Section 22.40 [415 ILCS 5/28.2].*

"Filing" means the act of delivering a document or article into the custody of the Clerk with the intention of incorporating that document or article into the record of a proceeding before the Board. The Clerk's Office is located at 100 West Randolph Street, Suite 11-500, Chicago, IL 60601.

"Final order" means an order of the Board that terminates the proceeding leaving nothing further to litigate or decide and that is appealable to an appellate court pursuant to Section 41 of the Act. (See Subpart I of this Part.)

"Frivolous" means a request for relief that the Board does not have the authority to grant, or a complaint that fails to state a cause of action upon which the Board

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can grant relief.

"Hearing" means a public proceeding conducted by a hearing officer where the parties and other interested persons, as provided for by law and the Board's procedural rules, present evidence and argument regarding their positions.

"Hearing officer" means a person licensed to practice law in the State of Illinois who presides over hearings and otherwise carries out record development responsibilities as directed by the Board.

"IAPA" means the Illinois Administrative Procedure Act [5 ILCS 100].

"Identical-in-substance rules (or regulations)" means *State regulations which require the same actions with respect to protection of the environment, by the same group of affected persons, as would federal regulations if USEPA administered the subject program in Illinois* [415 ILCS 5/7.2].

"Initial filing" means the filing that initiates a Board proceeding and opens a docket. For instance, the initial filing in an enforcement proceeding is the complaint; in a permit appeal it is a petition for review; and in a regulatory proceeding it is the proposal.

"Innovative environmental measures" means any procedures, practices, technologies or systems that pertain to environmental management and are expected to improve environmental performance when applied. (See 35 Ill. Adm. Code 106.Subpart G.)

"Inquiry hearing" means a hearing conducted by the Board for the purpose of seeking input and comment from the public regarding the need for a rulemaking proceeding in a specific area.

"Interlocutory appeal" means an appeal of a Board decision to the appellate court that is not dispositive of all the contested issues in the proceeding. (See Section 101.908 of this Part.) An interlocutory appeal may also be the appeal of a hearing officer ruling to the Board. (See Section 101.518 of this Part.)

"Intervenor" means a person, not originally a party to an adjudicatory proceeding, who voluntarily participates as a party in the proceeding with the leave of the Board. (See Section 101.402 of this Part.)

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"Intervention" means the procedure by which a person, not originally a party to an adjudicatory proceeding, voluntarily comes into the proceeding as a party with the leave of the Board. (See Section 101.402 of this Part.)

"JCAR" means the Illinois General Assembly's Joint Committee on Administrative Rules established by the IAPA (see 5 ILCS 100/5-90).

"Joinder" means the procedure by which the Board adds a person, not originally a party to an adjudicatory proceeding, as a party to the proceeding. (See Section 101.403 of this Part and 35 Ill. Adm. Code 103.206.)

"Misnomer" means a mistake in name, giving an incorrect name in a complaint or other document with respect to any properly included party.

"Motion" means a request made to the Board or the hearing officer for the purposes of obtaining a ruling or order directing or allowing some act to be done in favor of the movant. (See definition of "movant" in this Section.)

"Movant" means the person who files a motion.

"New pollution control facility" means *a pollution control facility initially permitted for development or construction after July 1, 1981; or the area of expansion beyond the boundary of a currently permitted pollution control facility; or a permitted pollution control facility requesting approval to store, dispose of, transfer or incinerate, for the first time, any special or hazardous waste* [415 ILCS 5/3.330(b)].

"Non-disclosable information" means *information which constitutes a trade secret; information privileged against introduction in judicial proceedings; internal communications of the several agencies; information concerning secret manufacturing processes or confidential data submitted by any person under the Act* [415 ILCS 5/7(a)].

"Notice list" means the list of persons in a regulatory proceeding who will receive all Board opinions and orders and all hearing officer orders. Persons on a notice list generally do not receive copies of motions, public comments, or testimony. (See definition of "service list" in this Section.) (See also 35 Ill. Adm. Code 102.422.)

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"Notice to reinstate" means a document filed that recommences the decision period after a decision deadline waiver has been filed. The notice will give the Board a full decision period in which to make a decision. (See Section 101.308 of this Part.)

"Oral argument" means a formal verbal statement of advocacy on a proceeding's legal questions made at a Board meeting with the Board's permission. (See Section 101.700 of this Part.)

"OSFM" means Office of the State Fire Marshal.

"OSFM appeal" means an appeal of an OSFM final decision concerning eligibility and deductibility made pursuant to Title XVI of the Act.

"Participant" means any person, not including the Board or its staff, who takes part in an adjudicatory proceeding who is not a party, or a person who takes part in a regulatory or other quasi-legislative proceeding before the Board. A person becomes a participant in any of several ways, including filing a comment, being added to the notice list of a particular proceeding, or testifying at hearing.

"Participant in a CAAPP Comment Process" means a person who takes part in a Clean Air Act Permit Program (CAAPP) permit hearing before the Agency or comments on a draft CAAPP permit.

"Party" means the person by or against whom a proceeding is brought.

"Party in interest" means the Agency when asked to conduct an investigation pursuant to Section 30 of the Act during an ongoing proceeding. (See Section 101.404 of this Part.)

"Peremptory rulemaking" means *any rulemaking that is required as a result of federal law, federal rules and regulations, or an order of a court, under conditions that preclude compliance with the general rulemaking requirements of Section 5-40 of the IAPA and that preclude the exercise by the Board as to the content of the rule it is required to adopt.* [5 ILCS 100/5-50]

"Permit appeal" means an adjudicatory proceeding brought before the Board pursuant to Title X of the Act.

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"Person" means *any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.* [415 ILCS 5/3.315]

"Petition" means the initial filing in an adjudicatory proceeding other than an enforcement proceeding, including permit appeals, OSFM appeals, UST appeals, appeals of pollution control facility siting decisions, variances and adjusted standards.

"Pilot project" means an innovative environmental project that covers one or more designated facilities, designed and implemented in the form of an EMSA. (See Section 52.3 of the Act.)

"Pollution control facility" means *any waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility, or waste incinerator. This includes sewers, sewage treatment plants, and any other facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act. The following are not pollution control facilities:*

waste storage sites regulated under 40 CFR 761.42;

sites or facilities used by any person conducting a waste storage, waste treatment, waste disposal, waste transfer or waste incineration operation, or a combination thereof, for wastes generated by such person's own activities, when such wastes are stored, treated, disposed of, transferred or incinerated within the site or facility owned, controlled or operated by such person, or when such wastes are transported within or between sites or facilities owned, controlled or operated by such person;

sites or facilities at which the State is performing removal or remedial action pursuant to Section 22.2 or 55.3 of the Act;

abandoned quarries used solely for the disposal of concrete, earth materials, gravel, or aggregate debris resulting from road construction activities conducted by a unit of government or construction activities due to the construction and installation of underground pipes, lines, conduit or wires off of the premises of a public utility company which are conducted

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by a public utility;

sites or facilities used by any person to specifically conduct a landscape composting operation;

regional facilities as defined in the Central Midwest Interstate Low-Level Radioactive Waste Compact;

the portion of a site or facility where coal combustion wastes are stored or disposed of in accordance with subdivision (r)(2) or (r)(3) of Section 21 of the Act;

the portion of a site or facility used for the collection, storage or processing of waste tires as defined in Title XIV;

the portion of a site or facility used for treatment of petroleum contaminated materials by application onto or incorporation into the soil surface and any portion of that site or facility used for storage of petroleum contaminated materials before treatment. Only those categories of petroleum listed in Section 57.9(a)(3) of the Act are exempt under this definition;

the portion of a site or facility where used oil is collected or stored prior to shipment to a recycling or energy recovery facility, provided that the used oil is generated by households or commercial establishments, and the site or facility is a recycling center or a business where oil or gasoline is sold at retail;

processing sites or facilities that receive only on-specification used oil, as defined in 35 Ill. Adm. Code 739, originating from used oil collectors for processing that is managed under 35 Ill. Adm. Code 739 to produce products for sale to off-site petroleum facilities, if these processing sites or facilities are:

located within a home rule unit of local government with a population of at least 30,000 according to the 2000 federal census, that home rule unit of local government has been designated as an Urban Round II Empowerment Zone by the United States Department of Housing and Urban Development, and that home

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rule unit of local government has enacted an ordinance approving the location of the site or facility and provided funding for the site or facility; and

in compliance with all applicable zoning requirements [415 ILCS 5/3.330];

the portion of a site or facility utilizing coal combustion waste for stabilization and treatment of only waste generated on that site or facility when used in connection with response actions pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the federal Resource Conservation and Recovery Act of 1976, or the Illinois Environmental Protection Act or as authorized by the Agency;

the portion of a site or facility accepting exclusively general construction or demolition debris, located in a county with a population over 700,000 as of January 1, 2000, and operated and located in accordance with Section 22.38 of the Act;

the portion of a site or facility, located within a unit of local government that has enacted local zoning requirements, used to accept, separate, and process uncontaminated broken concrete, with or without protruding metal bars, provided that the uncontaminated broken concrete and metal bars are not speculatively accumulated, are at the site or facility no longer than one year after their acceptance, and are returned to the economic mainstream in the form of raw materials or products; and

the portion of a site or facility located in a county with a population over 3,000,000 that has obtained local siting approval under Section 39.2 of the Act for a municipal waste incinerator on or before July 1, 2005 and that is used for a non-hazardous waste transfer station [415 ILCS 5/3.330].

"Pollution control facility siting appeal" means an appeal of a decision made by a unit of local government filed with the Board pursuant to Section 40.1 of the Act.

"Postconsumer material" means *paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after the waste has been passed through its end usage as a consumer item, including used corrugated*

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boxes, old newspapers, mixed waste paper, tabulating cards, and used cordage. Additionally, it includes all paper, paperboard, and other fibrous wastes that are diverted or separated from the municipal solid waste stream [415 ILCS 20/3(f)(2)(i) and (ii)]. (See also definition of "recycled paper" in this Section.)

"Prehearing conference" means a meeting held in an adjudicatory case to determine the status of the proceedings. A prehearing conference may also be a meeting held in a regulatory proceeding prior to the hearing, the purposes of which *shall be to maximize understanding of the intent and application of the proposal, if possible, and to attempt to identify and limit the issues of disagreement among participants to promote efficient use of time at hearing* [415 ILCS 5/27(d)]. (See 35 Ill. Adm. Code 102.404 and 102.406.)

"Proceeding" means an action conducted before the Board pursuant to authority granted under Section 5 of the Act or as otherwise provided by law. Board proceedings are of two types: quasi-legislative (rulemaking and inquiry proceedings) and quasi-judicial (adjudicatory proceedings).

"Proponent" means any person, not including the Board or its staff, who submits a regulatory proposal to the Board for the adoption, amendment, or repeal of a regulation.

"Provisional variance" means a short term variance sought by an applicant and issued by the Agency pursuant to Section 35(b) of the Act. (See 35 Ill. Adm. Code 104.Subpart C.)

"Public comment" means information submitted to the Board during a pending proceeding either by oral statement made at hearing or written statement filed with the Board.

"Qualitative description" means a narrative description pertaining to attributes and characteristics.

"Quantitative description" means a numerically based description pertaining to attributes and characteristics.

"RCRA variance" means a variance from a RCRA rule or a RCRA permit required pursuant to Section 21(f) of the Act.

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"Record" means the official collection, as kept by the Clerk, of all documents and exhibits including pleadings, transcripts, and orders filed during the course of a proceeding.

"Recycled paper" means paper which contains at least 50% recovered paper material. The recovered paper material must contain at least 45% deinked stock or postconsumer material. (See also "postconsumer material" in this Section.)

"Registered agent" means a person registered with the Secretary of State for the purpose of accepting service for any entity, or a person otherwise authorized in writing as an agent for the purpose of accepting service for that entity.

"Regulatory hearing" or "proceeding" means a hearing or proceeding held pursuant to Title VII of the Act or other applicable law with respect to regulations.

"Regulatory relief mechanisms" means variances, provisional variances and adjusted standards. (See 35 Ill. Adm. Code 104.)

"Representing" means, for purposes of Part 130, *describing, depicting, containing, constituting, reflecting or recording* [415 ILCS 5/7.1].

"Requester" means, for purposes of Part 130, the person seeking from the agency the material claimed or determined to be a trade secret (see 415 ILCS 5/7.1).

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

"Rulemaking" or "rulemaking proceeding" means a proceeding brought under Title VII of the Act or other applicable law for the purpose of adoption, amendment, or repeal of a regulation.

"Sanction" means a penalty or other mechanism used by the Board to provide incentives for compliance with the Board's procedural rules, Board orders or hearing officer orders. (See also Subpart H of this Part.)

"SDWA" means the federal Safe Drinking Water Act (42 USC 300f et seq.).

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"Service" means delivery of documents upon a person. (See Sections 101.300(c) and 101.304 of this Part.)

"Service list" means the list of persons designated by the hearing officer or Clerk in a regulatory or adjudicatory proceeding upon whom participants must serve motions, prefiled questions and prefiled testimony and any other documents that the participants file with the Clerk unless the hearing officer otherwise directs. (See definition of "notice list" in this Section.) (See also 35 Ill. Adm. Code 102.422.)

"Severance" means the separation of a proceeding into two or more independent proceedings, each of which terminates in a separate, final judgment.

"Site-specific rule or regulation" means a proposed or adopted regulation, not of general applicability, that applies only to a specific facility, geographic site, or activity. (See 35 Ill. Adm. Code 102.208.)

"Sponsor" means the proponent of a pilot project that enters into an EMSA with the Agency.

"State enforcement proceeding" means an enforcement proceeding, other than a citizen's enforcement proceeding, that is brought pursuant to Section 31 of the Act.

"Stay" means a temporary suspension of the regular progress of a proceeding pursuant to an order of the Board or by operation of law. (See Section 101.514 of this Part.)

"Subpoena" means a command to appear at a certain time and place to give testimony upon a certain matter.

"Subpoena duces tecum" means a document that compels the production of specific documents and other items at a specified time and place.

"Summary judgment" means the disposition of an adjudicatory proceeding without hearing when the record, including pleadings, depositions and admissions on file, together with any affidavits, shows that there is no genuine issue of material fact, and that the moving party is entitled to judgment as a matter of law. (See Section 101.516 of this Part.)

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"Third party complaint" means a pleading that a respondent files setting forth a claim against a person who is not already a party to the proceeding. (See 35 Ill. Adm. Code 103.206.)

"Trade secret" means *the whole or any portion or phase of any scientific or technical information, design, process (including a manufacturing process), procedure, formula or improvement, or business plan which is secret in that it has not been published or disseminated or otherwise become a matter of general public knowledge, and which has competitive value. A trade secret is presumed to be secret when the owner thereof takes reasonable measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.* [415 ILCS 5/3.490]

"Transcript" means the official recorded testimony from a hearing.

"USEPA" means the United States Environmental Protection Agency.

"Underground storage tank appeal" or "UST appeal" means an appeal of an Agency final decision made pursuant to Title XVI of the Act.

"UST" means underground storage tank.

"Variance" means a temporary exemption from any specified regulation, requirement or order of the Board granted to a petitioner by the Board pursuant to Title IX of the Act *upon presentation of adequate proof that compliance with the rule or regulation, requirement or order of the Board would impose an arbitrary or unreasonable hardship* [415 ILCS 5/35(a)].

"Waiver" means the intentional relinquishing of a known right, usually with respect to a hearing before the Board or entry of a Board decision within the decision period. (See also Section 101.308 of this Part.)

"Web site" means the Board's computer-based informational service accessed on the Internet at <http://www.ipcb.state.il.us>.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Permits and General Provisions
- 2) Code Citation: 35 Ill. Adm. Code Part 201
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
201.146	Amend
- 4) Statutory Authority: Implementing Sections 10, 39, and 39.5 and authorized by Sections 27 and 28.5 of the Environmental Protection Act [415 ILCS 5/10, 27, 28.5, 39, and 39.5]
- 5) A Complete Description of the Subjects and Issues Involved: For a more detailed discussion of these amendments, see the Board's April 19, 2007 opinion and order in docket R07-18: In the Matter of: Nitrous Oxide (NO_x) Emissions From Stationary Reciprocating Internal Combustion Engines and Turbines: Amendments to 35 Ill. Adm. Code 201.146, 211 and 217. The Illinois Environmental Protection Agency (IEPA) filed this rulemaking proposal April 6, 2007 under the fast-track procedures of Section 28.5 of the Environmental Protection Act, 415 ILCS 5/28.5. The Board received an objection to the use of the fast-track procedures on April 16, 2007 from ANR Pipeline, Natural Gas Pipeline Company, Trunkline Gas Company, and Panhandle Eastern Pipeline Company, and on April 17, 2007 the Illinois Environmental Regulatory Group. Until the time for response to the objections has elapsed and the Board can properly rule on the pending objections, the Board must proceed under the Section 28.5 timetable.

IEPA's statement of reasons explains that these rules are proposed to meet certain obligations of the State of Illinois under the Clean Air Act, 42 U.S.C. § 7401 *et seq.*. Specifically, IEPA intends the rules to satisfy Illinois' obligation to submit a State Implementation Plan to address the requirements of the Phase II of the United States Environmental Protection Agency's (USEPA's) nitrogen oxides (NO_x) State Implementation Plan (SIP) call. The NO_x SIP call required affected states, including Illinois, to regulate NO_x emissions from large stationary internal combustion engines as required by the federal Clean Air Act (CAA). 69 Fed. Reg. 21604 (April 21, 2004). This statewide proposal will also regulate NO_x emissions from turbines and smaller engines, as part of the State's obligation to meet NO_x reasonably available control technology (RACT) requirements for the 8-hour ozone and fine particulate matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS), reasonable further progress (RFP), and attainment demonstration requirements.
- 6) Published studies or reports, and sources of underlying data, used to compose this

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rulemaking: The regulatory proposal included the IEPA's *Technical Support Document for Controlling NO_x Emissions from Stationary Reciprocating Internal Combustion Engines and Turbines*(TSD) that relied on several published studies and reports. Copies of the reports that the IEPA relied upon are available for review at the Board's Chicago office, and are listed below.

Technical Support Document for Final Clean Air Interstate Rule, Air Quality Modeling, U.S. EPA, Research Triangle Park, NC, March 2005.

Alternative Control Techniques Document – NO_x Emissions from Stationary Reciprocating Internal Combustion Engines, EPA-453/R-93-032, July 1993, U.S. EPA, OAQPS, RTP, NC 27711.

Alternative Control Techniques Document – NO_x Emissions from Stationary Gas Turbines, EPA-453/R-91-007, January 1993, U.S. EPA, OAQPS, RTP, NC 27711.

Controlling Nitrogen Oxides Under the Clean Air Act: A Menu of Options, July 1994, State and Territorial Air Pollution Program Administrators/Association of Local Air Pollution Control Officials.

Regulatory Impacts Analysis for the NO_x SIP Call, FIP, and Section 126 Petitions, Volume 1: Costs and Economic Impacts, EPA-452/R-98-003, September 1998, U.S. EPA, Office of Air and Radiation, Washington, DC 20460.

Stationary Reciprocating Internal Combustion Engines Technical Support Document for NO_x SIP Call, October 2003, Doug/Grano/Bill Neuffer, EPA OAR, OAQPS, OPSG.

Assessment of Regional NO_x Emissions in the Upper Midwest, Lake Michigan Directors' Consortium, February 15, 2007.

- 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

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- 10) Are there any other proposed rulemakings pending on this Part? No
- 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) (2002)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for 45 days after the date of publication in the *Illinois Register*. Comments should reference Docket R07-18 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 may download copies from the Board's Web site at www.ipcb.state.il.us.

The Board has scheduled hearings for the purposes and on the timetable established by Section 28.5. Each hearing will continue from day-to-day until business is completed:

First hearing: Monday, May 27, 2007
9:00 a.m.
IEPA Office Building,
Training Room 12,14 West
1021 N. Grand Ave. East, North Entrance
Springfield IL

Second hearing: Tuesday, June 19, 2007
(if necessary) 10:00 a.m.
Auditorium, Room C-500
Michael A. Bilandic Building
160 N. LaSalle St., Fifth Floor
Chicago IL

Third hearing: Monday, July 2, 2007
(if necessary) 1:00 p.m.

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IEPA Office Building,
Training Room 12,14 West
1021 N. Grand Ave. East, North Entrance
Springfield IL

An April 20, 2007 hearing officer order contains additional details concerning participation in the rulemaking. For more information contact hearing officer 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
 - B) Reporting, bookkeeping or other procedures required for compliance: The proposed rulemaking requires the owner or operator of an affected source to perform required emissions monitoring, complete required tests, and record, report as required. The owner or operator of an affected source must also maintain emissions monitoring and testing information.
 - 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: January 2007

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER a: PERMITS AND GENERAL PROVISIONSPART 201
PERMITS AND GENERAL PROVISIONS

SUBPART A: DEFINITIONS

Section	
201.101	Other Definitions
201.102	Definitions
201.103	Abbreviations and Units
201.104	Incorporations by Reference

SUBPART B: GENERAL PROVISIONS

Section	
201.121	Existence of Permit No Defense
201.122	Proof of Emissions
201.123	Burden of Persuasion Regarding Exceptions
201.124	Annual Report
201.125	Severability
201.126	Repealer

SUBPART C: PROHIBITIONS

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201.141	Prohibition of Air Pollution
201.142	Construction Permit Required
201.143	Operating Permits for New Sources
201.144	Operating Permits for Existing Sources
201.146	Exemptions from State Permit Requirements
201.147	Former Permits
201.148	Operation Without Compliance Program and Project Completion Schedule
201.149	Operation During Malfunction, Breakdown or Startups
201.150	Circumvention
201.151	Design of Effluent Exhaust Systems

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SUBPART D: PERMIT APPLICATIONS AND REVIEW PROCESS

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201.152	Contents of Application for Construction Permit
201.153	Incomplete Applications (Repealed)
201.154	Signatures (Repealed)
201.155	Standards for Issuance (Repealed)
201.156	Conditions
201.157	Contents of Application for Operating Permit
201.158	Incomplete Applications
201.159	Signatures
201.160	Standards for Issuance
201.161	Conditions
201.162	Duration
201.163	Joint Construction and Operating Permits
201.164	Design Criteria
201.165	Hearings
201.166	Revocation
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201.169	Special Provisions for Certain Operating Permits
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201.180	Applicability (Repealed)
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201.207	Applicability
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201.209	Emissions of Hazardous Air Pollutants
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- 201.211 Application for Classification as an Insignificant Activity
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- 201.261 Contents of Request for Permission to Operate During a Malfunction, Breakdown or Startup
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- 201.301 Records
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- 201.401 Continuous Monitoring Requirements
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- 201.404 Monitoring System Malfunction
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- 201.408 Compliance Schedules

- 201.APPENDIX A Rule into Section Table
- 201.APPENDIX B Section into Rule Table
- 201.APPENDIX C Past Compliance Dates

AUTHORITY: Implementing Sections 10, 39, and 39.5 and authorized by Sections 27 and 28.5 of the Environmental Protection Act [415 ILCS 5/10, 27, 28.5, 39, and 39.5].

SOURCE: Adopted as Chapter 2: Air Pollution, Part I: General Provisions, in R71-23, 4 PCB 191, filed and effective April 14, 1972; 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. 13579; amended in R82-1 (Docket A) at 10 Ill. Reg. 12628, effective July 7, 1986; amended in R87-38 at 13 Ill. Reg. 2066, effective February 3, 1989; amended in R89-7(A) at 13 Ill. Reg. 19444, effective December 5, 1989; amended in R89-7(B) at 15 Ill. Reg. 17710, effective November 26, 1991; amended in R93-11 at 17 Ill. Reg. 21483, effective December 7, 1993; amended in R94-12 at 18 Ill. Reg. 15002, effective September 21, 1994; amended in R94-14 at 18 Ill. Reg. 15760, effective October 17, 1994; amended in R96-17 at 21 Ill. Reg. 7878, effective June 17, 1997; amended in R98-13 at 22 Ill. Reg. 11451, effective June 23, 1998; amended in R98-28 at 22 Ill. Reg. 11823, effective July 31, 1998; amended in R02-10 at 27 Ill. Reg. 5820, effective March 21, 2003; amended in R05-19 and R05-20 at 30 Ill. Reg. 4901, effective March 3, 2006; amended in R07-18 at 31 Ill. Reg. _____, effective _____.

SUBPART C: PROHIBITIONS

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Section 201.146 Exemptions from State Permit Requirements

Construction or operating permits, pursuant to Sections 201.142, 201.143 and 201.144 of this Part, are not required for the classes of equipment and activities listed below in this Section. The permitting exemptions in this Section do not relieve the owner or operator of any source from any obligation to comply with any other applicable requirements, including the obligation to obtain a permit pursuant to Sections 9.1(d) and 39.5 of the Act, Sections 165, 173 and 502 of the Clean Air Act or any other applicable permit or registration requirements.

- a) Air contaminant detectors or recorders, combustion controllers or combustion shutoffs;
- b) Air conditioning or ventilating equipment not designed to remove air contaminants generated by or released from associated equipment;
- c) Each fuel burning emission unit for indirect systems and for heating and reheating furnace systems used exclusively for residential, or commercial establishments using gas and/or fuel oil exclusively with a design heat input capacity of less than 14.6 MW (50 mmbtu/hr), except that a permit shall be required for any such emission unit with a design heat input capacity of at least 10 mmbtu/hr that was constructed, reconstructed or modified after June 9, 1989 and that is subject to 40 CFR 60, Subpart D;
- d) Each fuel burning emission unit other than those listed in subsection (c) of this Section for direct systems used for comfort heating purposes and indirect heating systems with a design heat input capacity of less than 2930 kW (10 mmbtu/hr);
- e) Internal combustion engines or boilers (including the fuel system) of motor vehicles, locomotives, air craft, watercraft, lifttrucks and other vehicles powered by nonroad engines;
- f) Bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including associated laboratory fume hoods, vacuum producing devices and control devices installed primarily to address potential accidental releases;
- g) Coating operations located at a source using not in excess of 18,925 l (5,000 gal) of coating (including thinner) per year;

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- h) Any emission unit acquired exclusively for domestic use, except that a permit shall be required for any incinerator and for any fuel combustion emission unit using solid fuel with a design heat input capacity of 14.6 MW (50 mmbtu/hr) or more;
- i) Any stationary turbine or internal combustion engine with a rated power output of less than 1118 kW (1500 bhp horsepower), except that a permit shall be required for the following:
- 1) Any stationary gas turbine ~~engine~~ with a rated heat input at peak load of 10.7 gigajoules/hr (10 mmbtu/hr) or more that is constructed, reconstructed or modified after October 3, 1977 and that is subject to requirements of 40 CFR 60, Subpart GG; or
 - 2) Any internal combustion engine with a rating at equal to or greater than 500 bhp output that is subject to the control requirements of 35 Ill. Adm. Code 217, Subpart Q;
- j) Rest room facilities and associated cleanup operations, and stacks or vents used to prevent the escape of sewer gases through plumbing traps;
- k) Safety devices designed to protect life and limb, provided that a permit is not otherwise required for the emission unit with which the safety device is associated;
- l) Storage tanks for liquids for retail dispensing except for storage tanks that are subject to the requirements of 35 Ill. Adm. Code 215.583(a)(2), 218.583(a)(2) or 219.583(a)(2);
- m) Printing operations with aggregate organic solvent usage that never exceeds 2,839 l (750 gal) per year from all printing lines at the source, including organic solvent from inks, dilutents, fountain solutions and cleaning materials;
- n) Storage tanks of:
- 1) Organic liquids with a capacity of less than 37,850 l (10,000 gal), provided the storage tank is not used to store any material listed as a hazardous air pollutant pursuant to Section 112(b) of the Clean Air Act, and provided the storage tank is not subject to the requirements of 35 Ill.

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Adm. Code 215.583(a)(2), 218.583(a)(2) or 219.583(a)(2);

- 2) Any size containing exclusively soaps, detergents, surfactants, waxes, glycerin, vegetable oils, greases, animal fats, sweetener, corn syrup, aqueous salt solutions or aqueous caustic solutions, provided an organic solvent has not been mixed with such materials; or
 - 3) Any size containing virgin or re-refined distillate oil, hydrocarbon condensate from natural gas pipeline or storage systems, lubricating oil or residual fuel oils;:-
- o) Threaded pipe connections, vessel manways, flanges, valves, pump seals, pressure relief valves, pressure relief devices and pumps;
 - p) Sampling connections used exclusively to withdraw materials for testing and analyses;
 - q) All storage tanks of Illinois crude oil with capacity of less than 151,400 l (40,000 gal) located on oil field sites;
 - r) All organic material- water single or multiple compartment effluent water separator facilities for Illinois crude oil of vapor pressure of less than 34.5 kPa absolute (5 psia);
 - s) Grain-handling operations, exclusive of grain-drying operations, with an annual grain through-put not exceeding 300,000 bushels;
 - t) Grain-drying operations with a total grain-drying capacity not exceeding 750 bushels per hour for 5% moisture extraction at manufacturer's rated capacity, using the American Society of Agricultural Engineers Standard 248.2, Section 9, Basis for Stating Drying Capacity of Batch and Continuous-Flow Grain Dryers;
 - u) Portable grain-handling equipment and one-turn storage space;
 - v) Cold cleaning degreasers that are not in-line cleaning machines, where the vapor pressure of the solvents used never exceeds 2 kPa (15 mmHg or 0.3 psi) measured at 38°C (100°F) or 0.7 kPa (5 mmHg or 0.1 psi) at 20°C (68°F);
 - w) Coin-operated dry cleaning operations;

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- x) Dry cleaning operations at a source that consume less than 30 gallons per month of perchloroethylene;
- y) Brazing, soldering, wave soldering or welding equipment, including associated ventilation hoods;
- z) Cafeterias, kitchens, and other similar facilities, including smokehouses, used for preparing food or beverages, but not including facilities used in the manufacturing and wholesale distribution of food, beverages, food or beverage products, or food or beverage components;
- aa) Equipment for carving, cutting, routing, turning, drilling, machining, sawing, surface grinding, sanding, planing, buffing, sand blast cleaning, shot blasting, shot peening, or polishing ceramic artwork, leather, metals (other than beryllium), plastics, concrete, rubber, paper stock, wood or wood products, where such equipment is either:
 - 1) Used for maintenance activity;
 - 2) Manually operated;
 - 3) Exhausted inside a building; or
 - 4) Vented externally with emissions controlled by an appropriately operated cyclonic inertial separator (cyclone), filter, electro-static precipitator or a scrubber;
- bb) Feed mills that produce no more than 10,000 tons of feed per calendar year, provided that a permit is not otherwise required for the source pursuant to Section 201.142, 201.143 or 201.144;
- cc) Extruders used for the extrusion of metals, minerals, plastics, rubber or wood, excluding:
 - 1) Extruders used in the manufacture of polymers;
 - 2) Extruders using foaming agents or release agents that contain volatile organic materials or Class I or II substances subject to the requirements of

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Title VI of the Clean Air Act; and

- 3) Extruders processing scrap material that was produced using foaming agents containing volatile organic materials or Class I or II substances subject to the requirements of Title VI of the Clean Air Act;
- dd) Furnaces used for melting metals, other than beryllium, with a brim full capacity of less than 450 cubic inches by volume;
- ee) Equipment used for the melting or application of less than 22,767 kg/yr (50,000 lbs/yr) of wax to which no organic solvent has been added;
- ff) Equipment used for filling drums, pails or other packaging containers, excluding aerosol cans, with soaps, detergents, surfactants, lubricating oils, waxes, vegetable oils, greases, animal fats, glycerin, sweeteners, corn syrup, aqueous salt solutions or aqueous caustic solutions, provided an organic solvent has not been mixed with such materials;
- gg) Loading and unloading systems for railcars, tank trucks, or watercraft that handle only the following liquid materials: soaps, detergents, surfactants, lubricating oils, waxes, glycerin, vegetable oils, greases, animal fats, sweetener, corn syrup, aqueous salt solutions or aqueous caustic solutions, provided an organic solvent has not been mixed with such materials;
- hh) Equipment used for the mixing and blending of materials at ambient temperatures to make water based adhesives, provided each material mixed or blended contains less than 5% organic solvent by weight;
- ii) Die casting machines where a metal or plastic is formed under pressure in a die located at a source with a through-put of less than 2,000,000 lbs of metal or plastic per year, in the aggregate, from all die casting machines;
- jj) Air pollution control devices used exclusively with other equipment that is exempt from permitting, as provided in this Section;
- kk) An emission unit for which a registration system designed to identify sources and emission units subject to emission control requirements is in place, such as the registration system found at 35 Ill. Adm. Code 218.586 (Gasoline Dispensing Operations – Motor Vehicle Fueling Operations) and 35 Ill. Adm. Code 218,

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Subpart HH (Motor Vehicle Refinishing);

- ll) Photographic process equipment by which an image is reproduced upon material sensitized to radiant energy;
- mm) Equipment used for hydraulic or hydrostatic testing;
- nn) General vehicle maintenance and servicing activities conducted at a source, motor vehicle repair shops, and motor vehicle body shops, but not including:
 - 1) Gasoline fuel handling; and
 - 2) Motor vehicle refinishing; |
- oo) Equipment using water, water and soap or detergent, or a suspension of abrasives in water for purposes of cleaning or finishing, provided no organic solvent has been added to the water;
- pp) Administrative activities including, but not limited to, paper shredding, copying, photographic activities and blueprinting machines. This does not include incinerators;
- qq) Laundry dryers, extractors, and tumblers processing that have been cleaned with water solutions of bleach or detergents that are:
 - 1) Located at a source and process clothing, bedding and other fabric items used at the source, provided that any organic solvent present in such items before processing that is retained from cleanup operations shall be addressed as part of the VOM emissions from use of cleaning materials;
 - 2) Located at a commercial laundry; or
 - 3) Coin operated; |
- rr) Housekeeping activities for cleaning purposes, including collecting spilled and accumulated materials, including operation of fixed vacuum cleaning systems specifically for such purposes, but not including use of cleaning materials that contain organic solvent;

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- ss) Refrigeration systems, including storage tanks used in refrigeration systems, but excluding any combustion equipment associated with such systems;
- tt) Activities associated with the construction, on-site repair, maintenance or dismantlement of buildings, utility lines, pipelines, wells, excavations, earthworks and other structures that do not constitute emission units;
- uu) Piping and storage systems for natural gas, propane and liquefied petroleum gas;
- vv) Water treatment or storage systems, as follows:
 - 1) Systems for potable water or boiler feedwater;
 - 2) Systems, including cooling towers, for process water, provided that such water has not been in direct or indirect contact with process streams that contain volatile organic material or materials listed as hazardous air pollutants pursuant to Section 112(b) of the Clean Air Act;
- ww) Lawn care, landscape maintenance and grounds keeping activities;
- xx) Containers, reservoirs or tanks used exclusively in dipping operations to coat objects with oils, waxes or greases, provided no organic solvent has been mixed with such materials;
- yy) Use of consumer products, including hazardous substances as that term is defined in the Federal Hazardous Substances Act (15 USC 1261 et seq.), where the product is used at a source in the same manner as normal consumer use;
- zz) Activities directly used in the diagnosis and treatment of disease, injury or other medical condition;
- aaa) Activities associated with the construction, repair or maintenance of roads or other paved or open areas, including operation of street sweepers, vacuum trucks, spray trucks and other vehicles related to the control of fugitive emissions of such roads or other areas;
- bbb) Storage and handling of drums or other transportable containers, where the containers are sealed during storage and handling;

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- ccc) Activities at a source associated with the maintenance, repair or dismantlement of an emission unit or other equipment installed at the source, not including the shutdown of the unit or equipment, including preparation for maintenance, repair or dismantlement, and preparation for subsequent startup, including preparation of a shutdown vessel for entry, replacement of insulation, welding and cutting, and steam purging of a vessel prior to startup;
- ddd) Equipment used for corona arc discharge surface treatment of plastic with a power rating of 5 kW or less or equipped with an ozone destruction device;
- eee) Equipment used to seal or cut plastic bags for commercial, industrial or domestic use;
- fff) Each direct-fired gas dryer used for a washing, cleaning, coating or printing line, excluding:
- 1) Dryers with a rated heat input capacity of 2930 kW (10 mmbtu/hr) or more; and
 - 2) Dryers for which emissions other than those attributable to combustion of fuel in the dryer, including emissions attributable to use or application of cleaning agents, washing materials, coatings or inks or other process materials that contain volatile organic material are not addressed as part of the permitting of such line, if a permit is otherwise required for the line;
- ggg) Municipal solid waste landfills with a maximum total design capacity of less than 2.5 million Mg or 2.5 million m³ that are not required to install a gas collection and control system pursuant to 35 Ill. Adm. Code 220 or 800 through 849 or Section 9.1 of the Act; ~~and~~
- hhh) Replacement or addition of air pollution control equipment for existing emission units in circumstances where:
- 1) The existing emission unit is permitted and has operated in compliance for the past year;
 - 2) The new control equipment will provide equal or better control of the target pollutants;

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- 3) The new control device will not be accompanied by a net increase in emissions of any non-targeted criteria air pollutant;
 - 4) Different State or federal regulatory requirements or newly proposed regulatory requirements will not apply to the unit; and
BOARD NOTE: All sources must comply with underlying federal regulations and future State regulations.
 - 5) Where the existing air pollution control equipment had required monitoring equipment, the new air pollution control equipment will be equipped with the instrumentation and monitoring devices that are typically installed on the new equipment of that type.
BOARD NOTE: For major sources subject to Section 39.5 of the Act, where the new air pollution control equipment will require a different compliance determination method in the facility's CAAPP permit, the facility may need a permit modification to address the changed compliance determination method;:-
- iii) Replacement, addition, or modification of emission units at facilities with federally enforceable State operating permits limiting their potential to emit in circumstances where:
- 1) The potential to emit any regulated air pollutant in the absence of air pollution control equipment from the new emission unit, or the increase in the potential to emit resulting from the modification of any existing emission unit, is less than 0.1 pound per hour or 0.44 tons per year;
 - 2) The raw materials and fuels used or present in the emission unit that cause or contribute to emissions, based on the information contained in Material Safety Data Sheets for those materials, do not contain equal to or greater than 0.01 percent by weight of any hazardous air pollutant as defined under Section 112(b) of the federal Clean Air Act;
 - 3) The emission unit or modification is not subject to an emission standard or other regulatory requirement pursuant to Section 111 of the federal Clean Air Act;
 - 4) Potential emissions of regulated air pollutants from the emission unit or modification will not, in combination with emissions from existing units

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or other proposed units, trigger permitting requirements under Section 39.5, permitting requirements under Section 165 or 173 of the federal Clean Air Act, or the requirement to obtain a revised federally enforceable State operating permit limiting the source's potential to emit; and

- 5) The source is not currently the subject of a Non-compliance Advisory, Clean Air Act Section 114 Request, Violation Notice, Notice of Violation, Compliance Commitment Agreement, Administrative Order, or civil or criminal enforcement action, related to the air emissions of the source;
- jjj) Replacement, addition, or modification of emission units at permitted sources that are not major sources subject to Section 39.5 and that do not have a federally enforceable state operating permit limiting their potential to emit, in circumstances where:
- 1) The potential to emit of any regulated air pollutant in the absence of air pollution control equipment from the new emission unit, or the increase in the potential to emit resulting from the modification of any existing emission unit is either:
 - A) Less than 0.1 pound per hour or 0.44 tons per year; or
 - B) Less than 0.5 pound per hour, and the permittee provides prior notification to the Agency of the intent to construct or install the unit. The unit may be constructed, installed or modified immediately after the notification is filed;
 - 2) The emission unit or modification is not subject to an emission standard or other regulatory requirement under Section 111 or 112 of the federal Clean Air Act;
 - 3) Potential emissions of regulated air pollutants from the emission unit or modification will not, in combination with the emissions from existing units or other proposed units, trigger permitting requirements under Section 39.5 or the requirement to obtain a federally enforceable permit limiting the source's potential to emit; and
 - 4) The source is not currently the subject of a Non-compliance Advisory, Clean Air Act Section 114 Request, Violation Notice, Notice of Violation,

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Compliance Commitment Agreement, Administrative Order, or civil or criminal enforcement action, related to the air emissions of the source;

- kkk) The owner or operator of a CAAPP source is not required to obtain an air pollution control construction permit for the construction or modification of an emission unit or activity that is an insignificant activity as addressed by Section 201.210 or 201.211 of this Part. Section 201.212 of this Part must still be followed, as applicable. Other than excusing the owner or operator of a CAAPP source from the requirement to obtain an air pollution control construction permit for the emission units or activities, nothing in this subsection shall alter or affect the liability of the CAAPP source for compliance with emission standards and other requirements that apply to the emission units or activities, either individually or in conjunction with other emission units or activities constructed, modified or located at the source;
- lll) Plastic injection molding equipment with an annual through-put not exceeding 5,000 tons of plastic resin in the aggregate from all plastic injection molding equipment at the source, and all associated plastic resin loading, unloading, conveying, mixing, storage, grinding, and drying equipment and associated mold release and mold cleaning agents.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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

<u>Section Numbers:</u>	<u>Proposed Action:</u>
211.740	New
211.1740	New
211.1920	Amend
211.3300	New
211.5640	New
- 4) Statutory Authority: Implementing Sections 9, 9.1, 9.9 and 10 and authorized by Sections 27 and 28.5 of the Environmental Protection Act [415 ILCS 5/9, 9.1, 9.9, 10, 27 and 28.5]
- 5) A Complete Description of the Subjects and Issues Involved: For a more detailed discussion of these amendments, see the Board's April 19, 2007 opinion and order in docket R07-18: In the Matter of: Nitrous Oxide (NO_x) Emissions From Stationary Reciprocating Internal Combustion Engines and Turbines: Amendments to 35 Ill. Adm. Code 201.146, 211 and 217. The Illinois Environmental Protection Agency (IEPA) filed this rulemaking proposal April 6, 2007 under the fast-track procedures of Section 28.5 of the Environmental Protection Act, 415 ILCS 5/28.5. The Board received an objection to the use of the fast-track procedures on April 16, 2007 from ANR Pipeline, Natural Gas Pipeline Company, Trunkline Gas Company, and Panhandle Eastern Pipeline Company, and on April 17, 2007 the Illinois Environmental Regulatory Group. Until the time for response to the objections has elapsed and the Board can properly rule on the pending objections, the Board must proceed under the Section 28.5 timetable.

IEPA's statement of reasons explains that these rules are proposed to meet certain obligations of the State of Illinois under the Clean Air Act, 42 U.S.C. § 7401 *et seq.*. Specifically, IEPA intends the rules to satisfy Illinois' obligation to submit a State Implementation Plan to address the requirements of the Phase II of the United States Environmental Protection Agency's (USEPA's) nitrogen oxides (NO_x) State Implementation Plan (SIP) call. The NO_x SIP call required affected states, including Illinois, to regulate NO_x emissions from large stationary internal combustion engines as required by the federal Clean Air Act (CAA). 69 Fed. Reg. 21604 (April 21, 2004). This statewide proposal will also regulate NO_x emissions from turbines and smaller engines, as part of the State's obligation to meet NO_x reasonably available control technology (RACT) requirements for the 8-hour ozone and fine particulate matter (PM_{2.5}) National

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Ambient Air Quality Standards (NAAQS), reasonable further progress (RFP), and attainment demonstration requirements.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: The regulatory proposal included the Illinois EPA's *Technical Support Document for Controlling NO_x Emissions from Stationary Reciprocating Internal Combustion Engines and Turbines*(TSD) that relied on several published studies and reports. Copies of the reports that the Illinois EPA relied upon are available for review with the Pollution Control Board and are listed below.

Technical Support Document for Final Clean Air Interstate Rule, Air Quality Modeling, U.S. EPA, Research Triangle Park, NC, March 2005.

Alternative Control Techniques Document – NO_x Emissions from Stationary Reciprocating Internal Combustion Engines, EPA-453/R-93-032, July 1993, U.S. EPA, OAQPS, RTP, NC 27711.

Alternative Control Techniques Document – NO_x Emissions from Stationary Gas Turbines, EPA-453/R-91-007, January 1993, U.S. EPA, OAQPS, RTP, NC 27711.

Controlling Nitrogen Oxides Under the Clean Air Act: A Menu of Options, July 1994, State and Territorial Air Pollution Program Administrators/Association of Local Air Pollution Control Officials.

Regulatory Impacts Analysis for the NO_x SIP Call, FIP, and Section 126 Petitions, Volume 1: Costs and Economic Impacts, EPA-452/R-98-003, September 1998, U.S. EPA, Office of Air and Radiation, Washington, DC 20460.

Stationary Reciprocating Internal Combustion Engines Technical Support Document for NO_x SIP Call, October 2003, Doug/Grano/Bill Neuffer, EPA OAR, OAQPS, OPSG.

Assessment of Regional NO_x Emissions in the Upper Midwest, Lake Michigan Directors' Consortium, February 15, 2007 (Att. A to TSD).

- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No

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- 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: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2002)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for 45 days after the date of publication in the *Illinois Register*. Comments should reference Docket R07-18 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 may download copies from the Board's Web site at www.ipcb.state.il.us.

The Board has scheduled hearings for the purposes and on the timetable established by Section 28.5. Each hearing will continue from day-to-day until business is completed:

First hearing: Monday, May 27, 2007
9:00 a.m.
IEPA Office Building,
Training Room 12, 14 West
1021 N. Grand Ave. East, North Entrance
Springfield IL

Second hearing: Tuesday, June 19, 2007
(if necessary) 10:00 a.m.
Auditorium, Room C-500
Michael A. Bilandic Building
160 N. LaSalle St., Fifth Floor
Chicago IL

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Third hearing: Monday, July 2, 2007
(if necessary) 1:00 p.m.
IEPA Office Building,
Training Room 12, 14 West
1021 N. Grand Ave. East, North Entrance
Springfield IL

An April 20, 2007 hearing officer order contains additional details concerning participation in the rulemaking. For more information contact hearing officer 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
 - B) Reporting, bookkeeping or other procedures required for compliance: The proposed rulemaking requires the owner or operator of an affected source to perform required emissions monitoring, complete required tests, and record, report as required. The owner or operator of an affected source must also maintain emissions monitoring and testing information.
 - 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: January 2007

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS
FOR STATIONARY SOURCESPART 211
DEFINITIONS AND GENERAL PROVISIONS

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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 28.5 of the Environmental Protection Act [415 ILCS 5/9, 9.1, 9.9, 10, 27 and 28.5].

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 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.

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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. _____, effective _____.

SUBPART B: DEFINITIONS

Section 211.740 Brake horsepower (rated-bhp)

"Brake horsepower" or "bhp" means the rated horsepower capacity of the engine as defined on the engine nameplate at standard conditions.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 211.1740 Diesel Engine

"Diesel engine" means, for the purposes of 35 Ill. Adm. Code 217, Subpart Q, a compression ignited two- or four-stroke engine in which liquid fuel injected into the combustion chamber ignites when the air charge is compressed to a temperature sufficiently high for auto-ignition.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 211.1920 Emergency or Standby Unit

"Emergency or standby unit" means, for a stationary gas turbine or a stationary reciprocating internal combustion engine, a unit that:

- a) Supplies power for the source at which it is located but operates only when the normal supply of power has been rendered unavailable by circumstances beyond

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the control of the owner or operator of the source and only as necessary to assure the availability of the engine or turbine. An emergency standby unit may not be operated to supplement a primary power source when the load capacity or rating of the primary power source has been reached or exceeded.;

- b) Operates exclusively for firefighting or flood control or both;~~or~~
- c) Operates in response to and during the existence of any officially declared disaster or state of emergency.
- d) Operates for the purpose of testing, repair or routine maintenance to verify its readiness for emergency standby use.

The term does not include equipment used for purposes other than emergencies, as described above, such as to supply power during high electric demand days.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 211.3300 Lean-Burn Engine

"Lean-burn engine" means any spark-ignited engine that is not a rich-burn engine.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 211.5640 Rich-Burn Engine

"Rich-burn engine" means a spark-ignited engine where the oxygen content in the exhaust stream of the engine before any dilutions is 1 percent or less by volume measured on a dry basis.

(Source: Added at 31 Ill. Reg. _____, effective _____)

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- 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>
217.101	Amend
217.102	Amend
217.104	Amend
217.386	New
217.388	New
217.390	New
217.392	New
217.394	New
217.396	New
217.APPENDIX G	New
- 4) Statutory Authority: The Illinois Environmental Protection Act [415 ILCS 5/9.9, 27 and 28.5]
- 5) A Complete Description of the Subjects and Issues Involved: For a more detailed discussion of these amendments, see the Board's April 19, 2007 opinion and order in docket R07-18: In the Matter of: Nitrous Oxide (NO_x) Emissions From Stationary Reciprocating Internal Combustion Engines and Turbines: Amendments to 35 Ill. Adm. Code 201.146, 211 and 217. The Illinois Environmental Protection Agency (IEPA) filed this rulemaking proposal April 6, 2007 under the fast-track procedures of Section 28.5 of the Environmental Protection Act, 415 ILCS 5/28.5. The Board received an objection to the use of the fast-track procedures on April 16, 2007 from ANR Pipeline, Natural Gas Pipeline Company, Trunkline Gas Company, and Panhandle Eastern Pipeline Company, and on April 17, 2007 the Illinois Environmental Regulatory Group. Until the time for response to the objections has elapsed and the Board can properly rule on the pending objections, the Board must proceed under the Section 28.5 timetable.

IEPA's statement of reasons explains that these rules are proposed to meet certain obligations of the State of Illinois under the Clean Air Act, 42 U.S.C. § 7401 *et seq.* Specifically, IEPA intends the rules to satisfy Illinois' obligation to submit a State Implementation Plan to address the requirements of the Phase II of the United States Environmental Protection Agency's (USEPA's) nitrogen oxides (NO_x) State Implementation Plan (SIP) call. The NO_x SIP call required affected states, including Illinois, to regulate NO_x emissions from large stationary internal combustion engines as

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required by the federal Clean Air Act (CAA). 69 Fed. Reg. 21604 (April 21, 2004). This statewide proposal will also regulate NO_x emissions from turbines and smaller engines, as part of the State's obligation to meet NO_x reasonably available control technology (RACT) requirements for the 8-hour ozone and fine particulate matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS), reasonable further progress (RFP), and attainment demonstration requirements.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: The regulatory proposal included the Illinois EPA's *Technical Support Document for Controlling NO_x Emissions from Stationary Reciprocating Internal Combustion Engines and Turbines* (TSD) that relied on several published studies and reports. Copies of the reports that the Illinois EPA relied upon are available for review with the Pollution Control Board and are listed below.

Technical Support Document for Final Clean Air Interstate Rule, Air Quality Modeling, U.S. EPA, Research Triangle Park, NC, March 2005.

Alternative Control Techniques Document – NO_x Emissions from Stationary Reciprocating Internal Combustion Engines, EPA-453/R-93-032, July 1993, U.S. EPA, OAQPS, RTP, NC 27711.

Alternative Control Techniques Document – NO_x Emissions from Stationary Gas Turbines, EPA-453/R-91-007, January 1993, U.S. EPA, OAQPS, RTP, NC 27711.

Controlling Nitrogen Oxides Under the Clean Air Act: A Menu of Options, July 1994, State and Territorial Air Pollution Program Administrators/Association of Local Air Pollution Control Officials.

Regulatory Impacts Analysis for the NO_x SIP Call, FIP, and Section 126 Petitions, Volume 1: Costs and Economic Impacts, EPA-452/R-98-003, September 1998, U.S. EPA, Office of Air and Radiation, Washington, DC 20460.

Stationary Reciprocating Internal Combustion Engines Technical Support Document for NO_x SIP Call, October 2003, Doug/Grano/Bill Neuffer, EPA OAR, OAQPS, OPSG.

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Assessment of Regional NOx Emissions in the Upper Midwest, Lake Michigan Directors' Consortium, February 15, 2007 (Att. A to TSD).

- 7) Will this rulemaking replace any emergency rulemakings currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b) (2002)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for 45 days after the date of publication in the *Illinois Register*. Comments should reference Docket R07-18 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 may download copies from the Board's Web site at www.ipcb.state.il.us.

The Board has scheduled hearings for the purposes and on the timetable established by Section 28.5. Each hearing will continue from day-to-day until business is completed:

First hearing: Monday, May 27, 2007
 9:00 a.m.
 IEPA Office Building,
 Training Room 12,14 West
 1021 N. Grand Ave. East, North Entrance
 Springfield, IL

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Second hearing: Tuesday, June 19, 2007
(if necessary) 10:00 a.m.
Auditorium, Room C-500
Michael A. Bilandic Building
160 N. LaSalle St., Fifth Floor
Chicago, IL

Third hearing: Monday, July 2, 2007
(if necessary) 1:00 p.m.
IEPA Office Building,
Training Room 12,14 West
1021 N. Grand Ave. East, North Entrance
Springfield, IL

An April 20, 2007 hearing officer order contains additional details concerning participation in the rulemaking. For more information contact hearing officer 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
- B) Reporting, bookkeeping or other procedures required for compliance:
The proposed rulemaking requires the owner or operator of an affected source to perform required emissions monitoring, complete required tests, and record, report as required. The owner or operator of an affected source must also maintain emissions monitoring and testing information.
- 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: January 2007

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

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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

SUBPART A: GENERAL PROVISIONS

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

SUBPART C: EXISTING FUEL COMBUSTION EMISSION SOURCES

Section	
217.141	Existing Emission Sources in Major Metropolitan Areas

SUBPART K: PROCESS EMISSION SOURCES

Section	
217.301	Industrial Processes

SUBPART O: CHEMICAL MANUFACTURE

Section	
217.381	Nitric Acid Manufacturing Processes

SUBPART Q: STATIONARY RECIPROCATING

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INTERNAL COMBUSTION ENGINES AND TURBINESSection

<u>217.386</u>	<u>Applicability</u>
<u>217.388</u>	<u>Control and Maintenance Requirements</u>
<u>217.390</u>	<u>Emissions Averaging Plans</u>
<u>217.392</u>	<u>Compliance</u>
<u>217.394</u>	<u>Testing and Monitoring</u>
<u>217.396</u>	<u>Recordkeeping and Reporting</u>

SUBPART T: CEMENT KILNS

Section

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

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

Section

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

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217.482 Allowance Allocations to Opt-In Budget Units

SUBPART V: ELECTRIC POWER GENERATION

Section

217.521 Lake of Egypt Power Plant
217.700 Purpose
217.702 Severability
217.704 Applicability
217.706 Emission Limitations
217.708 NO_x Averaging
217.710 Monitoring
217.712 Reporting and Recordkeeping

SUBPART W: NO_x TRADING PROGRAM FOR
ELECTRICAL GENERATING UNITS

Section

217.750 Purpose
217.752 Severability
217.754 Applicability
217.756 Compliance Requirements
217.758 Permitting Requirements
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

Section

217.800 Purpose

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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
217.845	Emissions Determination Methods
217.850	Emissions Monitoring
217.855	Reporting
217.860	Recordkeeping
217.865	Enforcement
217.APPENDIX A	Rule into Section Table
217.APPENDIX B	Section into Rule Table
217.APPENDIX C	Compliance Dates
217.APPENDIX D	Non-Electrical Generating Units
217.APPENDIX E	Large Non-Electrical Generating Units
217.APPENDIX F	Allowances for Electrical Generating Units
<u>217.APPENDIX G</u>	<u>Existing Reciprocating Internal Combustion Engines Affected by the NO_x SIP Call</u>

AUTHORITY: Implementing Sections 9.9 and 10 and authorized by Sections 27 and 28.5 of the Environmental Protection Act [415 ILCS 5/9.9, 10, 27 and 28.5 (2004)].

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. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 217.101 Measurement Methods

Measurement of nitrogen oxides shall be according to:

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- a) The phenol disulfonic acid ~~procedures method~~, 40 CFR 60, Appendix A, Method 7, as incorporated by reference in Section 217.104(1999);
- b) Continuous emissions monitoring pursuant to 40 CFR 75, as incorporated by reference in Section 217.104(1999); ~~and~~
- c) Determination of Nitrogen Oxides Emissions from Stationary Sources (Instrumental Analyzer Procedure), 40 CFR 60, Appendix A, Method 7E, as incorporated by reference in Section 217.104(1999).
- d) Monitoring with portable monitors pursuant to ASTM D6522-00, as incorporated by reference in Section 217.104; and
- e) How do I conduct the initial and subsequent performance tests (for turbines), regarding NO_x pursuant to 40 CFR 60.4400, as incorporated by reference in Section 217.104.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 217.102 Abbreviations and Units

- a) The following abbreviations are used in this Part:

Btu	British thermal unit (60 °F)
bhp	brake horsepower
CEMS	continuous emissions monitoring system
EGU	Electrical Generating Unit
dscf	dry standard cubic feet
g/bhp-hr	grams per brake horsepower-hour
kg	kilogram
kg/MW-hr	kilograms per megawatt-hour, usually used as an hourly emission rate
lb	pound
NO_x	Nitrogen Oxides
lbs/mmBtu	pounds per million Btu, usually used as an hourly emission rate
lbs/mmBtu	rate
Mg	megagram or metric ton
mm	million

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<u>mmBtu</u>	million British thermal units
mmbtu	
<u>mmBtu/hr</u>	million British thermal units per hour
mmbtu/hr	
MWe	megawatt of electricity
MW	megawatt; one million watts
MW-hr	megawatt-hour
<u>NATS</u>	<u>NO_x Allowance Tracking System</u>
<u>NO₂</u>	<u>nitrogen dioxide</u>
<u>NO_x</u>	<u>nitrogen oxides</u>
<u>O₂</u>	<u>oxygen</u>
<u>psia</u>	<u>pounds per square inch absolute</u>
peoc	potential electrical output capacity
<u>PTE</u>	<u>potential to emit</u>
ppm	parts per million
ppmv	parts per million by volume
T	English ton
<u>TPY</u>	<u>tons per year</u>

- b) The following conversion factors have been used in this Part:

English	Metric
2.205 lb	1 kg
1 T	0.907 Mg
1 lb/T	0.500 kg/Mg
Mmbtu/hr	0.293 MW
1 lb/ <u>mmBtu</u>	1.548 kg/MW-hr
mmbtu	
<u>1 mmBtu/hr</u>	<u>0.293 MW</u>
<u>1 mmBtu/hr</u>	<u>393 bhp</u>

(Source: Amended at 31 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 method, as published in 40 CFR 60, appendix ~~Appendix~~-A, Method 7 (2000)(1999);
- 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)(1999);
- 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)(1999); and
- h) 40 CFR 60, Appendix A, Methods 3A, 7, 7A, 7C, 7D, ~~and~~ 7E, 19, and 20 (2000); (1999).
- 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);
- k) Standards of Performance for Stationary Combustion Turbines, 40 CFR 60, subpart KKKK, 60.4400 (2006); and
- l) Compilation of Air Pollutant Emission Factors: AP-42, Volume I: Stationary Point and Area Sources (2000), USEPA.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART Q: STATIONARY RECIPROCATING

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INTERNAL COMBUSTION ENGINES AND TURBINESSection 217.386 Applicability

- a) A stationary reciprocating internal combustion engine or turbine that meets the criteria in subsection (a)(1) or (a)(2) of this Section is an affected unit and is subject to the requirements of this Subpart Q.
- 1) The engine at nameplate capacity is rated at equal to or greater than 500 bhp output; or
 - 2) The turbine is rated at equal to or greater than 3.5 MW (4,694 bhp) output at 14.7 psia, 59°F, and 60 percent relative humidity.
- b) Notwithstanding subsection (a) of this Section, an engine or turbine will not be an affected unit and is not subject to the requirements of this Subpart Q if the engine or turbine is or has:
- 1) Been used as an emergency or standby unit as defined by 35 Ill. Adm. Code 211.1920;
 - 2) Been used for research or for the purposes of performance verification or testing;
 - 3) Been used to control emissions from landfills, where at least 50 percent of the heat input is gas collected from a landfill;
 - 4) Been used for agricultural purposes, including the raising of crops or livestock that are produced on site, but not associated businesses like packing operations, sale of equipment or repair;
 - 5) A nameplate capacity rated at less than 1500 bhp (1118 kW) output, mounted on a chassis or skids, designed to be moveable, and moved to a different source at least once every 12 months; or
 - 6) Been regulated under Subpart W or a subsequent federal NO_x Trading program for electrical generating units.

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- c) If an exempt unit ceases to fulfill the criteria specified in subsection (b) of this Section, the owner or operator must notify the Agency in writing within 30 days after becoming aware that the exemption no longer applies and comply with the control requirements of this Subpart Q.
- d) The requirements of this Subpart Q will continue to apply to any engine or turbine that has ever been subject to the control requirements of Section 217.388, even if the affected unit ceases to fulfill the rating requirements of subsection (a) of this Section or becomes eligible for an exemption pursuant to subsection (b) of this Section.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 217.388 Control and Maintenance Requirements

On and after the applicable compliance date in Section 217.392, an owner or operator of an affected unit must inspect and maintain affected units as required by subsection (d) of this Section and comply with either the applicable emissions concentration as set forth in subsection (a) of this Section, or the requirements for an emissions averaging plan as specified in subsection (b) of this Section or the requirements for operation as a low usage unit as specified in subsection (c) of this Section.

- a) The owner or operator must limit the discharge from an affected unit into the atmosphere of any gases that contain NO_x to no more than:
- 1) 150 ppmv (corrected to 15 percent O₂ on a dry basis) for spark-ignited rich-burn engines;
 - 2) 210 ppmv (corrected to 15 percent O₂ on a dry basis) for spark-ignited lean-burn engines, except for existing spark-ignited Worthington engines that are not listed in Appendix G;
 - 3) 365 ppmv (corrected to 15 percent O₂ on a dry basis) for existing spark-ignited Worthington engines that are not listed in Appendix G;
 - 4) 660 ppmv (corrected to 15 percent O₂ on a dry basis) for diesel engines;
 - 5) 42 ppmv (corrected to 15 percent O₂ on a dry basis) for gaseous fuel-fired turbines; and

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- 6) 96 ppmv (corrected to 15 percent O₂ on a dry basis) for liquid fuel-fired turbines.
- b) The owner or operator must comply with the requirements of the applicable emissions averaging plan as set forth in Section 217.390.
- c) The owner or operator must operate the affected unit as a low usage unit pursuant to subsection (c)(1) or (c)(2) of this Section. Low usage units are not subject to the requirements of this Subpart Q except for the requirements to inspect and maintain the unit pursuant to subsection (d) of this Section, and retain records pursuant to Section 217.396(b) and (c). Only one of the following exemptions may be utilized at a particular source:
- 1) The potential to emit (PTE) is no more than 100 TPY NO_x aggregated from all engines and turbines located at the source that are not otherwise exempt pursuant to Section 217.386(b), and not complying with the requirements of subsection (a) or (b) of this Section and the NO_x PTE limit is contained in a federally enforceable permit; or
- 2) The aggregate bhp-hr/MW-hr from all affected units located at the source that are not exempt pursuant to Section 217.386(b), and not complying with the requirements of subsection (a) or (b) of this Section, are less than or equal to the bhp-hrs and MW-hrs operation limit listed in subsections (c)(2)(A) and (B) of this Section. For units not located at a natural gas transmission compressor station or storage facility that drive a natural gas compressor station, the operation limits of subsections (c)(2)(A) and (B) of this Section must be contained in a federally enforceable permit.
- A) 8 mm bhp-hrs or less on an annual basis for engines; and
- B) 20,000 MW-hrs or less on an annual basis for turbines.
- d) The owner or operator must inspect and perform periodic maintenance on the affected unit, in accordance with a Maintenance Plan that documents:
- 1) For a unit not located at a natural gas transmission compressor station or storage facility, either:

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- A) The manufacturer's recommended inspection and maintenance of the applicable air pollution control equipment, monitoring device, and affected unit; or
 - B) If the original equipment manual is not available or substantial modifications have been made that require an alternative procedure for the applicable air pollution control device, monitoring device, or affected unit, the owner or operator must establish a plan for inspection and maintenance in accordance with what is customary for the type of air pollution control equipment, monitoring device, and affected unit.
- 2) For a unit located at a natural gas compressor station or storage facility, the operator's maintenance procedures for the applicable air pollution control device, monitoring device, and affected unit.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 217.390 Emissions Averaging Plans

- a) An owner or operator of certain affected units may comply through an emissions averaging plan.
 - 1) The unit or units that commenced operation before January 1, 2002 may be included in an emissions averaging plan as follows:
 - A) Units located at a single source or at multiple sources in Illinois, so long as the units are owned by the same company or parent company where the parent company has working control through stock ownership of its subsidiary corporations. A unit may be listed in only one emissions averaging plan;
 - B) Units that have a compliance date later than the control period for which the averaging plan is being used for compliance; and
 - C) Units that the owner or operator may claim as exempt pursuant to Section 217.386(b) 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 emission

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concentration limits, testing, monitoring, recordkeeping and reporting requirements.

- 2) The following types of units may not be included in an emissions averaging plan:
 - A) Units that commence operation after January 1, 2002, unless the unit replaces an engine or turbine that commenced operation on or before January 1, 2002, or it replaces an engine or turbine that replaced a unit that commenced operation on or before January 1, 2002. The new unit must be used for the same purpose as the replacement unit. The owner or operator of a unit that is shut down and replaced must comply with the provisions of Section 217.396(d)(3) before the replacement unit may be included in an emissions averaging plan.
 - B) Units that the owner or operator is claiming are exempt pursuant to Section 217.386(b) or as a low usage unit pursuant to Section 217.388(c).
- b) An owner or operator must submit an emissions averaging plan to the Agency by the applicable compliance date set forth in Section 217.392. The plan must include, but is not limited to:
 - 1) The list of affected units included in the plan by unit identification number and permit number.
 - 2) A sample calculation demonstrating compliance using the methodology provided in subsection (f) of this Section for both the ozone season and calendar year.
- c) An owner or operator may amend an emissions averaging plan only once per calendar year. An amended plan must be submitted to the Agency by May 1 of the applicable calendar year. If an amended plan is not received by the Agency by May 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, an owner or operator, and the buyer, if applicable:

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- 1) Must submit an updated emissions averaging plan or plans to the Agency within 60 days, if a unit that is listed in an emissions averaging plan is sold or taken out of service.
 - 2) May amend its emissions averaging plan to include another unit within 30 days after discovering that the unit no longer qualifies as an exempt unit pursuant to Section 217.386(b) or as a low usage unit pursuant to Section 217.388(c).
- e) An owner or operator must:
- 1) Demonstrate compliance for both 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 plan submitted to the Agency pursuant to subsection (b) of this Section; the higher of the monitoring or test data determined pursuant to Section 217.394; and the actual hours of operation for the applicable control period;
 - 2) Notify the Agency by October 31 following the ozone season, if compliance cannot be demonstrated for that ozone season; and
 - 3) Submit to the Agency, by January 31 following each calendar year, a compliance report containing the information required by Section 217.396(d)(4).
- 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:

$$N_{act} = N_{all}$$

Where:

$$N_{act} = \frac{\sum_{i=1}^n EM_{act(i)}}{n}$$

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- $$\frac{N_{all}}{N_{act}} \equiv \frac{\sum_{i=1}^n EM_{all(i)}}{\sum_{i=1}^n EM_{act(i)}}$$

$$\frac{N_{act}}{N_{all}} \equiv \frac{\sum_{i=1}^n EM_{act(i)}}{\sum_{i=1}^n EM_{all(i)}}$$

$$\frac{EM_{all(i)}}{EM_{act(i)}} \equiv \frac{EM_{all(i)}}{EM_{act(i)}}$$

$$\frac{EM_{act(i)}}{EM_{all(i)}} \equiv \frac{EM_{act(i)}}{EM_{all(i)}}$$

$$\frac{i}{n} \equiv \frac{i}{n}$$
- $$\frac{N_{all}}{N_{act}} \equiv \frac{\sum_{i=1}^n EM_{all(i)}}{\sum_{i=1}^n EM_{act(i)}}$$

$$\frac{EM_{act(i)}}{EM_{all(i)}} \equiv \frac{EM_{act(i)}}{EM_{all(i)}}$$

$$\frac{i}{n} \equiv \frac{i}{n}$$
- $$\frac{EM_{act(i)}}{EM_{all(i)}} \equiv \frac{EM_{act(i)}}{EM_{all(i)}}$$

$$\frac{i}{n} \equiv \frac{i}{n}$$
- $$\frac{EM_{act(i)}}{EM_{all(i)}} \equiv \frac{EM_{act(i)}}{EM_{all(i)}}$$

$$\frac{i}{n} \equiv \frac{i}{n}$$
- $$\frac{i}{n} \equiv \frac{i}{n}$$

$$\frac{n}{n} \equiv \frac{n}{n}$$

g) For each unit in the averaging plan, and each fuel used by a unit, determine actual and allowable NO_x emissions using the following equations, except as provided for in subsection (h) of this Section:

1) Actual emissions must be determined as follows:

$$EM_{act(i)} = E_{act(i)} \times H_i$$

$$E_{act(i)} = \frac{\sum_{j=1}^m C_{d(act(j))} \times F_d \times \left(\frac{20.9}{20.9 - \%O_{2d(j)}} \right)}{m}$$

2) Allowable emissions must be determined as follows:

$$EM_{all(i)} = E_{all(i)} \times H_i$$

$$E_{all(i)} = \frac{\sum_{j=1}^m C_{d(all(j))} \times F_d \times \left(\frac{20.9}{20.9 - \%O_{2d(j)}} \right)}{m}$$

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Where:

- $EM_{act(i)}$ \equiv Total mass of actual NO_x emissions in lbs for a unit.
- $EM_{all(i)}$ \equiv Total mass of allowable NO_x emissions in lbs for a unit.
- E_{act} \equiv Actual NO_x emission rate (lbs/mmBtu) calculated according to the above equation.
- E_{all} \equiv Allowable NO_x emission rate (lbs/mmBtu) calculated according to the above equation.
- H \equiv Heat input (mmBtu/ozone season or mmBtu/year) calculated from fuel flow meter and the heating value of the fuel used.
- $C_{d(act)}$ \equiv Actual concentration of NO_x in lb/dscf (ppmv x 1.194 x 10⁻⁷) on a dry basis for the fuel used. Actual concentration is determined on each of the most recent test runs or monitoring passes performed pursuant to Section 217.394, whichever is higher.
- $C_{d(all)}$ \equiv Allowable concentration of NO_x in lb/dscf (allowable emission limit in ppmv specified in Section 217.388(a), except as provided for in subsection (g)(6) of this Section, if applicable, multiplied by 1.194 x 10⁻⁷) on a dry basis for the fuel used.
- F_d \equiv The ratio of the gas volume of the products of combustion to the heat content of the fuel (dscf/mmBtu) as given in the table of F Factors included in 40 CFR 60, appendix A, Method 19 or as determined using 40 CFR 60, appendix A, Method 19.
- $\%O_{2d}$ \equiv Concentration of oxygen in effluent gas stream measured on a dry basis during each of the applicable tests or monitoring runs used for determining emissions, as represented by a whole number percent, e.g., for 18.7% O_{2d}, 18.7 would be used.
- i \equiv Subscript denoting an individual unit and the fuel used.
- j \equiv Subscript denoting each test run or monitoring pass for an affected unit for a given fuel.
- m \equiv The number of test runs or monitoring passes for an affected unit using a given fuel.

3) Electric-Powered Replacement Unit

- A) For a replacement unit that is electric-powered, the allowable NO_x emissions from the affected unit that was replaced should be used

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in the averaging calculations and the actual NO_x emissions for the electric-powered replacement unit (EM_{(i)act elec}) are zero. Allowable NO_x emissions for the electric-powered replacement are calculated using the actual total bhp-hrs generated by the electric-powered replacement unit on an ozone season and on an annual basis multiplied by the allowable NO_x emission rate in lb/bhp-hr of the replaced unit.

- B) The allowable mass of NO_x emissions from an electric-powered replacement unit (EM_{(i)all elec}) must be determined by multiplying the nameplate capacity of the unit by the hours operated during the ozone season or annually and the allowable NO_x emission rate of the replaced unit (E_{all rep(i)}) in lb/mmBtu converted to lb/bhp-hr. For this calculation the following equation should be used:

$$\underline{EM_{all\ elec(i)} = bhp \times F \times E_{all\ rep(i)}}$$

Where:

- EM_{all elec(i)} ≡ Mass of allowable NO_x emissions from the electric-powered replacement unit in pounds per ozone season or calendar year.
- bhp ≡ Nameplate capacity of the electric-powered replacement unit in brake horsepower.
- OP ≡ Operating hours during the ozone season or calendar year.
- F ≡ Conversion factor of 0.0077 mmBtu/bhp-hr.
- E_{all rep(i)} ≡ Allowable NO_x emission rate (lbs/mmBtu) of the replaced unit.
- i ≡ Subscript denoting an individual electric unit and the fuel used.

- 4) For a replacement unit that is not electric, the allowable NO_x emissions rate used in the equations set forth in subsection (g)(2) of this Section must be either:

- A) Prior to the applicable compliance date for the replaced unit pursuant to Section 217.392, the higher of the actual NO_x

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emissions as determined by testing or monitoring data or the applicable uncontrolled NO_x emissions factor from Compilation of Air Pollutant Emission Factors: AP-42, Volume I: Stationary Point and Area Sources, as incorporated by reference in Section 217.104 for the unit that was replaced; or

- B) On and after the applicable compliance date for the replaced unit pursuant to Section 217.392, the applicable emissions concentration for the type of unit replaced, as established in Section 217.388(a).
- 5) For a unit that is replaced with purchased power, the allowable NO_x emissions rate used in the equations set forth in subsection (g)(2) of this Section must be the emissions concentration set forth in Section 217.388(a) or subsection (g)(6) of this Section, when applicable, for the type of unit that was replaced. For owners or operators replacing units with purchased power, the annual hours of operations that must be used are the calendar year hours of operation for the unit that was shut down, averaged over the three-year period prior to the shutdown. The actual NO_x emissions for the units replaced by purchased power (EM_{(i)act}) are zero. These units may be included in any emissions averaging plan for no more than five years beginning with the calendar year that the replaced unit is shut down.
- 6) For units that have a later compliance date, allowable emissions rate used in the equations set forth in subsection (g)(2) of this Section must be:
- A) Prior to the applicable compliance date pursuant to Section 217.392, the higher of the actual NO_x emissions as determined by testing or monitoring data or the applicable uncontrolled NO_x emissions factor from Compilation of Air Pollutant Emission Factors: AP-42, Volume I: Stationary Point and Areas Sources, as incorporated by reference in Section 217.104; and
- B) On and after the units' applicable compliance date pursuant to Section 217.392, the applicable emissions concentration for that type of unit, as established by Section 217.388(a).

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h) For units that use CEMS, the data must show that the total mass of actual NO_x emissions determined pursuant to subsection (h)(1) of this Section is less than or equal to the allowable NO_x emissions calculated in accordance with the equations in subsections (f) and (h)(2) of this Section for both the ozone season and calendar year. The equations in subsection (g) of this Section will not apply.

1) The total mass of actual NO_x emissions in lbs for a unit (EM_{act}) must be the sum of the total mass of actual NO_x emissions from each affected unit using CEMS data collected in accordance with 40 CFR 60 or 75, or alternate methodology that has been approved by the Agency or USEPA and included in a federally enforceable permit.

2) The allowable NO_x emissions must be determined as follows:

$$Em_{(all)} = \sum_{i=1}^m (Cd_i * flowstack_i * 1.194 \times 10^{-7})$$

Where:

EM_{all(i)} ≡ Total mass of allowable NO_x emissions in lbs for a unit.

Flow_i ≡ Stack flow (dscf/hr) for a given stack.

Cd_i ≡ Allowable concentration of NO_x (ppmv) specified in Section 217.388(a) for a given stack. (1.194 x 10⁻⁷ converts to lb/dscf.)

i ≡ subscript denoting each hour of operation of a given unit.

m ≡ Total number of hours of operation of a unit.

i ≡ Subscript denoting an individual unit and the fuel used.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 217.392 Compliance

a) An owner or operator of an affected unit may not operate that unit unless it meets the applicable concentration limit in Section 217.388(a), or is included in an emissions averaging plan pursuant to Section 217.388(b), or meets the low usage requirements pursuant to Section 217.388(c), and complies with all other applicable requirements of this Subpart Q by the earliest applicable date, listed as follows:

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- 1) On and after May 1, 2007, an owner or operator of an affected engine listed in Appendix G may not operate the affected engine unless the requirements of this Subpart Q are met or the affected engine is exempt pursuant to Section 217.386(b);
 - 2) On and after January 1, 2009, an owner or operator of an affected unit that is located in Cook, DuPage, Aux Sable Township and Goose Lake Township in Grundy, Kane, Oswego Township in Kendall, Lake, McHenry, Will, Jersey, Madison, Monroe, Randolph Township in Randolph, or St. Clair County, and is not listed in Appendix G may not operate the affected unit unless the requirements of this Subpart Q are met or the affected unit is exempt pursuant to Section 217.386(b);
 - 3) On and after January 1, 2011, an owner or operator of an affected engine with a nameplate capacity rated at 1500 bhp or more, and affected turbines rated at 5 MW (6,702 bhp) or more that is not subject to subsection (a)(1) or (a)(2) of this Section, may not operate the affected unit unless the requirements of this Subpart Q are met or the affected unit is exempt pursuant to Section 217.386(b); or
 - 4) On and after January 1, 2012, an owner or operator of an affected engine with a nameplate capacity rated at less than 1500 bhp, or an affected turbine rated at less than 5 MW (6,702 bhp) that is not subject to subsection (a)(1), (a)(2) or (a)(3) of this Section, may not operate the affected engine or turbine unless the requirements of this Subpart Q are met or the affected unit is exempt pursuant to Section 217.386(b).
- b) Owners and operators of an affected unit may use NO_x allowances to meet the compliance requirements in Section 217.388 as specified in this subsection. An NO_x allowance is defined as an allowance used to meet the requirements of an NO_x trading program administered by USEPA where one allowance is equal to one ton of NO_x emissions.
- 1) NO_x allowances may only be used under the following circumstances:
 - A) An anomalous or unforeseen operating scenario inconsistent with historical operations for a particular ozone season or calendar year that causes an emissions exceedance.

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- B) To achieve compliance no more than twice in any rolling five-year period.
- C) For a unit that is not listed in Appendix G.
- 2) The owner or operator of the affected unit must surrender to the Agency one NO_x allowance for each ton or portion of a ton of NO_x by which actual emissions exceed allowed emissions. For noncompliance with a seasonal limit, an NO_x ozone season allowance must be used. For noncompliance with the emissions concentration limits in Section 217.388(a) or an annual limitation in an emissions averaging plan, only an NO_x annual allowance may be used.
- 3) The owner or operator must submit a report documenting the circumstances that required the use of NO_x allowances, identify what actions will be taken in subsequent years to address these circumstances, and transfer the NO_x allowances to the Agency's federal NO_x retirement account. The report and the transfer of allowances must be submitted by October 31 for exceedances during the ozone season and March 1 for exceedances of the emissions concentration or the annual emission averaging plan limits. The report must contain the NATS serial numbers of the NO_x allowances.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 217.394 Testing and Monitoring

- a) An owner or operator of an engine or turbine must conduct an initial performance test pursuant to subsection (c)(1) or (c)(2) of this Section as follows:
- 1) By May 1, 2007, for affected engines listed in Appendix G. Performance tests must be conducted on units listed in Appendix G, even if the unit is included in an emissions averaging plan pursuant to Section 217.388(b).
- 2) By the applicable compliance date set forth in Section 217.392, or within the first 876 hours of operation per calendar year, whichever is later:

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- A) For affected units not listed in Appendix G that operate more than 876 hours per calendar year; and
 - B) For units that are not affected units that are included in an emissions averaging plan and operate more than 876 hours per calendar year.
- 3) Once within the five-year period after the applicable compliance date set forth in Section 217.392:
 - A) For affected units that operate fewer than 876 hours per calendar year; and
 - B) For units that are not affected units that are included in an emissions averaging plan and that operate fewer than 876 hours per calendar year
- b) An owner or operator of an engine or turbine must conduct subsequent performance tests pursuant to subsection (c)(1) or (c)(2) of this Section as follows:
- 1) For affected engines listed in Appendix G and all units included in an emissions averaging plan, once every five years. Testing must be performed in the calendar year by May 1 or within 60 days after starting operation, whichever is later;
 - 2) If the monitored data shows that the unit is not in compliance with the applicable emissions concentration or emissions averaging plan, the owner or operator must report the deviation to the Agency in writing within 30 days and conduct a performance test pursuant to subsection (c) of this Section within 90 days after the determination of noncompliance; and
 - 3) When, in the opinion of the Agency or USEPA, it is necessary to conduct testing to demonstrate compliance with Section 217.388, the owner or operator of a unit must, at his or her own expense, conduct the test 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.

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- c) Testing Procedures:
- 1) For an engine: The owner or operator must conduct a performance test using Method 7 or 7E of 40 CFR 60, appendix A, as incorporated by reference in Section 217.104. Each compliance test must consist of three separate runs, each lasting a minimum of 60 minutes. NO_x emissions must be measured while the affected unit is operating at peak load. If the unit combusts more than one type of fuel (gaseous or liquid), including backup fuels, a separate performance test is required for each fuel.
 - 2) For a turbine: The owner or operator must conduct a performance test using the applicable procedures and methods in 40 CFR 60.4400, as incorporated by reference in Section 217.104.
- d) Monitoring: Except for those years in which a performance test is conducted pursuant to subsection (a) or (b) of this Section, the owner or operator of an affected unit or a unit included in an emissions averaging plan must monitor NO_x concentrations annually, once between January 1 and May 1 or within the first 876 hours of operation per calendar year, whichever is later. If annual operation is less than 876 hours per calendar year, each affected unit must be monitored at least once every five years. Monitoring must be performed as follows:
- 1) A portable NO_x monitor and method ASTM D6522-00, as incorporated by reference in Section 217.104, or a method approved by the Agency must be used. If the engine or turbine combusts both liquid and gaseous fuels as primary or backup fuels, separate monitoring is required for each fuel.
 - 2) NO_x and O₂ concentrations measurements must be taken three times for a duration of at least 20 minutes. Monitoring must be done at highest achievable load. The concentrations from the three monitoring runs must be averaged to determine whether the affected unit is in compliance with the applicable emissions concentration or emissions averaging plan, as specified in Section 217.388.
- e) Instead of complying with the requirements of subsections (a), (b), (c) and (d) of this Section, an owner or operator may install and operate a CEMS on an affected unit that meets the applicable requirements of 40 CFR 60, subpart A and appendix B, incorporated by reference in Section 217.104, and complies with the quality assurance procedures specified in 40 CFR 60, appendix F or 40 CFR 75, as

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incorporated by reference in Section 217.104, or an alternate procedure as approved by the Agency or USEPA in a federally enforceable permit. The CEMS must be used to demonstrate compliance with the applicable emissions concentration or emissions averaging plan only on an ozone season and annual basis.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 217.396 Recordkeeping and Reporting

- a) Recordkeeping. The owner or operator of a unit included in an emissions averaging plan or an affected unit that is not exempt pursuant to Section 217.386(b) and is not subject to the low usage exemption of Section 217.388(c) must maintain records that demonstrate compliance with the requirements of this Subpart Q, which include, but are not limited to:
- 1) Identification, type (e.g., lean-burn, gas-fired), and location of each unit.
 - 2) Calendar date of the record.
 - 3) The number of hours the unit operated on a monthly basis and during each ozone season.
 - 4) Type and quantity of the fuel used on a daily basis.
 - 5) The results of all monitoring performed on the unit and reported deviations.
 - 6) The results of all tests performed on the unit.
 - 7) The plan for performing inspection and maintenance of the units, air pollution control equipment, and the applicable monitoring device, pursuant to Section 217.388(d).
 - 8) A log of inspections and maintenance performed on the unit's air emissions, monitoring device, and air pollution control device. These records must include, at a minimum, date, load levels and any manual adjustments, along with the reason for the adjustment (e.g., air to fuel ratio, timing or other settings).

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- 9) If complying with the emissions averaging plan provisions of Sections 217.388(b) and 217.390, copies of the calculations used to demonstrate compliance with the ozone season and annual control period limits, noncompliance reports for the ozone season, and ozone and annual control period compliance reports submitted to the Agency.
 - 10) Identification of time periods for which operating conditions and pollutant data were not obtained by either the CEMS or alternate monitoring procedures, including the reasons for not obtaining sufficient data and a description of corrective actions taken.
 - 11) Any NO_x allowance reconciliation reports submitted pursuant to Section 217.392(e).
- b) The owner or operator of an affected unit that is complying with the low usage provisions of Section 217.388(c) must:
- 1) For each unit complying with Section 217.388(c)(1), maintain a record of the NO_x emissions for each calendar year; or
 - 2) For each unit complying with Section 217.388(c)(2), maintain a record of bhp or MW hours operated each calendar year.
- c) The owner or operator of an affected unit or unit included in an emissions averaging plan must maintain the records required by subsections (a) and (b) of this Section for a period of five years at the source at which the unit is located. The records must be made available to the Agency and USEPA upon request.
- d) Reporting requirements:
- 1) The owner or operator must notify the Agency in writing 30 days and five days prior to testing, pursuant to Section 217.394(a) and:
 - A) 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 performance test as scheduled, the owner or operator of the unit must notify the Agency as soon as possible of the delay in the original test date, either by providing at least seven days prior

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- notice of the rescheduled date of the performance test or by arranging a new test date with the Agency by mutual agreement;
- B) Provide a testing protocol to the Agency 60 days prior to testing; and
- C) Not later than 30 days after the completion of the test, submit the results of the test to the Agency.
- 2) Pursuant to the requirements for monitoring in Section 217.394(d), the owner or operator of the unit must report to the Agency any monitored exceedances of the applicable NO_x concentration from Section 217.388(a) or (b) within 30 days after performing the monitoring.
- 3) Within 90 days after permanently shutting down an affected unit or a unit included in an emissions averaging plan, the owner or operator of the unit must withdraw or amend the applicable permit to reflect that the unit is no longer in service.
- 4) If demonstrating compliance through an emissions averaging plan:
- A) By October 31 following the applicable ozone season, the owner or operator must notify the Agency if he or she cannot demonstrate compliance for that ozone season; and
- B) By January 30 following the applicable calendar year, the owner or operator must submit to the Agency a report that demonstrates the following:
- i) 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;
- ii) The total mass of actual NO_x emissions for the ozone season and annual control period for each unit included in the averaging plan;
- iii) The calculations that demonstrate that the total mass of actual NO_x emissions are less than the total mass of

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allowable NO_x emissions using equations in Section 217.390(f) and (g); and

- iv) The information required to determine the total mass of actual NO_x emissions and the calculations performed in subsection (d)(4)(B)(iii) of this Section.
- 5) If operating a CEMS, the owner or operator must submit an excess emissions and monitoring systems performance report in accordance with the requirements of 40 CFR 60.7(c) and 60.13 or 40 CFR 75, incorporated by reference in Section 217.104, or an alternate procedure approved by the Agency or USEPA and included in a federally enforceable permit.
- 6) If using NO_x allowances to comply with the requirements of Section 217.388, reconciliation reports as required by Section 217.392(b)(3).

(Source: Added at 31 Ill. Reg. _____, effective _____)

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Section 217.APPENDIX G Existing Reciprocating Internal Combustion Engines Affected by the NO_x SIP Call

<u>Plant ID</u>	<u>Point ID</u>	<u>Segment</u>
<u>ANR Pipeline Co. – Sandwich</u>		
<u>093802AAF</u>	<u>E-108</u>	<u>1</u>
<u>Natural Gas Pipeline Co. of America 8310</u>		
<u>027807AAC</u>	<u>730103540041</u>	<u>1</u>
<u>Natural Gas Pipeline Co. of America - Sta 110</u>		
<u>073816AAA</u>	<u>851000140011</u>	<u>1</u>
<u>073816AAA</u>	<u>851000140012</u>	<u>2</u>
<u>073816AAA</u>	<u>851000140013</u>	<u>3</u>
<u>073816AAA</u>	<u>851000140014</u>	<u>4</u>
<u>073816AAA</u>	<u>851000140041</u>	<u>1</u>
<u>073816AAA</u>	<u>851000140051</u>	<u>1</u>
<u>Northern Illinois Gas Co. - Stor Stat 359</u>		
<u>113817AAA</u>	<u>730105440021</u>	<u>1</u>
<u>113817AAA</u>	<u>730105440031</u>	<u>1</u>
<u>113821AAA</u>	<u>730105430021</u>	<u>1</u>
<u>113821AAA</u>	<u>730105430051</u>	<u>1</u>
<u>Panhandle Eastern Pipe Line Co. - Glenarm</u>		
<u>167801AAA</u>	<u>87090038002</u>	<u>1</u>
<u>167801AAA</u>	<u>87090038004</u>	<u>1</u>
<u>167801AAA</u>	<u>87090038005</u>	<u>1</u>
<u>Panhandle Eastern Pipe Line Co. - Tuscola Sta</u>		
<u>041804AAC</u>	<u>73010573009</u>	<u>9</u>
<u>041804AAC</u>	<u>73010573010</u>	<u>10</u>
<u>041804AAC</u>	<u>73010573011</u>	<u>11</u>
<u>041804AAC</u>	<u>73010573012</u>	<u>12</u>

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<u>041804AAC</u>	<u>73010573013</u>	<u>13</u>
<u>Panhandle Eastern Pipe Line Co.</u>		
<u>149820AAB</u>	<u>7301057199G</u>	<u>3</u>
<u>149820AAB</u>	<u>7301057199I</u>	<u>1</u>
<u>149820AAB</u>	<u>7301057199J</u>	<u>1</u>
<u>149820AAB</u>	<u>7301057199K</u>	<u>1</u>
<u>Panhandle Eastern Pipe Line Co. - Glenarm</u>		
<u>167801AAA</u>	<u>87090038001</u>	<u>1</u>
<u>Phoenix Chemical Co.</u>		
<u>085809AAA</u>	<u>730700330101</u>	<u>1</u>
<u>085809AAA</u>	<u>730700330102</u>	<u>2</u>
<u>085809AAA</u>	<u>730700330103</u>	<u>3</u>

(Source: Added at 31 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Petroleum Underground Storage Tanks (Releases Reported September 23, 1994, Through June 23, 2002)
- 2) Code Citation: 35 Ill. Adm. Code 732
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
732.103	Amend
732.702	Amend
- 4) Statutory Authority: Implementing Sections 22.12 and 57-57.17 and authorized by Section 57.14 of the Environmental Protection Act [415 ILCS 5/22.12, 57-57.17] as amended by PA 94-274 and 94-276
- 5) A Complete Description of the Subjects and Issues Involved: For a more detailed discussion of these amendments, see the Board's April 19, 2007 opinion and order in docket R07-17. This rulemaking proposes amendments to Parts 101, 732, and 734 to incorporate recent statutory changes to the Environmental Protection Act (Act) [415 ILCS 5].

The amendments to Part 732 are driven by changes to the Act found in Public Acts (PA) 94-274 and 94-276. PA 94-274, effective January 1, 2006, amended the Act's definitions with regard to certain activities taken by the Illinois Environmental Protection Agency (Agency) in its underground storage tank (UST) program. *See* 415 ILCS 5/57.2 (2004). Specifically, PA 94-274 provides that, in the Title XVI of the Act addressing petroleum USTs,

the term "owner" shall also mean any person who has submitted to the Agency a written election to proceed under this Title and has acquired an ownership interest in a site on which one or more registered tanks have been removed, but on which corrective action has not yet resulted in the issuance of a "no further remediation letter" by the Agency pursuant to this Title. PA 94-274.

The Board proposes to amend the definition of "owner" in Sections 732.103 and 734.115 of its UST regulations (35 Ill. Adm. Code 732.103, 734.115) to reflect the statutory amendment enacted by PA 94-274.

PA 94-276, effective January 1, 2006, amended the Act's provisions regarding no further remediation (NFR) letters. *See* 415 ILCS 5/57.10(c). Specifically, the PA 94-276

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provides that the Act's subsection addressing the significance of the Agency's issuance of an NFR letter "does not apply to off-site contamination related to the occurrence that has not been remediated due to denial of access to the off-site property." PA 94-276. The Board proposes to amend its regulations regarding NFR letters in Sections 732.702 and 734.710 (35 Ill. Adm. Code 732.702, 734.710) to reflect the statutory amendment enacted by PA 92-276.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This 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) (2006)].
- 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 R07-17 and be addressed to:

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

The Board has scheduled two hearings in this rulemaking as follows:
First hearing:

Wednesday, May 16, 2007, 1:00 pm
Illinois Pollution Control Board Conference Room
Room 11-512
James R. Thompson Center

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100 W. Randolph Street
Chicago, Illinois

Second hearing:

Thursday June 7, 2007, 1:00 pm
Illinois Pollution Control Board Conference Room
Illinois Environmental Protection Agency Building, North Entrance
1021 N. Grand Ave. East
Springfield, Illinois

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

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

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking will impact any small business, small municipality or not for profit corporation that participates in the underground storage tank program as the proposed amendments, in reflecting recent statutory changes, clarify portions of the existing rules regarding the responsibilities of owners of impacted sites.
- B) Reporting, bookkeeping or other procedures required for compliance: This rulemaking does not impose any additional reporting or recordkeeping requirements.
- C) Types of Professional skills necessary for compliance: None

14) Reason this rulemaking was not included on the most recent regulatory agenda: This rulemaking was not included in the Board's most recent regulatory agenda because: the Board did not anticipate incorporating these statutory amendments into its rules at this time.

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER d: UNDERGROUND INJECTION CONTROL
AND UNDERGROUND STORAGE TANK PROGRAMS

PART 732

PETROLEUM UNDERGROUND STORAGE TANKS
(RELEASES REPORTED SEPTEMBER 23, 1994, THROUGH JUNE 23, 2002)

SUBPART A: GENERAL

Section	
732.100	Applicability
732.101	Election to Proceed under Part 732
732.102	Severability
732.103	Definitions
732.104	Incorporations by Reference
732.105	Agency Authority to Initiate Investigative, Preventive or Corrective Action
732.106	Laboratory Certification
732.108	Licensed Professional Engineer or Licensed Professional Geologist Supervision
732.110	Form and Delivery of Plans, Budget Plans, and Reports; Signatures and Certifications
732.112	Notification of Field Activities
732.114	LUST Advisory Committee

SUBPART B: EARLY ACTION

Section	
732.200	General
732.201	Agency Authority to Initiate
732.202	Early Action
732.203	Free Product Removal
732.204	Application for Payment of Early Action Costs

SUBPART C: SITE EVALUATION AND CLASSIFICATION

Section	
732.300	General

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732.301	Agency Authority to Initiate
732.302	No Further Action Sites
732.303	Low Priority Sites
732.304	High Priority Sites
732.305	Plan Submittal and Review
732.306	Deferred Site Classification; Priority List for Payment
732.307	Site Evaluation
732.308	Boring Logs and Sealing of Soil Borings and Groundwater Monitoring Wells
732.309	Site Classification Completion Report
732.310	Indicator Contaminants
732.311	Groundwater Remediation Objectives
732.312	Classification by Exposure Pathway Exclusion

SUBPART D: CORRECTIVE ACTION

Section	
732.400	General
732.401	Agency Authority to Initiate
732.402	No Further Action Site
732.403	Low Priority Site
732.404	High Priority Site
732.405	Plan Submittal and Review
732.406	Deferred Corrective Action; Priority List for Payment
732.407	Alternative Technologies
732.408	Remediation Objectives
732.409	Groundwater Monitoring and Corrective Action Completion Reports
732.410	"No Further Remediation" Letter (Repealed)
732.411	Off-site Access

SUBPART E: REVIEW OF PLANS, BUDGET PLANS, AND REPORTS

Section	
732.500	General
732.501	Submittal of Plans or Reports (Repealed)
732.502	Completeness Review (Repealed)
732.503	Review of Plans, Budget Plans, or Reports
732.504	Selection of Plans or Reports for Full Review (Repealed)
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732.ILLUSTRATION C	Equation For Calculating Groundwater Objectives at the Source (Repealed)
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732.TABLE A	Groundwater and Soil Remediation Objectives (Repealed)
732.TABLE B	Soil Remediation remediation Methodology: Model Parameter Values (Repealed)
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AUTHORITY: Implementing Sections 22.12 and 57-57.17 and authorized by Section 57.14 of the Environmental Protection Act [415 ILCS 5/22.12, 57-57.17].

SOURCE: Adopted in R94-2 at 18 Ill. Reg. 15008, effective September 23, 1994; amended in R97-10 at 21 Ill. Reg. 3617, effective July 1, 1997; amended in R01-26 at 26 Ill. Reg. 7119, effective April 29, 2002; amended in R04-22/23 at 30 Ill. Reg. 4928, effective March 1, 2006; amended in R07-17 at 31 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 732.103 Definitions

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Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definitions of words or terms in this Part shall be the same as that applied to the same words or terms in the Environmental Protection Act [415 ILCS 5].

"Act" means the Environmental Protection Act [415 ILCS 5].

"Agency" means the Illinois Environmental Protection Agency.

"Alternative Technology" means a process or technique, other than conventional technology, used to perform a corrective action with respect to soils contaminated by releases of petroleum from an underground storage tank.

"Board" means the Illinois Pollution Control Board.

"Bodily Injury" means bodily injury, sickness, or disease sustained by a person, including death at any time, resulting from a release of petroleum from an underground storage tank [415 ILCS 5/57.2].

"Class I Groundwater" means groundwater that meets the Class I: potable resource groundwater criteria set forth in the Board regulations adopted pursuant to the Illinois Groundwater Protection Act [415 ILCS 5/57.2].

"Class III Groundwater" means groundwater that meets the Class III: special resource groundwater criteria set forth in the Board regulations adopted pursuant to the Illinois Groundwater Protection Act [415 ILCS 5/57.2].

"Community water supply" means a public water supply which serves or is intended to serve at least 15 service connections used by residents or regularly serves at least 25 residents [415 ILCS 5/3.145].

"Confirmed Exceedence" means laboratory verification of an exceedence of the applicable remediation objectives.

"Confirmation of a Release" means the confirmation of a release of petroleum in accordance with regulations promulgated by the Office of the State Fire Marshal at 41 Ill. Adm. Code 170.

"Confirmed Release" means a release of petroleum that has been confirmed in accordance with regulations promulgated by the Office of the State Fire Marshal

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at 41 Ill. Adm. Code 170.

"Conventional Technology" means a process or technique to perform a corrective action by removal, transportation and disposal of soils contaminated by a release of petroleum from an underground storage tank in accordance with applicable laws and regulations, but without processing to remove petroleum from the soils.

"Corrective action" means activities associated with compliance with the provisions of Sections 57.6 and 57.7 of the Act [415 ILCS 5/57.2].

"County Highway" means county highway as defined in the Illinois Highway Code [605 ILCS 5].

"District Road" means a district road as defined in the Illinois Highway Code [605 ILCS 5].

"Environmental Land Use Control" means Environmental Land Use Control as defined in 35 Ill. Adm. Code 742.200.

"Federal Landholding Entity" means that federal department, agency or instrumentality with the authority to occupy and control the day-to-day use, operation and management of Federally Owned Property.

"Federally Owned Property" means real property owned in fee simple by the United States on which an institutional control is or institutional controls are sought to be placed in accordance with this Part.

"Fill Material" means non-native or disturbed materials used to bed and backfill around an underground storage tank [415 ILCS 5/57.2].

"Financial Interest" means any ownership interest, legal or beneficial, or being in the relationship of director, officer, employee, or other active participant in the affairs of a party. Financial interest does not include ownership of publicly traded stock.

"Free Product" means a contaminant that is present as a non-aqueous phase liquid for chemicals whose melting point is less than 30°C (e.g., liquid not dissolved in water).

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"Full Accounting" means a compilation of documentation to establish, substantiate and justify the nature and extent of the corrective action costs incurred by an owner or operator.

"Fund" *means the Underground Storage Tank Fund* [415 ILCS 5/57.2].

"GIS" means Geographic Information System.

"GPS" means Global Positioning System.

"Groundwater" *means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure* [415 ILCS 5/3.210].

"Half-day" means four hours, or a fraction thereof, of billable work time. Half-days must be based upon the total number of hours worked in one calendar day. The total number of half-days per calendar day may exceed two.

"Handling Charges" means administrative, insurance, and interest costs and a reasonable profit for procurement, oversight, and payment of subcontracts and field purchases.

"Heating Oil" *means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No. 5-heavy or No. 6 technical grades of fuel oil; and other residual fuel oils including navy special fuel oil and bunker C.* [415 ILCS 5/57.2]

"Highway Authority" means the Illinois Department of Transportation *with respect to a State highway; the Illinois State Toll Highway Authority with respect to a toll highway; the county board with respect to a county highway or a county unit district road if a discretionary function is involved and the county superintendent of highways if a ministerial function is involved; the highway commissioner with respect to a township or district road not in a county or unit road district; or the corporate authorities of a municipality with respect to a municipal street* [605 ILCS 5/2-213].

"Highway Authority Agreement" means an agreement with a highway authority that meets the requirements of 35 Ill. Adm. Code 742.1020.

"IEMA" means the Illinois Emergency Management Agency.

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"Indemnification" means indemnification of an owner or operator for the amount of judgment entered against the owner or operator in a court of law, for the amount of any final order or determination made against the owner or operator by any agency of State government or any subdivision thereof, or for the amount of any settlement entered into by the owner or operator, if the judgment, order, determination, or settlement arises out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank owned or operated by the owner or operator [415 ILCS 5/57.2].

"Indicator Contaminants" means the indicator contaminants set forth in Section 732.310 of this Part.

"Institutional Control" means a legal mechanism for imposing a restriction on land use as described in 35 Ill. Adm. Code 742, Subpart J.

"Land Use Control Memorandum of Agreement" means an agreement entered into between one or more agencies of the United States and the Illinois Environmental Protection Agency that limits or places requirements upon the use of Federally Owned Property for the purpose of protecting human health or the environment, or that is used to perfect a No Further Remediation Letter that contains land use restrictions.

"Licensed Professional Engineer" means a person, corporation or partnership licensed under the laws of the State of Illinois to practice professional engineering [415 ILCS 5/57.2].

"Licensed Professional Geologist" means a person licensed under the laws of the State of Illinois to practice as a professional geologist [415 ILCS 5/57.2].

"Man-made Pathway" means constructed routes that may allow for the transport of mobile petroleum free-liquid or petroleum-based vapors including, but not limited to, sewers, utility lines, utility vaults, building foundations, basements, crawl spaces, drainage ditches or previously excavated and filled areas.

"Monitoring Well" means a water well intended for the purpose of determining groundwater quality or quantity.

"Natural Pathway" means natural routes for the transport of mobile petroleum

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free-liquid or petroleum-based vapors including, but not limited to, soil, groundwater, sand seams and lenses, and gravel seams and lenses.

"Non-community Water Supply" means a public water supply that is not a community water supply [415 ILCS 5/3.145].

"Occurrence" means an accident, including continuous or repeated exposure to conditions, that results in a sudden or nonsudden release from an underground storage tank [415 ILCS 5/57.2].

"OSFM" means the Office of the State Fire Marshal.

"Operator" means any person in control of, or having responsibility for, the daily operation of the underground storage tank. (Derived from 42 USC 6991)

BOARD NOTE: A person who voluntarily undertakes action to remove an underground storage tank system from the ground shall not be deemed an "operator" merely by the undertaking of such action.

"Owner" means:

In the case of an underground storage tank in use on November 8, 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use or dispensing of regulated substances;

In the case of any underground storage tank in use before November 8, 1984, but no longer in use on that date, any person who owned such underground storage tank immediately before the discontinuation of its use; (Derived from 42 USC 6991)

Any person who has submitted to the Agency a written election to proceed under the underground storage tank program and has acquired an ownership interest in a site on which one or more registered tanks have been removed, but on which corrective action has not yet resulted in the issuance of a "No Further Remediation Letter" by the Agency pursuant to the underground storage tank program [415 ILCS 5/57.2].

"Perfect" or "Perfected" means recorded or filed for record so as to place the public on notice, or as otherwise provided in Section 732.703(c) and (d) of this

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Part.

"Person" means, for the purposes of interpreting the definitions of the terms "owner" or "operator," an individual, trust, firm, joint stock company, joint venture, consortium, commercial entity, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body and shall include the United States Government and each department, agency, and instrumentality of the United States. (Derived from 42 USC 6991)

"Petroleum" means petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60°F and 14.7 pounds per square inch absolute). (Derived from 42 USC 6991)

"Physical Soil Classification" *means verification of geological conditions consistent with regulations for identifying and protecting potable resource groundwater or verification that subsurface strata are as generally mapped in the publication Illinois Geological Survey Circular (1984) entitled "Potential For Contamination Of Shallow Aquifers In Illinois," by Berg, Richard C., et al. Such classification may include review of soil borings, well logs, physical soil analysis, regional geologic maps, or other scientific publication.* [415 ILCS 5/57.2]

"Potable" *means generally fit for human consumption in accordance with accepted water supply principles and practices* [415 ILCS 5/3.340].

"Practical quantitation limit" or "PQL" means the lowest concentration that can be reliably measured within specified limits of precision and accuracy for a specific laboratory analytical method during routine laboratory operating conditions in accordance with "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846, incorporated by reference at Section 732.104 of this Part. For filtered water samples, PQL also means the Method Detection Limit or Estimated Detection Limit in accordance with the applicable method revision in: "Methods for the Determination of Metals in Environmental Samples," EPA Publication No. EPA/600/4-91/010; "Methods for the Determination of Metals in Environmental Samples, Supplement I," EPA Publication No. EPA/600/R-94/111; "Methods for the Determination of Organic Compounds in Drinking Water," EPA Publication No. EPA/600/4-88/039; "Methods for the Determination of Organic Compounds in Drinking Water, Supplement II," EPA Publication No. EPA/600/R-92/129; or "Methods for the

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Determination of Organic Compounds in Drinking Water, Supplement III," EPA Publication No. EPA/600/R-95/131, all of which are incorporated by reference at Section 732.104 of this Part.

"Property Damage" means physical injury to, destruction of, or contamination of tangible property owned by a person other than an owner or operator of the UST from which a release of petroleum has occurred and which tangible property is located off the site where the release occurred. Property damage includes all resulting loss of use of that property; or loss of use of tangible property that is not physically injured, destroyed or contaminated, but has been evacuated, withdrawn from use, or rendered inaccessible because of a release of petroleum from an underground storage tank [415 ILCS 5/57.2].

"Public Water Supply" means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is either a "community water supply" or a "non-community water supply" [415 ILCS 5/3.365].

"Registration" means registration of an underground storage tank with the OSFM in accordance with Section 4 of the Gasoline Storage Act [430 ILCS 15/4].

"Regulated recharge area" means a compact geographic area, as determined by the Board, the geology of which renders a potable resource groundwater particularly susceptible to contamination [415 ILCS 5/3.390].

"Regulated Substance" means any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 USC Sec. 9601(14)) (but not including any substance regulated as a hazardous waste under subtitle C of the Resource Conservation and Recovery Act (42 USC 6921 et seq.)), and petroleum. (Derived from 42 USC 6991)

"Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing of petroleum from an underground storage tank into groundwater, surface water or subsurface soils [415 ILCS 5/57.2].

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"Residential Tank" means an underground storage tank located on property used primarily for dwelling purposes.

"Residential Unit" means a structure used primarily for dwelling purposes including multi-unit dwellings such as apartment buildings, condominiums, cooperatives or dormitories.

"Right-of-way" means *the land, or interest therein, acquired for or devoted to a highway* [605 ILCS 5/2-217].

"Setback Zone" means *a geographic area, designated pursuant to the Act or regulations (see 35 Ill. Adm. Code, Subtitle F), containing a potable water supply well or a potential source or potential route, having a continuous boundary, and within which certain prohibitions or regulations are applicable in order to protect groundwater* [415 ILCS 5/3.450].

"Site" means *any single location, place, tract of land or parcel of property including contiguous property not separated by a public right-of-way* [415 ILCS 5/57.2].

"State Highway" means a State highway as defined in the Illinois Highway Code [605 ILCS 5].

"Stratigraphic Unit" means a site-specific geologic unit of native deposited material and/or bedrock of varying thickness (e.g., sand, gravel, silt, clay, bedrock, etc.). A change in stratigraphic unit is recognized by a clearly distinct contrast in geologic material or a change in physical features within a zone of gradation. For the purposes of this Part, a change in stratigraphic unit is identified by one or a combination of differences in physical features such as texture, cementation, fabric, composition, density, and/or permeability of the native material and/or bedrock.

"Street" means a street as defined in the Illinois Highway Code [605 ILCS 5].

"Surface Body of Water" or "Surface Water Body" means a natural or man-made body of water on the ground surface including, but not limited to, lakes, ponds, reservoirs, retention ponds, rivers, streams, creeks and drainage ditches. Surface body of water does not include puddles or other accumulations of precipitation,

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run-off or groundwater in UST excavations.

"Tank Field" means all underground storage tanks at a site that reside within a circle with a 100 foot radius.

"Toll Highway" means a toll highway as defined in the Toll Highway Act [605 ILCS 10].

"Township Road" means a township road as defined in the Illinois Highway Code [605 ILCS 5].

"Underground Storage Tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground. Such term does not include any of the following or any pipes connected thereto:

Farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

Septic tank;

Pipeline facility (including gathering lines) regulated under the Natural Gas Pipeline Safety Act of 1968 (49 USC App. 1671 et seq.), or the Hazardous Liquid Pipeline Safety Act of 1979 (49 USC App. 2001 et seq.), or which is an intrastate pipeline facility regulated under State laws as provided in either of these provisions of law, and that is determined by the Secretary of Energy to be connected to a pipeline or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline;

Surface impoundment, pit, pond, or lagoon;

Storm water or waste water collection system;

Flow-through process tank;

Liquid trap or associated gathering lines directly related to oil or gas

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production and gathering operations; or

Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated on or above the surface of the floor. (Derived from 42 USC 6991)

The term "underground storage tank" shall also mean an underground storage tank used exclusively to store heating oil for consumptive use on the premises where stored and which serves other than a farm or residential unit [415 ILCS 5/57.2].

"UST System" or "Tank System" means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

"Wellhead Protection Area" means the wellhead protection area of a community water supply well as determined under the Agency's wellhead protection program pursuant to 42 USC 300h-7.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART G: NO FURTHER REMEDIATION LETTERS
AND RECORDING REQUIREMENTS

Section 732.702 Contents of a No Further Remediation Letter

A No Further Remediation Letter issued pursuant to this Part shall include all of the following:

- a) An acknowledgment that the requirements of the applicable report were satisfied;
- b) A description of the location of the affected property by adequate legal description or by reference to a plat showing its boundaries, or, for purposes of Section 732.703(d) of this Part, other means sufficient to identify site location with particularity;
- c) A statement that the remediation objectives were determined in accordance with 35 Ill. Adm. Code 742, and the identification of any land use limitation, as applicable, required by 35 Ill. Adm. Code 742 as a condition of the remediation objectives;

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- d) Except for off-site contamination related to the occurrence that has not been remediated due to denial of access to the off-site property [415 ILCS 5/57.10(c)], a statement that the Agency's issuance of the No Further Remediation Letter signifies that:
- 1) *All corrective action requirements under Title XVI of the Act and this Part applicable to the occurrence have been complied with;*
 - 2) *All corrective action concerning the remediation of the occurrence has been completed; and*
 - 3) *No further corrective action concerning the occurrence is necessary for the protection of human health, safety and the environment [415 ILCS 5/57.10(c)(1)-(3)], or, if the No Further Remediation Letter is issued pursuant to Section 732.411(e) of this Part, that the owner or operator has demonstrated to the Agency's satisfaction an inability to obtain access to an off-site property despite best efforts and therefore is not required to perform corrective action on the off-site property in order to satisfy the corrective action requirements of this Part, but is not relieved of responsibility to clean up portions of the release that have migrated off-site;*
- e) The prohibition under Section 732.703(e) of this Part against the use of any site in a manner inconsistent with any applicable land use limitation, without additional appropriate remedial activities;
- f) A description of any approved preventive, engineering, and institutional controls identified in the plan or report and notification that failure to manage the controls in full compliance with the terms of the plan or report may result in voidance of the No Further Remediation Letter;
- g) The recording obligations pursuant to Section 732.703 of this Part;
- h) The opportunity to request a change in the recorded land use pursuant to Section 732.703(e) of this Part;
- i) Notification that further information regarding the site can be obtained from the Agency through a request under the Freedom of Information Act [5 ILCS 140];

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and

- j) Any other provisions agreed to by the Agency and the owner or operator.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Petroleum Underground Storage Tanks (Releases Reported on or After June 24, 2002)
- 2) Code Citation: 35 Ill. Adm. Code 734
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
734.115	Amend
734.710	Amend
- 4) Statutory Authority: Implementing Sections 22.12 and 57 - 57.17 and authorized by Sections 5, 22, 27, and 57.14A of the Environmental Protection Act [415 ILCS 5/5, 22, 22.12, 27, and 57 - 57.17] as amended by Public Act 94-274 and 94-276.
- 5) A Complete Description of the Subjects and Issues Involved: For a more detailed discussion of these amendments, see the Board's April 19, 2007 opinion and order in docket R07-17. This rulemaking proposes amendments to Parts 101, 732, and 734 to incorporate recent statutory changes to the Environmental Protection Act (Act) [415 ILCS 5].

The amendments to Part 734 are driven by changes to the Act found in Public Acts (PA) 94-274 and 94-276. Public Act 94-274, effective January 1, 2006, amended the Act's definitions with regard to certain activities taken by the Illinois Environmental Protection Agency (Agency) in its underground storage tank (UST) program. *See* 415 ILCS 5/57.2 (2004). Specifically, P.A. 94-0274 provides that, in the Title XVI of the Act addressing petroleum USTs,

the term "owner" shall also mean any person who has submitted to the Agency a written election to proceed under this Title and has acquired an ownership interest in a site on which one or more registered tanks have been removed, but on which corrective action has not yet resulted in the issuance of a "no further remediation letter" by the Agency pursuant to this Title. P.A. 94-274.

The Board proposes to amend the definition of "owner" in Sections 732.103 and 734.115 of its UST regulations (35 Ill. Adm. Code 732.103, 734.115) to reflect the statutory amendment enacted by P.A. 94-274.

Public Act 94-276, effective January 1, 2006, amended the Act's provisions regarding no further remediation (NFR) letters. *See* 415 ILCS 5/57.10(c). Specifically, the P.A. 94-

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276 provides that the Act's subsection addressing the significance of the Agency's issuance of an NFR letter "does not apply to off-site contamination related to the occurrence that has not been remediated due to denial of access to the off-site property." P.A. 94-276. The Board proposes to amend its regulations regarding NFR letters in Sections 732.702 and 734.710 (35 Ill. Adm. Code 732.702, 734.710) to reflect the statutory amendment enacted by P.A. 92-276.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b) (2006)].
- 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 R07-17 and be addressed to:

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

The Board has scheduled two hearings in this rulemaking as follows:

First hearing:

Wednesday, May 16, 2007

1:00 pm

Illinois Pollution Control Board conference room 11-512

James R. Thompson Center

100 W. Randolph Street

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Chicago, Illinois

Second hearing:

Thursday June 7, 2007

1:00 pm

Illinois Pollution Control Board conference room

Illinois Environmental Protection Agency building, north entrance

1021 N. Grand Ave. East

Springfield, Illinois

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

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

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking will impact any small business, small municipality or not for profit corporation that participates in the underground storage tank program as the proposed amendments, in reflecting recent statutory changes, clarify portions of the existing rules regarding the responsibilities of owners of impacted sites.
- B) Reporting, bookkeeping or other procedures required for compliance:
This rulemaking does not impose any additional reporting or recordkeeping requirements.
- C) Types of Professional skills necessary for compliance: None

14) Regulatory Agenda in which this rulemaking was summarized: This rulemaking was not included in the Board's most recent regulatory agenda because: as the Board did not anticipate incorporating these statutory amendments into its rules at this time.

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER d: UNDERGROUND INJECTION CONTROL
AND UNDERGROUND STORAGE TANK PROGRAMS

PART 734

PETROLEUM UNDERGROUND STORAGE TANKS
(RELEASES REPORTED ON OR AFTER JUNE 24, 2002)

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734.100	Applicability
734.105	Election to Proceed under Part 734
734.110	Severability
734.115	Definitions
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734.125	Agency Authority to Initiate Investigative, Preventive, or Corrective Action
734.130	Licensed Professional Engineer or Licensed Professional Geologist Supervision
734.135	Form and Delivery of Plans, Budgets, and Reports; Signatures and Certifications
734.140	Development of Remediation Objectives
734.145	Notification of Field Activities
734.150	LUST Advisory Committee

SUBPART B: EARLY ACTION

Section	
734.200	General
734.205	Agency Authority to Initiate
734.210	Early Action
734.215	Free Product Removal
734.220	Application for Payment of Early Action Costs

SUBPART C: SITE INVESTIGATION AND CORRECTIVE ACTION

Section	
734.300	General
734.305	Agency Authority to Initiate
734.310	Site Investigation – General
734.315	Stage 1 Site Investigation

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734.320	Stage 2 Site Investigation
734.325	Stage 3 Site Investigation
734.330	Site Investigation Completion Report
734.335	Corrective Action Plan
734.340	Alternative Technologies
734.345	Corrective Action Completion Report
734.350	Off-site Access
734.355	Status Report

SUBPART D: MISCELLANEOUS PROVISIONS

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734.400	General
734.405	Indicator Contaminants
734.410	Remediation Objectives
734.415	Data Quality
734.420	Laboratory Certification
734.425	Soil Borings
734.430	Monitoring Well Construction and Sampling
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AUTHORITY: Implementing Sections 22.12 and 57-57.17 and authorized by Sections 5, 22, 27, and 57.14A of the Environmental Protection Act [415 ILCS 5/5, 22, 22.12, 27, and 57-57.17]

SOURCE: Adopted in R04-22/23 at 30 Ill. Reg. 5090, effective March 1, 2006; amended in R07-17 at 31 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 734.115 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definitions of words or terms in this Part must be the same as those applied to the same words or terms in the Environmental Protection Act [415 ILCS 5].

"Act" means the Environmental Protection Act [415 ILCS 5].

"Agency" means the Illinois Environmental Protection Agency.

"Alternative Technology" means a process or technique, other than conventional technology, used to perform a corrective action with respect to soils contaminated by releases of petroleum from an underground storage tank.

"Board" means the Illinois Pollution Control Board.

"Bodily Injury" means *bodily injury, sickness, or disease sustained by a person, including death at any time, resulting from a release of petroleum from an underground storage tank* [415 ILCS 5/57.2].

"Community Water Supply" means *a public water supply which serves or is intended to serve at least 15 service connections used by residents or regularly serves at least 25 residents* [415 ILCS 5/3.145].

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"Confirmation of a release" means the confirmation of a release of petroleum in accordance with regulations promulgated by the Office of the State Fire Marshal at 41 Ill. Adm. Code 170.

"Confirmed Release" means a release of petroleum that has been confirmed in accordance with regulations promulgated by the Office of the State Fire Marshal at 41 Ill. Adm. Code 170.

"Conventional Technology" means a process or technique to perform a corrective action by removal, transportation, and disposal of soils contaminated by a release of petroleum from an underground storage tank in accordance with applicable laws and regulations, but without processing to remove petroleum from the soils.

"Corrective Action" *means activities associated with compliance with the provisions of Sections 57.6 and 57.7 of the Act [415 ILCS 5/57.2].*

"County highway" means county highway as defined in the Illinois Highway Code [605 ILCS 5].

"District road" means district road as defined in the Illinois Highway Code [605 ILCS 5].

"Environmental Land Use Control" means Environmental Land Use Control as defined in 35 Ill. Adm. Code 742.200.

"Federal Landholding Entity" means that federal department, agency, or instrumentality with the authority to occupy and control the day-to-day use, operation, and management of Federally Owned Property.

"Federally Owned Property" means real property owned in fee simple by the United States on which an institutional control is or institutional controls are sought to be placed in accordance with this Part.

"Fill Material" *means non-native or disturbed materials used to bed and backfill around an underground storage tank [415 ILCS 5/57.2].*

"Financial interest" means any ownership interest, legal or beneficial, or being in the relationship of director, officer, employee, or other active participant in the

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affairs of a party. Financial interest does not include ownership of publicly traded stock.

"Free Product" means a contaminant that is present as a non-aqueous phase liquid for chemicals whose melting point is less than 30° C (e.g., liquid not dissolved in water).

"Full Accounting" means a compilation of documentation to establish, substantiate, and justify the nature and extent of the corrective action costs incurred by an owner or operator.

"Fund" *means the Underground Storage Tank Fund* [415 ILCS 5/57.2].

"GIS" means Geographic Information System.

"GPS" means Global Positioning System.

"Groundwater" *means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure* [415 ILCS 5/3.210].

"Half-day" means four hours, or a fraction thereof, of billable work time. Half-days must be based upon the total number of hours worked in one calendar day. The total number of half-days per calendar day may exceed two.

"Handling Charges" means administrative, insurance, and interest costs and a reasonable profit for procurement, oversight, and payment of subcontracts and field purchases.

"Heating oil" *means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No. 5-heavy or No. 6 technical grades of fuel oil; and other residual fuel oils including navy special fuel oil and bunker c* [415 ILCS 5/57.2].

"Highway authority" means the Illinois Department of Transportation *with respect to a State highway; the Illinois State Toll Highway Authority with respect to a toll highway; the county board with respect to a county highway or a county unit district road if a discretionary function is involved and the county superintendent of highways if a ministerial function is involved; the highway commissioner with respect to a township or district road not in a county or unit*

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road district; or the corporate authorities of a municipality with respect to a municipal street [605 ILCS 5/2-213].

"Highway Authority Agreement" means an agreement with a highway authority that meets the requirements of 35 Ill. Adm. Code 742.1020.

"IEMA" means the Illinois Emergency Management Agency.

"Indemnification" *means indemnification of an owner or operator for the amount of judgment entered against the owner or operator in a court of law, for the amount of any final order or determination made against the owner or operator by any agency of State government or any subdivision thereof, or for the amount of any settlement entered into by the owner or operator, if the judgment, order, determination, or settlement arises out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank owned or operated by the owner or operator [415 ILCS 5/57.2].*

"Indicator contaminants" means the indicator contaminants set forth in Section 734.405 of this Part.

"Institutional Control" means a legal mechanism for imposing a restriction on land use as described in 35 Ill. Adm. Code 742.Subpart J.

"Land Use Control Memorandum of Agreement" means an agreement entered into between one or more agencies of the United States and the Illinois Environmental Protection Agency that limits or places requirements upon the use of Federally Owned Property for the purpose of protecting human health or the environment, or that is used to perfect a No Further Remediation Letter that contains land use restrictions.

"Licensed Professional Engineer" *means a person, corporation or partnership licensed under the laws of the State of Illinois to practice professional engineering [415 ILCS 5/57.2].*

"Licensed Professional Geologist" *means a person licensed under the laws of the State of Illinois to practice as a professional geologist [415 ILCS 5/57.2].*

"Man-made Pathway" means a constructed route that may allow for the transport of mobile petroleum free-liquid or petroleum-based vapors including but not

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limited to sewers, utility lines, utility vaults, building foundations, basements, crawl spaces, drainage ditches, or previously excavated and filled areas.

"Monitoring Well" means a water well intended for the purpose of determining groundwater quality or quantity.

"Natural Pathway" means a natural route for the transport of mobile petroleum free-liquid or petroleum-based vapors including but not limited to soil, groundwater, sand seams and lenses, and gravel seams and lenses.

"Non-community water supply" means a public water supply that is not a community water supply [415 ILCS 5/3.145].

"Occurrence" means an accident, including continuous or repeated exposure to conditions, that results in a sudden or nonsudden release from an underground storage tank [415 ILCS 5/57.2].

"OSFM" means the Office of the State Fire Marshal.

"Operator" means any person in control of, or having responsibility for, the daily operation of the underground storage tank. (Derived from 42 USC 6991)

BOARD NOTE: A person who voluntarily undertakes action to remove an underground storage tank system from the ground must not be deemed an "operator" merely by the undertaking of such action.

"Owner" means:

In the case of an underground storage tank in use on November 8, 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances;

In the case of any underground storage tank in use before November 8, 1984, but no longer in use on that date, any person who owned such underground storage tank immediately before the discontinuation of its use; (Derived from 42 USC 6991)

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Any person who has submitted to the Agency a written election to proceed under the underground storage tank program and has acquired an ownership interest in a site on which one or more registered tanks have been removed, but on which corrective action has not yet resulted in the issuance of a "No Further Remediation Letter" by the Agency pursuant to the underground storage tank program [415 ILCS 5/57.2].

"Perfect" or "Perfected" means recorded or filed for record so as to place the public on notice, or as otherwise provided in Sections 734.715(c) and (d) of this Part.

"Person" means, for the purposes of interpreting the definitions of the terms "owner" or "operator," an individual, trust, firm, joint stock company, joint venture, consortium, commercial entity, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body and must include the United States Government and each department, agency, and instrumentality of the United States. (Derived from 42 USC 6991)

"Petroleum" means petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60°F and 14.7 pounds per square inch absolute). (Derived from 42 USC 6991)

"Potable" means generally fit for human consumption in accordance with accepted water supply principles and practices [415 ILCS 5/3.340].

"Practical quantitation limit" or ("PQL") means the lowest concentration that can be reliably measured within specified limits of precision and accuracy for a specific laboratory analytical method during routine laboratory operating conditions in accordance with "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846, incorporated by reference at Section 734.120 of this Part. For filtered water samples, PQL also means the Method Detection Limit or Estimated Detection Limit in accordance with the applicable method revision in: "Methods for the Determination of Metals in Environmental Samples," EPA Publication No. EPA/600/4-91/010; "Methods for the Determination of Metals in Environmental Samples, Supplement I," EPA Publication No. EPA/600/R-94/111; "Methods for the Determination of Organic Compounds in Drinking Water," EPA Publication No. EPA/600/4-88/039; "Methods for the Determination of Organic Compounds in Drinking Water,

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Supplement II," EPA Publication No. EPA/600/R-92/129; or "Methods for the Determination of Organic Compounds in Drinking Water, Supplement III," EPA Publication No. EPA/600/R-95/131, all of which are incorporated by reference at Section 734.120 of this Part.

"Property Damage" means *physical injury to, destruction of, or contamination of tangible property* owned by a person other than an owner or operator of the UST from which a release of petroleum has occurred and which tangible property is located off the site where the release occurred. Property damage includes *all resulting loss of use of that property; or loss of use of tangible property that is not physically injured, destroyed or contaminated, but has been evacuated, withdrawn from use, or rendered inaccessible because of a release of petroleum from an underground storage tank* [415 ILCS 5/57.2].

"Public Water Supply" means *all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is either a "community water supply" or a "non-community water supply"* [415 ILCS 5/3.365].

"Registration" means registration of an underground storage tank with the OSFM in accordance with Section 4 of the Gasoline Storage Act [430 ILCS 15/4].

"Regulated Recharge Area" means *a compact geographic area, as determined by the Board, (35 Ill. Adm. Code Subtitle F), the geology of which renders a potable resource groundwater particularly susceptible to contamination* [415 ILCS 5/3.390].

"Regulated Substance" means any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 USC 9601(14)) (but not including any substance regulated as a hazardous waste under subtitle C of the Resource Conservation and Recovery Act (42 USC 6921 et seq.)) and petroleum. (Derived from 42 USC 6991)

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"Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing of petroleum from an underground storage tank into groundwater, surface water or subsurface soils [415 ILCS 5/57.2].

"Residential Tank" means an underground storage tank located on property used primarily for dwelling purposes.

"Residential Unit" means a structure used primarily for dwelling purposes including multi-unit dwellings such as apartment buildings, condominiums, cooperatives, or dormitories.

"Right-of-way" means the land, or interest therein, acquired for or devoted to a highway [605 ILCS 5/2-217].

"Setback Zone" means a geographic area, designated pursuant to the Act [415 ILCS 5/14.1, 5/14.2, 5/14.3] or regulations [35 Ill. Adm. Code Subtitle F], containing a potable water supply well or a potential source or potential route, having a continuous boundary, and within which certain prohibitions or regulations are applicable in order to protect groundwater [415 ILCS 5/3.450].

"Site" means any single location, place, tract of land or parcel of property, including contiguous property not separated by a public right-of-way [415 ILCS 5/57.2].

"State highway" means a ~~State~~ highway as defined in the Illinois Highway Code [605 ILCS 5].

"Street" means a street as defined in the Illinois Highway Code [605 ILCS 5].

"Surface Body of Water" or "Surface Water Body" means a natural or man-made body of water on the ground surface including but not limited to lakes, ponds, reservoirs, retention ponds, rivers, streams, creeks, and drainage ditches. Surface body of water does not include puddles or other accumulations of precipitation, run-off, or groundwater in UST excavations.

"Toll highway" means a toll highway as defined in the Toll Highway Act, [605 ILCS 10].

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"Township road" means a township road as defined in the Illinois Highway Code [605 ILCS 5].

"Underground Storage Tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10 per centum or more beneath the surface of the ground. Such term does not include any of the following or any pipes connected thereto:

Farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

Septic tank;

Pipeline facility (including gathering lines) regulated under the Natural Gas Pipeline Safety Act of 1968 (49 USC App. 1671 et seq.), or the Hazardous Liquid Pipeline Safety Act of 1979 (49 USC App. 2001 et seq.), or which is an intrastate pipeline facility regulated under State laws as provided in either of these provisions of law, and that is determined by the Secretary of Energy to be connected to a pipeline or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline;

Surface impoundment, pit, pond, or lagoon;

Storm water or waste water collection system;

Flow-through process tank;

Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or

Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated on or above the surface of the floor. (Derived from 42 USC § 6991)

The term "underground storage tank" shall also mean an underground storage tank used exclusively to store heating oil for consumptive use on the premises

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where stored and which serves other than a farm or residential unit [415 ILCS 5/57.2].

"UST system" or "tank system" means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

"Wellhead Protection Area" means the wellhead protection area of a community water supply well as determined under the Agency's wellhead protection program pursuant to 42 USC § 300h-7.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART G: NO FURTHER REMEDIATION
LETTERS AND RECORDING REQUIREMENTS

Section 734.710 Contents of a No Further Remediation Letter

A No Further Remediation Letter issued pursuant to this Part must include all of the following:

- a) An acknowledgment that the requirements of the applicable report were satisfied;
- b) A description of the location of the affected property by adequate legal description or by reference to a plat showing its boundaries, or, for the purposes of Section 734.715(d) of this Part, other means sufficient to identify the site location with particularity;
- c) A statement that the remediation objectives were determined in accordance with 35 Ill. Adm. Code 742, and the identification of any land use limitation, as applicable, required by 35 Ill. Adm. Code 742 as a condition of the remediation objectives;
- d) Except for off-site contamination related to the occurrence that has not been remediated due to denial of access to the off-site property [415 ILCS 5/57.10(c)],
aA statement that the Agency's issuance of the No Further Remediation Letter signifies that:
 - 1) *All statutory and regulatory corrective action requirements applicable to the occurrence have been complied with;*

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- 2) *All corrective action concerning the remediation of the occurrence has been completed; and*
- 3) *No further corrective action concerning the occurrence is necessary for the protection of human health, safety and the environment [415 ILCS 5/57.10(c)(1)-(3)], or, if the No Further Remediation Letter is issued pursuant to Section 734.350(e) of this Part, that the owner or operator has demonstrated to the Agency's satisfaction an inability to obtain access to an off-site property despite best efforts and therefore is not required to perform corrective action on the off-site property in order to satisfy the corrective action requirements of this Part, but is not relieved of responsibility to clean up portions of the release that have migrated off-site;*
- e) The prohibition under Section 734.715(e) of this Part against the use of any site in a manner inconsistent with any applicable land use limitation, without additional appropriate remedial activities;
- f) A description of any approved preventive, engineering, and institutional controls identified in the plan or report and notification that failure to manage the controls in full compliance with the terms of the plan or report may result in voidance of the No Further Remediation Letter;
- g) The recording obligations pursuant to Section 734.715 of this Part;
- h) The opportunity to request a change in the recorded land use pursuant to Section 734.715(e) of this Part;
- i) Notification that further information regarding the site can be obtained from the Agency through a request under the Freedom of Information Act [5 ILCS 140]; and
- j) Any other provisions agreed to by the Agency and the owner or operator.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Medication
- 2) Code Citation: 11 Ill. Adm. Code 603
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
603.60	Amendment
603.140	Amendment
603.160	Amendment
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments will implement actions passed by the Board at its March 13, 2007 meeting. The actions taken by the Board are a result of recommendations made by the Illinois Racing Board Medication Task Force. The Task Force recommended discretionary, not mandatory, disqualification and purse redistributions for Class 4 and Class 5 drugs (Section 603.140(d)). Class 4 and 5 drugs are generally those therapeutic drugs used during training for inflammation, soreness, or for analgesic reasons. If a Class 4 or 5 drug is present in the horse's system, the trainer remains subject to a civil penalty. The stewards are given specific criteria to decide whether a purse shall be redistributed, such as recommendations by the State Veterinarian and State Chemist, as to the significance of the level of drug.

The Task Force also recommended developing threshold levels (Section 603.60(f)) for two therapeutic drugs that appear to stay in the horse's system for long periods of time and are therefore problematic, Isoxsuprine (Class 4) and Ppyrilamine (Class 3). A threshold level for Ppyrilamine is not included in this rulemaking because the research at this time is incomplete. The proposed rulemaking also includes a retroactivity clause.

These amendments are progressive and necessary due to the advances of drug testing technologies that now make it possible to detect drugs in trace level concentrations.
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No

ILLINOIS RACING BOARD

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

The full text of the Proposed Amendments is identical to the Emergency Amendments that appear in this issue of the *Illinois Register* on page 6680.

ILLINOIS STATE BOARD OF INVESTMENT

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Rules and Regulations of the Board
- 2) Code Citation: 74 Ill. Adm. Code 800
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
800.5	Amendment
800.120	Amendment
800.210	Amendment
800.230	Amendment
800.310	Amendment
800.320	Amendment
800.330	Amendment
800.340	Amendment
800.410	Amendment
800.420	Amendment
800.510	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 22A-110 of the Illinois Pension Code [40 ILCS 5/22A-110] and implementing and authorized by Section 24-104 of the Illinois Pension Code [40 ILCS 5/24-104].
- 5) A Complete Description of the Subjects and Issues Involved: At the request of the Joint Committee on Administrative Rules, these Sections are being amended to: update antiquated statutory references contained in this Part, list all Board functions and provide general statements of policy regarding those functions, expand language to describe Board policy on the commingling of assets, distribution of securities, accounting of fixed income investments and accounting of reserve amounts, add language to identify general guidelines or restrictions on investments, and add language to identify Board policy regarding the Deferred Compensation Plan.
- 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

ILLINOIS STATE BOARD OF INVESTMENT

NOTICE OF PROPOSED AMENDMENTS

- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments during the 45-day First Notice period, which commences on the issue date of this publication of the *Illinois Register* to:

Emily Reid, Compliance Officer
Illinois State Board of Investment
180 N. LaSalle Street, Suite 2015
Chicago IL 60601

312/793-5712

All written comments received after 45 days after the date of this publication will be considered.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2007

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

ILLINOIS STATE BOARD OF INVESTMENT

NOTICE OF PROPOSED AMENDMENTS

TITLE 74: PUBLIC FINANCE
CHAPTER VII: STATE BOARD OF INVESTMENT

PART 800
RULES AND REGULATIONS OF THE BOARD

SUBPART A: AUTHORITY

Section
800.5 Authority

SUBPART B: BY-LAWS

Section
800.110 Offices of the Board
800.120 Meetings
800.130 Officers and Their Duties
800.140 Committees

SUBPART C: GENERAL POLICIES

Section
800.210 Functions
800.220 Fiduciary Aspects
800.230 Delegation of Authority
800.240 Budget

SUBPART D: ACCOUNTING

Section
800.310 Investment Account
800.320 Pension Fund Credits
800.330 Pension Fund Charges
800.340 Reserve Balances

SUBPART E: REPORTS

Section
800.410 Fiscal Reporting

ILLINOIS STATE BOARD OF INVESTMENT

NOTICE OF PROPOSED AMENDMENTS

800.420 Audits

SUBPART F: AMENDMENTS

Section
800.510 ~~Changes or~~ Amendments

AUTHORITY: Implementing and authorized by Section 22A-110 of the Illinois Pension Code [40 ILCS 5/22A-110].

SOURCE: Rules and Regulations of the Board, effective March 25, 1971; January 8, 1972; October 6, 1972; February 14, 1975; February 9, 1976; February 9, 1977; codified at 5 Ill. Reg. 10701; amended at 31 Ill. Reg. 1986, effective January 9, 2007; amended at 31 Ill. Reg. _____, effective _____.

SUBPART A: AUTHORITY

Section 800.5 Authority

In accordance with Article 22A of the "Illinois Pension Code", (~~Chapter 108½, Illinois Revised Statutes~~), [40 ILCS 5/Art. 22A] creating the *Illinois State Board of Investment*, effective October 10, 1969, *with authority to manage, invest and reinvest, the reserves, funds, assets, securities and moneys of any pension fund, as provided in this Article, and to perform such other duties as may from time to time be authorized by the General Assembly (Section 22A-101 of the Code) and providing in Section 22A-110, that the Board may adopt such rules and regulations (not inconsistent with this Article 22A) as in its judgment are desirable to implement and properly administer this Article 22A (Section 22A-110 of the Code)*, the Illinois State Board of Investment, with the objective of investing for a total return over the long term, ~~Part does hereby establish the following rules and regulations~~ *establishes this* for the direction and administration of its affairs ~~under this statutory authority~~ and for the effective operation of ~~the Board's such agency created by the aforesaid statute~~.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART B: BY-LAWS

Section 800.120 Meetings

- a) Regular meetings. Meetings of the Board shall be held at least once each calendar

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quarter, on a date and at a time specified by the Chair~~Chairman~~.

- b) Special meetings. Special meetings may be called at any time by the Chair~~Chairman~~ or Vice Chair~~Chairman~~ of the Board or by any three ~~(3)~~ members of the Board. As required by law, written notice shall be given at the time and place of each special meeting at least three ~~(3)~~ days previous to the date of ~~the~~~~such~~ meeting. ~~The~~~~Such~~ notice need not contain information regarding the subject matter for consideration at ~~the~~~~such~~ meeting. Any business of whatever nature may be taken up and disposed of at any special meeting. Notice of any special meeting may be waived by the members. ~~The~~~~which~~ waiver shall be duly recorded in the minutes ~~of the meeting~~~~thereof~~.
- c) Place and hour of meetings. Meetings of the Board shall be held at the general office of the Board or at any other place selected by the Chair~~Chairman~~ or agreed upon by the Board, at the hour fixed by the Chair~~Chairman~~ or by the ~~members~~~~member(s)~~ calling a special meeting.
- d) Annual meeting. The annual meeting of the Board shall be held in the month of September.
- e) Quorum. A majority of all members of the Board shall constitute a quorum for the transaction of business at any regular or special meeting.
- f) Meetings open to ~~the~~ public. As required by law, all meetings of the Board shall be open to the public except as otherwise provided in the Open Meetings Act [5 ILCS 120]~~Chapter 102 of the Illinois Revised Statutes~~.
- g) Proxies. Ex-officio members who cannot attend meetings of the Board or its committees may respectively designate one appropriate proxy from within the ~~Office~~~~office~~ of the State Treasurer, members of the ~~Pension Laws~~ Commission on Governmental Forecasting and Accountability, or Trustees of the pension or retirement system. ~~The~~~~which~~ proxy shall have the same powers and authority as the ex-officio member being represented, but no member may designate a different proxy within one year after his last designation of a proxy unless the person last ~~so~~ designated has become ineligible to serve in that capacity. The ex-officio Board member shall notify the designated proxy in writing, with a copy to the Board. The designated proxy shall accept ~~the~~~~such~~ designation in writing, with a copy to the Board.

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- h) Order of business-
- 1) The following order shall govern the transaction of business of the Board at any regular or special meeting:
 - A) Roll Call
 - B) Minutes of Previous Meeting
 - C) Communications
 - D) Report of Standing and Special Committees
 - E) Report of the ~~Chair~~Chairman
 - F) Report of the State Treasurer
 - G) Report of the Director
 - H) Report of Investment Counsel
 - I) Reports of any Member of the Board
 - J) Unfinished Business
 - K) New Business
 - L) Adjournment
 - 2) Any motion or resolution may be presented and considered out of the regular order of business by consent of a majority of the members present at any regular or special meeting.
- i) Voting. Each member shall have one vote on any question coming before the ~~Board~~Board at any regular or special meeting at which ~~that member~~ ~~he~~ is in attendance. Concurring votes by a majority of the members present at the meeting shall be necessary for the adoption of any resolution or action by the ~~Board~~Board.

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- j) Roll calls. The ~~Chair~~Chairman or any member may request a roll call on any motion or resolution involving an expenditure of moneys, ~~or~~ the creation of a liability for the ~~Board~~board or on any other motions. The vote of each member present shall then be recorded in the minutes of the meeting.
- k) Reconsideration. A motion for the reconsideration of any vote shall be in order only if made at the meeting at which the vote sought to be reconsidered ~~is~~shall have been taken, or at the next regular meeting ~~thereafter~~.
- l) Deferral of reports. Upon request of any two members of the ~~Board~~board, the consideration of any report presented by any committee shall be deferred for one meeting, and a copy of the report of the committee shall be provided each member of the ~~Board~~board.
- m) Record of proceedings. The ~~Board~~board shall keep a full record of all its proceedings in which ~~shall be recorded~~all of its transactions ~~is~~ recorded. All resolutions approved by the Board shall be signed by the ~~Chair~~Chairman and Recording Secretary and shall be filed with the minutes of the meeting at which adopted. At least 5 days before the date of the next scheduled meeting, the Recording Secretary shall supply each Board member with a copy of the minutes of the last meeting.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART C: GENERAL POLICIES

Section 800.210 Functions

- a) The functions of the Board are limited exclusively to investment management and such other duties and responsibilities as are directed or permitted by statute. With respect to investment management more specifically:

"To invest, reinvest, exchange and ~~to~~ perform all investment functions with regard to reserves, funds, assets, securities and moneys which the Board is authorized to invest, and to preserve and protect such reserves, funds, assets, securities and moneys, including, but not limited to, authority to vote any stocks, bonds or other securities and to give general or special proxies or powers of attorney with or without power of substitution" [40 ILCS 5/22A-106](Ill. Rev. Stat. 1979, ch. 108½, par. 22A-106).

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- 1) The Board shall manage investments by executing procedures that include, but are not limited to:
 - A) Performing due diligence on the investment portfolio. (Examples of due diligence include monitoring the performance of current investment portfolios, selecting new investment portfolios, determining the asset allocation per portfolio and selecting investment managers to invest portfolio assets.)
 - B) Adopting an asset allocation policy to achieve efficiently the Board's long-term investment objective of an 8.5% compounded rate of return. (Examples of policy considerations include examining all asset classes and their appropriate benchmarks and allocating specific percentages of assets to specific asset classes.)
 - C) Managing Board expenses. (Examples of such management include negotiating competitive asset management fees with investment managers and monitoring the Board's operating budget.)
 - D) Complying with the Illinois Pension Code [40 ILCS 5]. (Examples of compliance include adhering to statutory directives such as the prudent utilization of emerging investment managers in managing assets (see 40 ILCS 5/1-109.1(4)) and refraining from prohibited transactions.)
 - 2) The Board's general policy governing investments shall require that, as fiduciaries, the Board discharge its duties, with respect to pension fund assets it manages, solely in the interest of the participants and beneficiaries. (Examples of general investment policy include maintaining an 8.5% compounded rate of return on investments; investing with the care, skill, prudence and diligence that a prudent person would use in the conduct of an enterprise of like character with like aims; and diversifying investments to reduce risk, enhance returns and commit meaningful investment positions.)
- b) State Employees Deferred Compensation Plan (Plan)

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- 1) The Board shall be responsible for developing and establishing the Plan (see 40 ILCS 5/24-104).
 - 2) With respect to developing and establishing the Plan, the Board shall:
 - A) Review investment offerings and offer acceptable investment offerings as investment options for the Plan; and
 - B) Supervise the Department of Central Management Services' administration of the Plan.
 - 3) Further explanation regarding the Board's responsibilities with respect to the development and establishment of the Plan are found in the following Board regulations: 80 Ill. Adm. Code 2700: Subpart A (Introduction and Purpose of Plan); Subpart B (Definitions); Subpart C (the Board's general supervision of the administration of the Plan); Subpart G (distributions in the event of an unforeseeable emergency); Subpart I (ability to amend or terminate Plan).
- cb) These functions shall not encompass any duties or responsibilities related to the operation and administration of the pension funds in any other area than that of investments.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 800.230 Delegation of Authority

The ~~Boardboard~~ shall manage the investments of any pension fund for the purpose of obtaining a total return on investments for the long term. It also shall perform ~~such~~ other functions as may be assigned or directed by the General Assembly. The ~~Boardboard~~ may not delegate its management functions. For the purpose of seeking a broad spectrum of advice and fostering competitive performance, and to assist the ~~Boardboard~~ in fully implementing the provisions of the applicable law, the ~~Boardboard~~ may contract, for compensation, advisory services with one or more national or state banks or trust companies authorized to do a trust business and domiciled in the State of Illinois. It may also utilize the services of one or more financial institutions organized under the laws of Illinois, or employ investment advisors who have qualified under ~~Subchapter II of the federal~~ ~~the Federal~~ Investment Advisors Act of 1940 (15 ~~USCU.S.C.~~ 80b-1 et seq.) and are registered under the Illinois Securities Law of 1953 [815 ILCS 5](Ill. Rev. Stat. 1979, ch. 121½, par. 137.1 et seq.).

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(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART D: ACCOUNTING

Section 800.310 Investment Account

- a) For the purpose of achieving the maximum advantages of investment management, the invested assets for the several pension funds under the jurisdiction and authority of the Boardboard may be commingled and maintained in one or more investment accounts, to the extent dictated by basic investment considerations, with a distribution made according to types of securities as may be dictated by practical investment procedure. The distribution of assets shall be dictated by the Board in accordance with its asset allocation policy. The commingling of investment assets shall allow:
- 1) Control over the Board's investment policies through increased flexibility in asset allocation; and
 - 2) Simplified accounting and reporting procedures.
- b) Unless the Boardboard directs otherwise, fixed income investments shall be carried at amortized book value according to established accounting practices and actuarial requirements. (Governmental entities, including governmental external pools, shall report investments at fair value on the balance sheet, rather than at amortized book value or cost. Fair value shall be defined as the amount at which an investment could be exchanged in a current transaction between willing parties, other than a forced sale or liquidation (GASB Statement No. 31, "Accounting and Financial Reporting for Certain Investments and for External Investment Pools", June 15, 1997, no subsequent dates or editions).) Equity investments shall be carried at original cost. Investments initially transferred to the Boardboard shall be valued for its books of account on the foregoing basis.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 800.320 Pension Fund Credits

- a) Each pension fund transferring invested assets to the Boardboard shall receive credit ~~therefor~~ in an appropriate reserve account in the amounts established by the

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~~Board, board, which~~ The credit shall constitute the initial value of the investment account of the particular pension fund. As new investments are made from additional moneys made available to the ~~Board, board~~ for that purpose, proper credit in the established reserve account shall be given to each pension fund for the proportionate amount ~~thereof~~ applicable to each pension fund according to the amounts of moneys creditable to each ~~such~~ fund. Reserve amounts shall be determined by:

- 1) Allocating expenses and advances on an equitable, proportional basis, taking into account the net asset values of each member retirement system;
 - 2) Allocating the net change in realized and unrealized gains and losses to each member retirement system on the 15th of each calendar month, based on the final percentage of ownership of each member retirement system for the prior calendar month; and
 - 3) Allocating the net change in income and expenses for the calendar month to each member retirement system on the 30th of each calendar month, taking into account any purchases or redemptions in ownership shares from each member retirement system during that calendar month.
- b) Periodic interest collections on fixed investments and dividend payments on equities shall be credited to each fund directly on the initial investments transferred to the ~~Board, board~~ if applicable to ~~thosesuch~~ investments, except in the case of commingled investments on which a proportionate amount shall be credited. New investments may be commingled on a proportionate basis beginning July 1, 1970, with income from the investments therefrom distributed accordingly.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 800.330 Pension Fund Charges

- a) Each pension fund shall be charged with its share of all expenses of the ~~Board, board~~ including the amount repayable to the ~~Statestate~~ of the initial appropriation made to meet organization expenses, at quarter-yearly periods, on a pro-rata basis, according to the value of the investments held for the respective pension fund at the beginning of each ~~such~~ quarter-yearly period, or on any other equitable basis as may be determined by the ~~Board, board~~.

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- b) A statement setting forth the amount of the expense charge made by the Boardboard shall be provided to each pension fund as prescribed by Sectionlaw 22A-114 of the Pension Code.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 800.340 Reserve Balances

~~This Subpart is~~The rules on accounting procedures embodied herein are specifically designed to establish and maintain for each pension fund a reserve representing an equitable share of the net assets of the Boardboard to the end that each such pension fund shall, at all times, receive full credit for all moneys creditable to that fund~~thereto~~ in the form of invested assets or free cash balances or any other applicable assets that may exist at any given date.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART E: REPORTS

Section 800.410 Fiscal Reporting

An annual report shall be made by the Boardboard following the close of each fiscal year as provided by law. The fiscal year shall date from July 14th of one year through June 30th of the year next following. The report shall embody a review of investment operations for the year, including a listing of all invested assets showing their book values and market values, the balances applicable to the several pension funds under the authority of the Boardboard, comment on the policies and procedures maintained by the Boardboard during the year, and recommendations on any possible future changes in the governing statute or Boardboard policies.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 800.420 Audits

In accordance with established Statestate policy, the books and accounts of the Boardboard shall be audited at least annually by a certified public accountant designated by the Auditor General of the State of Illinois. The scope of thesuch audit may, upon suggestion of the Boardboard, extend beyond the limitations prescribed by the Auditor General. The results of thesuch audit shall be reported in the annual report of the Boardboard. Copies of thesuch audit report shall be made

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available to the several pension funds represented by ~~the~~this ~~Board~~board.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART F: AMENDMENTS

Section 800.510 ~~Changes or~~ Amendments

Amendments~~Changes or amendments~~ to this Part~~these rules~~ may be proposed by any member of the ~~Board~~board, shall be submitted to the Recording Secretary in writing, and shall be acted upon in the following manner:

- a) Upon receipt of a proposal for an amendment, the Recording Secretary shall mail a copy ~~thereof~~ to each member of the ~~Board~~board setting forth in full the proposed ~~change or~~ amendment at least 10 days prior to the date of any regular or special meeting at which the proposal ~~will~~shall be submitted for consideration.
- b) At ~~the next~~such regular or special meeting following the mailing of ~~the~~such notice, or at any meeting thereafter to which consideration of ~~the~~such ~~change or~~ amendment has been postponed, the ~~change or~~ amendment may be adopted by a vote of at least a majority of all members of the ~~Board~~board. At ~~the~~such meeting, the proposed ~~change or~~ amendment may be ~~altered or~~ modified before being acted upon, without the necessity of any further notice to the members, provided that the ~~amendment~~change as ~~altered or~~ modified shall be applicable only ~~as~~ to those Sections or subsections~~rules or portions thereof~~ to which the notice specifically referred, and provided further that any ~~such~~ modification shall be approved by at least a majority of all members of the ~~Board~~board.
- c) When the Board has approved a proposal to amend this Part, the amendment shall be proposed and adopted as required by the Illinois Administrative Procedure Act [5 ILCS 100].

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Medication
- 2) Code Citation: 11 Ill. Adm. Code 603
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
603.60	Amendment
603.140	Amendment
603.160	Amendment
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Amendments: April 23, 2007
- 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: It will not expire before the end of the 150-day period.
- 7) Date Filed with the Index Department: April 23, 2007
- 8) A copy of the emergency amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The amendment makes some penalties for drug positives discretionary in certain circumstances. Currently, the Board has no discretion in those penalties. If drug positives occur in the 2 month interim which fall while the new rule is in notice, they could only be litigated under the new penalties if the trainer or owner appeals the stewards ruling. This creates a fairness issue for anyone affected by the new rule before it becomes effective. Because of the retroactivity clause, class four positives and isoxsuprine positives could be adjudicated under the new rule only if the owner or trainer appeals. However, if they do not appeal within 5 days after the stewards ruling, the stewards ruling becomes effective and the rights of the other purse owners in the race become vested, which prevents application under the new rule under any circumstances. The result is that trainers and owners who can afford to appeal could be processed under the new rule, but those who could not afford to appeal could not. The fairest and cleanest action is to implement the Board's intent immediately through emergency rules.
- 10) A Complete Description of the Subjects and Issues Involved: The proposed amendments will implement actions passed by the Board at its March 13, 2007 meeting. The actions taken by the Board are a result of recommendations made by the Illinois Racing Board

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NOTICE OF EMERGENCY AMENDMENTS

Medication Task Force. The Task Force recommended discretionary, not mandatory, disqualification and purse redistributions for Class 4 and Class 5 drugs (Section 603.140(d)). Class 4 and 5 drugs are generally those therapeutic drugs used during training for inflammation, soreness, or for analgesic reasons. If a Class 4 or 5 drug is present in the horse's system, the trainer remains subject to a civil penalty. The stewards are given specific criteria to decide whether a purse shall be redistributed, such as recommendations by the State Veterinarian and State Chemist, as to the significance of the level of drug.

The Task Force also recommended developing threshold levels (Section 603.60(f)) for two therapeutic drugs that appear to stay in the horse's system for long periods of time and are therefore problematic, Isoxsuprine (Class 4) and Pyrilamine (Class 3). A threshold level for Pyrilamine is not included in this rulemaking because the research at this time is incomplete. The proposed rulemaking also includes a retroactivity clause.

These amendments are progressive and necessary due to the advances of drug testing technologies that now make it possible to detect drugs in trace level concentrations.

- 11) Are there any proposed rulemakings pending in this Part? No
- 12) Statement of Statewide Policy Objective: No local governmental units will be required to increase expenditures.
- 13) Information and questions regarding these emergency amendments shall be directed to:

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

312/814-5017

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

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NOTICE OF EMERGENCY AMENDMENTS

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

PART 603
MEDICATION

Section

- 603.10 Pre-Race Saliva Tests
603.20 Racing Soundness Exam
603.30 Foreign Substances and Pharmaceutical Aids Banned
603.40 Twenty-four Hour Ban
603.50 Trainer Responsibility
603.55 Prima Facie Evidence
603.60 Permitted Use of Foreign Substances and Threshold Levels

EMERGENCY

- 603.70 Furosemide
603.75 Environmental Contaminants
603.80 Needles, Syringes and Injectables
603.90 Drugs, Chemicals and Prescription Items
603.100 Detention Barn
603.110 Test Samples
603.120 Referee Samples
603.130 Laboratory Findings and Reports
603.140 Distribution of Purses

EMERGENCY

- 603.150 Post Mortems
603.160 Penalties

EMERGENCY

- 603.170 Veterinarian's Records
603.180 Carbon Dioxide Tests
603.190 Erythropoietin and Darbepoietin Antibody Testing Program

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

SOURCE: Adopted at 21 Ill. Reg. 3232, effective March 4, 1997; amended at 22 Ill. Reg. 2217, effective January 1, 1998; amended at 22 Ill. Reg. 3594, effective February 1, 1998; amended at

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25 Ill. Reg. 15611, effective December 1, 2001; amended at 26 Ill. Reg. 12360, effective August 1, 2002; amended at 27 Ill. Reg. 5027, effective March 7, 2003; amended at 27 Ill. Reg. 7331, effective April 15, 2003; amended at 28 Ill. Reg. 1374, effective January 19, 2004; amended at 28 Ill. Reg. 4751, effective March 1, 2004; emergency amendment at 28 Ill. Reg. 7565, effective May 11, 2004, for a maximum of 150 days; emergency expired October 7, 2004; amended at 28 Ill. Reg. 11250, effective August 1, 2004; amended at 28 Ill. Reg. 15790, effective December 1, 2004; emergency amendment at 29 Ill. Reg. 2779, effective February 22, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 4116, effective February 25, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5726, effective April 8, 2005; amended at 29 Ill. Reg. 12265, effective July 24, 2005; amended at 29 Ill. Reg. 14038, effective September 1, 2005; emergency amendment at 30 Ill. Reg. 14371, effective August 21, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18729, effective November 20, 2006; amended at 31 Ill. Reg. 1478, effective January 1, 2007; emergency amendment at 31 Ill. Reg. 6680, effective April 23, 2007, for a maximum of 150 days.

Section 603.60 Permitted Use of Foreign Substances and Threshold Levels**EMERGENCY**

- a) Non-Steroidal Anti-Inflammatories (NSAID): Threshold Levels
 - 1) Only one non-steroidal anti-inflammatory drug (NSAID) may be present in a horse's body while it is participating in a race. The presence of more than one NSAID, greater than the threshold level, is forbidden and will result in the purse being redistributed.
 - 2) Subject to the prohibition contained in Section 603.40 (24 hour ban), the only foreign substances that now meet the criteria established in Section 603.80 are phenylbutazone (or its metabolite oxyphenylbutazone), flunixin, and ketoprofen.
 - 3) The threshold level of phenylbutazone shall be less than 5.0 micrograms (mcg) per milliliter (ml) of serum or plasma. The threshold level for oxyphenylbutazone shall be less than 5.0 mcg/ml of serum or plasma.
 - A) Within a 365 day period, in the event a post-race sample from a horse contains an amount of phenylbutazone or oxyphenylbutazone greater than or equal to 5.0 mcg/ml but less than 10.0 mcg/ml of serum or plasma, the trainer shall be subject to the following penalties absent mitigating circumstances:

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- i) first offense, minimum fine of \$250;
 - ii) second offense, minimum fine of \$500;
 - iii) third or subsequent offense, minimum fine of \$1,000 and a 15 day suspension.
- B) Within a 365 day period, in the event a post-race sample from a horse contains an amount of phenylbutazone or oxyphenylbutazone greater than or equal to 10.0 mcg/ml of serum or plasma, the trainer shall be subject to the following penalties absent mitigating circumstances:
- i) first offense, minimum fine of \$500 and the purse shall be redistributed;
 - ii) second offense, minimum fine of \$1,000, a 15 day suspension and the purse shall be redistributed;
 - iii) third or subsequent offense, minimum fine of \$2,500, a 30 day suspension and the purse shall be redistributed.
- 4) The threshold level of flunixin shall be less than 20.0 ng/ml of serum or plasma and the threshold level of ketoprofen shall be less than 10.0 ng/ml of serum or plasma. In the event a post-race sample from a horse contains an amount of:
- A) flunixin greater than or equal to 20.0 ng/ml but less than 100.0 ng/ml or ketoprofen greater than or equal to 10.0 ng/ml but less than 50.0 ng/ml, the trainer shall be subject to the following penalties, within a 365 day period, and absent mitigating circumstances:
- i) first offense, minimum fine of \$250;
 - ii) second offense, minimum fine of \$500;

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- iii) third or subsequent offense, minimum fine of \$1,000 and a 15 day suspension.
- B) flunixin greater than or equal to 100.0 ng/ml or ketoprofen greater than or equal to 50.0 ng/ml, the trainer shall be subject to the following penalties, within a 365 day period, and absent mitigating circumstances:
- i) first offense, minimum fine of \$500 and the purse shall be redistributed;
 - ii) second offense, minimum fine of \$1,000, a 15 day suspension and the purse shall be redistributed;
 - iii) third or subsequent offense, minimum fine of \$2,500, a 30 day suspension and the purse shall be redistributed.
- 5) If the phenylbutazone, oxyphenylbutazone, flunixin or ketoprofen overage is due to the negligence of the veterinarian attending the horse, the veterinarian shall be subject to the same penalties as are set forth in subsections (a)(3)(A) and (B) and (a)(4)(A) and (B).
- 6) To help horsemen determine the test levels of phenylbutazone, oxyphenylbutazone, flunixin, and ketoprofen, the Board laboratory will test, for the actual cost of processing the sample, all equine serum or plasma samples submitted to it that are accompanied by an affidavit indicating time, method, and route of administration.
- 7) Penalties for violations of this Section shall be based on the following criteria:
- A) previous warnings and rulings for violations of this Section;
 - B) the age and experience of the violator;
 - C) whether the violator has ever been the subject of a medication ruling in this or any other racing jurisdiction;
 - D) what action, if any, was taken to avoid the violation;

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- E) the purse of the race.
- b) The following foreign substances may be administered externally to a horse entered to a race: Leg paints and liniment which do not contain any "caine" derivatives, pharmacodynamic and/or chemotherapeutic agents, and which can be applied topically without penetrating the skin.
- c) Subject to the prohibition contained in Section 603.40 (24-hour ban), the following foreign substances, commonly referred to as anti-bacterial, anti-fungal, anti-protozoal or anti-ulcer drugs, may be present in the body of a horse participating in a race.
- 1) Anti-Bacterials
- Amikacin
 - Ampicillin
 - Ampicillin sodium
 - Azolsulfamide
 - Chloramphenicol
 - Doxycycline
 - Enrofloxacin (Baytril)
 - Erythromycin sulfate
 - Gentamicin sulfate
 - Kanamycin sulfate
 - Methenamine
 - Levamisole (tetramisole)
 - Metronidazole
 - Neomycin sulfate
 - Nitrofurantoin
 - Oxytetracycline
 - Penicillin G. Benzathine
 - Penicillin G. Potassium
 - Sulfadimethozine
 - Sulfadimethoxine
 - Sulfamethoxazole
 - Sulfametranidazole
 - Sulfapyridine
 - Sulfathiazole

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Tetracycline
Trimethoprim

2) Anti-Fungals

Amphotericin B
Griseofulvin
Neomycin Undecylenate
Nystatin

3) Anti-Protozoals

Nitazoxanide (Navigator)
Ponazuril (Marquis)
Pyrimethamine (Daraprim)

4) Anti-Ulcers

Cimetidine (Tagamet)
Omeprazole (Prilosec or GastroGard)
Ranitidine (Zantac)

d) This listing of anti-bacterial, anti-fungal, anti-protozoal and anti-ulcer drugs is all inclusive and shall not include any other anti-bacterial, anti-fungal, anti-protozoal or anti-ulcer drug.

e) A foreign substance of accepted therapeutic value may be administered as prescribed by a veterinarian when threshold levels and guidelines for its use have been approved by the Board and this Part has been duly amended. The Board shall give due consideration to threshold levels and guidelines that have been established by the Quality Assurance Program Committee of the Association of Racing Commissioners International when making additions to the permitted list.

f) Official test samples may contain the following drug substance, or its metabolites, in an amount that does not exceed the threshold level:

The threshold level of Isoxsuprine shall be less than 1,000.0 ng/ml in urine.

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- g) The provisions of this Section shall be applied retroactively when substantively applicable, including all actions pending before the Board without regard to when the cause of action accrued; provided, however, that this subsection shall not operate to affect rights of individuals that have fully vested prior to April 23, 2007.

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 6680, effective April 23, 2007, for a maximum of 150 days)

Section 603.140 Distribution of Purses**EMERGENCY**

- a) The Board recognizes that occasionally post-race specimens do not reach the laboratory within 72 hours nor can all samples be thoroughly analyzed within 72 hours. However, as a convenience to horsemen, all purse money shall be distributed no later than 72 hours after a race, unless the laboratory has issued a report to the stewards pursuant to these rules.
- b) The fact that purse money has been distributed prior to the issuance of a laboratory report shall not be deemed a finding that no foreign substance has been administered in violation of these rules to the horse winning such purse money.
- c) Upon receipt of a positive laboratory report, the stewards or the Executive Director of the Board shall immediately direct that no purse money shall be awarded to the horse in question pending a final determination by the stewards or the Board of the accuracy of the laboratory's report. The stewards or the Executive Director of the Board shall notify the owner, trainer, and any other person having care or custody or control of the horse. If the purse money has been distributed, the stewards or the Executive Director shall order it returned pending determination of the accuracy of the laboratory's report. The stewards or the Executive Director of the Board shall proceed to conduct an inquiry or the Board shall conduct an inquiry or hearing.
- d) If the report of a laboratory is not contested or if the stewards or the Board determine that the laboratory report is accurate, all purse money won by the horse in the race in question shall be forfeited and redistributed among the remaining horses according to their order of finish, except as provided in Section 603.160. No such forfeiture and redistribution shall affect the distribution of pari-mutuel pools.

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- e) If no positive laboratory report has been issued to the stewards or the Board within 60 days after the date of a race, the owner of a horse shall become legally entitled to the money in the purse and it shall be conclusively presumed that the conditions precedent to such entitlement have been met. Provided, however, positive laboratory reports issued more than 60 days after the date of a race may be considered by the stewards or the Board as evidence of a rule violation under Sections 603.50, 603.60, or 603.70.
- f) If a positive laboratory report has been issued, whatever remains of that particular test sample shall be retained until all legal proceedings have been concluded.

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 6680, effective April 23, 2007, for a maximum of 150 days)

Section 603.160 Penalties**EMERGENCY**

- a) Any person who administers or conspires to administer any foreign substance to any horse in violation of this Part shall be subject to a fine and/or license suspension or revocation and the purse money won may be re-distributed.~~have his/her license suspended or revoked and may also be subjected to a civil penalty.~~
- b) Penalties for violations of this Part shall be based on the following criteria:
- 1) the nature of the foreign substance; e.g., cough medicine, steroid, narcotic, stimulant, depressant, etc.;
 - 2) the accessibility of the drug; e.g., can be purchased over the counter, only with a prescription, only with a license for controlled substances, cannot be purchased in this country;
 - 3) the age and experience of the violator;
 - 4) whether the violator has ever been the subject of a medication ruling in this or any other racing jurisdiction;
 - 5) what action, if any, was taken by the violator to avoid such violation;

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENTS

- 6) the purse of the race.
- c) Any person who violates any provision of this Part for which no specific penalty is provided may be penalized by the stewards or the Board in accordance with the provisions for penalties contained elsewhere in this Chapter or in the Illinois Horse Racing Act of 1975. When imposing penalties, the stewards or the Board shall consider all relevant factors including, but not limited to those specified in this Part.
- d) Penalties for Class 4 and 5 drug violations:
- 1) Class 4 as defined in the most current Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances (ARCI, 2343 Alexandria Drive, Suite 200, Lexington KY 40504). Except as provided in Sections 603.60 and 603.70 of this Part, upon finding of a Class 4 substance, the trainer shall be subject to a fine and/or license suspension or revocation and the purse money won may be re-distributed.
 - 2) Class 5 as defined in the most current Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances (ARCI, 2343 Alexandria Drive, Suite 200, Lexington KY 40504). Except as provided in Sections 603.75 and 603.60(c) of this Part, upon finding of a Class 5 substance, the trainer shall be subject to a fine and/or license suspension or revocation and the purse money won may be re-distributed.
 - 3) In determining a disqualification and purse redistribution under this subsection (d), the Stewards shall use the following criteria:
 - A) A recommendation by the Board veterinarian and/or Board chemist regarding the significance of the concentration of the drug or metabolite present and the estimated withdrawal time.
 - B) A recommendation by industry experts, including equine pharmacologists and equine physiologists, regarding the effect of the drug on the horse in the concentration found and/or estimated withdrawal times.

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENTS

- C) Repeat violations of these medication and prohibited substance rules by the same trainer or with respect to the same horse.
 - D) Prior violations of similar rules in other racing jurisdictions by the same trainer or with respect to the same horse.
 - E) The criteria set forth in subsection (b).
- 4) The provisions of this subsection (d) shall be applied retroactively when substantively applicable, including all actions pending before the Board, without regard to when the cause of action accrued; provided, however, that this subsection shall not operate to affect rights of individuals that have fully vested prior to April 23, 2007.

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 6680, effective April 23, 2007, for a maximum of 150 days)

STATE BOARD OF EDUCATION

NOTICE OF CORRECTION TO NOTICE ONLY

- 1) Heading of the Part: Health/Life Safety Code for Public Schools
- 2) Code Citation: 23 Ill. Adm. Code 180
- 3) The Notice of Proposed Amendments being corrected appeared at: 31 Ill. Reg. 5455; April 6, 2007
- 4) The information being corrected is as follows: The initial regulatory flexibility analysis on the notice page concerning the possible impact of the rulemaking on small businesses failed to mention that some of the licensed design professionals (i.e., architects and engineers) who may seek approval as plan reviewers or inspectors may have structured their practices as small businesses. Therefore, the rules may affect some small businesses.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

Heading of the Part: Electronic Commerce Security Act

Code Citation: 14 Ill. Adm. Code 105

<u>Section Numbers:</u>	105.10	105.200	
		105.20	105.210
		105.30	105.220
		105.40	105.230
		105.50	105.240
		105.60	

Date Originally Published in the Illinois Register: 5/12/06
30 Ill. Reg. 8700

At its meeting on April 18, 2007, the Joint Committee on Administrative Rules objected to the Department of Central Management Services implementing an electronic commerce security certification program, through a "practice statement", prior to adoption of the rule titled Electronic Commerce Security Act (14 Ill. Adm. Code 105; 30 Ill. Reg. 8700), thereby enforcing policy not in rule.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Heading of the Part: Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible

Code Citation: 89 Ill. Adm. Code 309

Section Numbers: 309.90

Date Originally Published in the Illinois Register: 10/27/06
30 Ill. Reg. 16701

At its meeting on April 18, 2007, the Joint Committee on Administrative Rules objected to the Department of Children and Family Services' failure to adopt its rulemaking titled Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible (89 Ill. Adm. Code 309; 30 Ill. Reg. 16701) before the 3/11/07 expiration of the identical emergency rule, creating a regulatory gap. DCFS continued to assess the \$40 fee for the registrar's certified response pursuant to a Putative Father Registry search without regulatory authority.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

ILLINOIS COMMERCE COMMISSION

Heading of the Part: Voluntary Binding Arbitration Practice

Code Citation: 83 Ill. Adm. Code 202

<u>Section Numbers:</u>	202.10	202.210	202.470	
		202.20	202.220	202.500
		202.30	202.300	202.510
		202.40	202.310	202.520
		202.50	202.320	202.530
		202.60	202.330	202.540
		202.70	202.400	202.550
		202.80	202.410	202.560
		202.100	202.420	202.565
		202.110	202.430	202.570
		202.120	202.440	202.1000
		202.130	202.450	
		202.200	202.460	

Date Originally Published in the Illinois Register: 10/6/06
30 Ill. Reg. 15844

At its meeting on April 18, 2007, the Joint Committee on Administrative Rules objected to the Illinois Commerce Commission's lack of timeliness in implementing its rulemaking titled Voluntary Binding Arbitration Practice (83 Ill. Adm. Code 202; 30 Ill. Reg. 15844). The Commission is implementing a provision of PA 92-22 (effective 6/30/01) over 5 years after the PA took effect.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC HEALTH

Heading of the Part: Health Care Worker Background Check Code

Code Citation: 77 Ill. Adm. Code 955

<u>Section Numbers:</u>	955.100	955.190	955.305
	955.110	955.200	955.310
	955.120	955.205	955.320
	955.130	955.230	955.330
	955.145	955.260	
	955.150	955.270	
	955.170	955.280	
	955.185	955.300	

Date Originally Published in the Illinois Register: 10/13/06
30 Ill. Reg. 16206

At its meeting on April 18, 2007, the Joint Committee on Administrative Rules objected to the Department of Public Health implementing the CMMS grant program prior to adoption of its rulemaking titled Health Care Worker Background Check Code (77 Ill. Adm. Code 955; 30 Ill. Reg. 16206).

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

WITHDRAWAL OF FILING PROHIBITION OF PROPOSED RULEMAKING

ELEVATOR SAFETY REVIEW BOARD

Heading of the Part: Illinois Elevator Safety Rules

Code Citation: 41 Ill. Adm. Code 1000

Section Number: 1000.80(a)(1)

Date Originally Published in Illinois Register: 10/20/06
30 Ill. Reg. 16522

Date Filing Prohibition Published in Illinois Register: 3/30/07
31 Ill. Reg. 5169

Date Filing Prohibition Became Effective: 3/13/07

Date Filing Prohibition Withdrawn: 4/18/07

The Joint Committee on Administrative Rules hereby certifies that, pursuant to Section 5-115 of the Illinois Administrative Procedure Act, the Joint Committee, at its meeting on 4/18/07, has withdrawn the prohibition against the filing of the phrase in Section 1000.80(a)(1) of the Elevator Safety Review Board's rulemaking titled Illinois Elevator Safety Rules (41 Ill. Adm. Code 1000; 30 Ill. Reg. 16522) stating that licensed elevator mechanics must work under the direct supervision of an elevator contractor. This phrase was added to the rulemaking after First Notice publication and JCAR was concerned that affected parties may not have been aware of its addition. The withdrawal of the prohibition was based on the Board's commitment to remove the offending phrase.

Please take notice that the agency is no longer prohibited from filing the rulemaking with the prohibited phrase excluded.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of April 17, 2007 through April 23, 2007 and have been scheduled for review by the Committee at its May 15, 2007 meeting in Springfield. 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>
5/31/07	<u>Department of Natural Resources</u> , White-Tailed Deer Hunting by Use of Firearms (17 Ill. Adm. Code 650)	2/16/07 31 Ill. Reg. 2742	5/15/07
5/31/07	<u>Department of Natural Resources</u> , White-Tailed Deer Hunting by Use of Muzzleloading Rifles (17 Ill. Adm. Code 660)	2/16/07 31 Ill. Reg. 2761	5/15/07
5/31/07	<u>Department of Natural Resources</u> , White-Tailed Deer Hunting by Use of Bow and Arrow (17 Ill. Adm. Code 670)	2/16/07 31 Ill. Reg. 2775	5/15/07
6/2/07	<u>Office of the State Fire Marshal</u> , Policy and Procedures Manual for Fire Protection Personnel (Repealer)(41 Ill. Adm. Code 140)	3/2/07 31 Ill. Reg. 3257	5/15/07
6/2/07	<u>Office of the State Fire Marshal</u> , Policy and Procedures Manual for Fire Protection Personnel (41 Ill. Adm. Code 141)	3/2/07 31 Ill. Reg. 3356	5/15/07
6/2/07	<u>Office of the State Fire Marshal</u> , Pyrotechnic Distributor and Operator Licensing Rules (41 Ill. Adm. Code 230)	2/16/07 31 Ill. Reg. 2795	5/15/07
6/2/07	<u>Office of the State Fire Marshal</u> , Pyrotechnic and Consumer Display Permitting Rules (41 Ill. Adm. Code 235)	2/16/07 31 Ill. Reg. 2830	5/15/07

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

6/2/07	<u>Illinois Gaming Board</u> , Riverboat Gambling (86 Ill. Adm. Code 3000)	10/13/06 30 Ill. Reg. 16148	5/15/07
6/6/07	<u>Department of Healthcare and Family Services</u> , Hospital Services (89 Ill. Adm. Code 148)	1/26/07 31 Ill. Reg. 1949	5/15/07
6/6/07	<u>Department of Healthcare and Family Services</u> , Hospital Services (89 Ill. Adm. Code 148)	2/2/07 31 Ill. Reg. 2183	5/15/07
6/6/07	<u>Department of Healthcare and Family Services</u> , Medical Payment (89 Ill. Adm. Code 140)	1/12/07 31 Ill. Reg. 349	5/15/07
6/6/07	<u>Department of Healthcare and Family Services</u> , Reimbursement for Nursing Costs for Geriatric Facilities (89 Ill. Adm. Code 147)	10/27/06 30 Ill. Reg. 16779	5/15/07
6/6/07	<u>Department of Revenue</u> , Informal Conference Board (86 Ill. Adm. Code 215)	6/23/06 30 Ill. Reg. 11062	5/15/07

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF FINE IMPOSED UNDER

THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5(h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banking, of the State of Illinois has issued a fine of \$500 against Chicago Funding, Inc., License No. MB.0004353 of Addison, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective April 17, 2007. For further reference link to: www.idfpr.com

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF FINE IMPOSED UNDER

THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5(h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banking, of the State of Illinois has issued a fine of \$5,000 against Premier Mortgage Funding, Inc., License No. MB6759041 of Clearwater, Florida, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective April 13, 2007. For further reference link to: www.idfpr.com

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2007 FIRST QUARTER INCOME TAX SUNSHINE INDEX

1. Statute requiring agency to publish information concerning Private Letter Rulings in the *Illinois Register*:

Name of Act: Illinois Department of Revenue Sunshine Act

Citation: 20 ILCS 2515/1 et seq.

2. Summary of information:

Index of Department of Revenue income tax Private Letter Rulings and General Information Letters issued for the First Quarter of 2007. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 2 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Apportionment – Sales Factor
Base Income
Charitable Games
Credits – Education Expense
Credits – Foreign Tax

Credits – Research And Development
Partnerships
Protest
Public Law 86-272/Nexus
Subtraction Modifications – Other Rulings

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2007 FIRST QUARTER INCOME TAX SUNSHINE INDEX

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50 cents per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.tax.illinois.gov.

The indexes of Income Tax letter rulings for 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005 and 2006 are available for \$3.00. A cumulative Income Tax Sunshine Index of 1981 through 1989 letter rulings may be purchased for \$4.00.

3. Name and address of person to contact concerning this information:

Linda Settle
Illinois Department of Revenue
Legal Services Office
101 West Jefferson Street
Springfield, Illinois 62794
Telephone: (217) 782-7055

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2007 FIRST QUARTER INCOME TAX SUNSHINE INDEX

APPORTIONMENT – SALES FACTOR

IT 07-0001-PLR 03/23/2007 Gain on sale of unitary subsidiary is business income, but receipts are excluded from the sales factor numerator and denominator under 86 Ill. Adm. Code Section 100.3380(c)(2).

Base Income

IT 07-0007-GIL 03/13/2007 Individuals are not allowed federal itemized deductions, including gambling losses.

CHARITABLE GAMES

IT 07-0006-GIL 02/28/2007 Proper licensing is required under the Charitable Games Act to conduct a "Texas Hold'em Tournament" described in the request.

IT 07-0009-GIL 03/20/2007 No license is required for individual providing volunteer services in connection with event.

CREDITS – EDUCATION EXPENSE

IT 07-0008-GIL 03/20/2007 The education expense credit is not allowed for expenses incurred with a school outside the State of Illinois.

CREDITS – FOREIGN TAX

IT 07-0001-GIL 01/22/2007 Explanation of computation of "double taxed income" for Indiana.

CREDITS – RESEARCH AND DEVELOPMENT

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2007 FIRST QUARTER INCOME TAX SUNSHINE INDEX

IT 07-0010-GIL 03/21/2007 Response to survey on Illinois income tax treatment of research and development expenditures.

PARTNERSHIPS

IT 07-0011-GIL 03/21/2007 Nonresident partner must allocate to Illinois its partnership share of business income apportioned to Illinois by the partnership.

IT 07-0012-GIL 03/21/2007 Nonresident partner must allocate to Illinois its partnership share of business income apportioned to Illinois by the partnership.

PROTEST

IT 07-0005-GIL 02/22/2007 After a tax has been assessed, the taxpayer must pay the tax, file a refund claim and protest the denial of the claim in order to receive an administrative hearing.

PUBLIC LAW 86-272/NEXUS

IT 07-0002-GIL 02/02/2007 Public Law 86-272/Nexus – Activities described appear to be protected activities under Public Law 86-272.

SUBTRACTION MODIFICIATIONS – OTHER RULINGS

IT 07-0003-GIL 02/09/2007 No subtraction is allowed for expenses disallowed under IRC Section 54G(e)(3).

IT 07-0004-GIL 02/09/2007 Response to questionnaire on exempt interest.

PROCLAMATIONS

2007-125

The 20th Annual Rita Hayworth Gala Benefiting the Alzheimer's Association Day

- WHEREAS, Alzheimer's disease is a complex, progressive disease where the affected individual begins to lose control of the part of the brain that regulates thought, memory, and language. The disease usually begins to appear in individuals over the age of 60, and the risk of acquiring it increases with age; and
- WHEREAS, approximately 4.5 million Americans suffer from Alzheimer's Disease, including approximately 222,000 Illinoisans. Although it appears in older individuals, Alzheimer's is a condition in itself, and is not a normal part of the aging process; and
- WHEREAS, established in 1980, the Alzheimer's Association is the leading national health organization dedicated to advancing Alzheimer's research and aid; and
- WHEREAS, since its inception, the Alzheimer's Association has been the largest private sponsor of Alzheimer's research, providing more than \$185 million in funding for hundreds of research studies; and
- WHEREAS, the Alzheimer's Association is a proven authority on the issues that affect citizens with Alzheimer's disease and their families, serving as a voice for them in the capitals of every state, hundreds of U.S. congressional offices, and even the White House; and
- WHEREAS, the Rita Hayworth Galas, held annually in New York and Chicago, are crucial fund-raising events that the Alzheimer's Association relies heavily on for financial support; and
- WHEREAS, since 1985, the Rita Hayworth Galas have raised more than \$40 million in funds, with one hundred percent going directly to the Alzheimer's Association; and
- WHEREAS, Princess Yasmin Aga Khan, the general chair of the Rita Hayworth Gala and the daughter of the late Rita Hayworth, has worked tirelessly over the years in supporting the advancement of critical Alzheimer's research. Her efforts have touched the lives of countless people throughout the country; and
- WHEREAS, the Chicago Rita Hayworth Gala celebrates and honors medical research into the causes, treatment, prevention, and eventual cure of Alzheimer's disease:

PROCLAMATIONS

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 12, 2007 as **THE 20th ANNUAL RITA HAYWORTH GALA BENEFITING THE ALZHEIMER'S ASSOCIATION DAY** in Illinois and encourage all citizens to recognize the importance of continued research on this devastating disease.

Issued by the Governor April 2, 2007.

Filed by the Secretary of State April 17, 2007.

2007-126**National Student-Athlete Day**

WHEREAS, student-athletes display a consummate level of discipline, dedication and pride in balancing the valuable time that both their schoolwork and athletics training require; and

WHEREAS, perseverance, teamwork, and belief in racial, gender and ethnic equality are fostered and promoted by both the academic and athletic pursuits of student-athletes; and

WHEREAS, student-athletes who have achieved excellence in academics and athletics, while having made significant contributions to their communities, should be viewed as role models for the youth of America; and

WHEREAS, former student-athletes have proven to be successful beyond the game, having become many of this country's business, governmental, community and educational leaders; and

WHEREAS, thousands of America's youth use their athletic ability to afford them the chance to obtain an education, and develop skills to help them later in life:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 6, 2007 as **NATIONAL STUDENT-ATHLETE DAY** in Illinois, and encourage all citizens to support any and all education and athletic programs, and recognize the hard work put forth by students that choose to undertake both endeavors.

Issued by the Governor April 3, 2007.

Filed by the Secretary of State April 17, 2007.

2007-127**Diversity Employment Day**

PROCLAMATIONS

WHEREAS, a diverse workplace, where all employees are ensured equal opportunities for success, is an economic necessity; and

WHEREAS, the communities of Illinois look to do business with and support those organizations that best reflect their diversity; and

WHEREAS, the Diversity Employment Day Career Fair for Chicago and Illinois will bring together Illinois' major employers with thousands of qualified diversity professionals; and

WHEREAS, the Diversity Employment Day Career Fair will offer employment opportunities and career guidance for professionals in accounting, administration, healthcare, hardware and software engineering, finance, information technology, law enforcement, management, marketing, sales, network, data and telecommunications; and

WHEREAS, this annual event will feature a ribbon cutting ceremony that coincides with the presentation of the "Diversity Spirit Achievement Award" to three outstanding supporters of diversity in government, community, and the corporate world:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 3, 2007 as **DIVERSITY EMPLOYMENT DAY** in Illinois, and congratulate all participants for recognizing the business and social value in employing a diverse workforce.

Issued by the Governor April 3, 2007.

Filed by the Secretary of State April 17, 2007.

2007-128**Foster Parent Appreciation Month**

WHEREAS, more than 16,200 children are under the care of the Department of Children and Family Services due to abuse, neglect or abandonment; and

WHEREAS, thousands of caring foster families have opened their hearts and homes to provide for the physical, health and educational needs of those children; and

WHEREAS, foster parents meet a very special need in our society by ensuring children receive attention, respect, love, compassion, and guidance; and

PROCLAMATIONS

WHEREAS, foster parents are called upon to support both children and their parents during efforts to safely reunite families of origin, when possible, and contribute to alternative permanency options; and

WHEREAS, specialized training and support services are now being provided to foster parents serving older youth, who now constitute the majority of children in DCFS care, as well as youth with intensive special needs; and

WHEREAS, there remains a significant demand for additional caring adults in Illinois to consider opening their homes to children in need of foster care; and

WHEREAS, Illinois foster parents deserve our gratitude and respect for the work they do everyday to ensure that our children can move beyond the trauma that brought them into the child welfare system and prepare them for fulfilling, productive lives in the future:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 2007 as **FOSTER PARENT APPRECIATION MONTH** in Illinois.

Issued by the Governor April 3, 2007.

Filed by the Secretary of State April 17, 2007.

2007-129**National Landscape Architecture Month**

WHEREAS, landscape architecture is a diverse profession that blends elements from architecture, civil engineering and urban planning to form aesthetic relationships between people and the land; and

WHEREAS, landscape architects use design skills and aesthetic sense to enhance and add beauty to our surroundings; and

WHEREAS, the work of landscape architects increases the quality of life in our communities; and

WHEREAS, landscape architects plan the communities, public spaces and infrastructure that will support our housing, commercial and transportation needs; and

WHEREAS, the State of Illinois continues to benefit from the skills of landscape architects who create and preserve our parks, local schoolyards, and commercial streetscapes:

PROCLAMATIONS

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 2007 as **NATIONAL LANDSCAPE ARCHITECTURE MONTH** in Illinois, and encourage all citizens to recognize the legacy of landscape architects and their important contributions to the State of Illinois.

Issued by the Governor April 5, 2007.

Filed by the Secretary of State April 17, 2007.

2007-130**Certified Government Financial Manager Month**

WHEREAS, the Chicago and Quad Cities Chapters of the Association of Government Accountants (AGA) are professional organizations, belonging to the Association of Government Accountants, which has more than 15,000 members in 90 chapters throughout the United States and around the world; and

WHEREAS, there are approximately 210 active members representing state, federal, municipal and private sector accountants, auditors, and financial managers in Illinois; and

WHEREAS, AGA Chicago and Quad Cities Chapter members have responded to AGA's mission of Advancing Government Accountability, as it continues its broad education efforts with emphasis on high standards of conduct, honor, and character in its Code of Ethics; and

WHEREAS, the AGA Chicago and Quad Cities chapters are making significant advances both in professional ability and in service to the citizens of Illinois by mastering increasingly technical and complex requirements; and

WHEREAS, the Certified Government Financial Manager (CGFM) program of AGA provides a means of demonstrating professionalism and competency by requiring CGFM candidates to have appropriate educational and employment history and to pass a 3-part examination requiring expertise in the Government Environment, Governmental Financial Management and Control, and Governmental Accounting, Financial Reporting and Budgeting, and requires each CGFM holder to maintain certification by completing comprehensive training sessions totaling 80 hours over a 2-year period:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 2007 as **CERTIFIED GOVERNMENT FINANCIAL MANAGER MONTH** in Illinois, and

PROCLAMATIONS

encourage all citizens to recognize the hard work put forth by financial managers in our communities.

Issued by the Governor April 5, 2007.

Filed by the Secretary of State April 17, 2007.

2007-131**Allendale Shelter Club Day**

WHEREAS, on December 6, 1906, 16 women from the Children's Hospital Society formed the Allendale Shelter Club. At that time, professionals in the legal system and in social services believed that one of Chicago's great needs was care for homeless and destitute boys whose population was steadily climbing; and

WHEREAS, for over 100 years, the Allendale Association has been providing great services to children that come from troubled backgrounds. Not only have they been very successful in helping youths that have suffered from mental illness, abuse, or neglect, but they have also worked hard to ensure a bright future for those many young people; and

WHEREAS, each Spring, the Allendale Association Board of Trustees joins together to raise money for the children of Allendale through an annual spring Gala & Auction; and

WHEREAS, all funds raised from this event will support the ongoing efforts of the educational, residential and clinical programs and services provided to disadvantaged children, youth and their families; and

WHEREAS, this year, the Allendale Shelter is celebrating their 25th Annual Gala, "Honoring the Shelter Club & their 100 Years of Dedicated Service to Allendale!" on Saturday, April 28, 2007 at the Sunset Ridge Country Club:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 28, 2007 as **ALLENDALE SHELTER CLUB DAY** in Illinois.

Issued by the Governor April 5, 2007.

Filed by the Secretary of State April 17, 2007.

2007-132**National Parent Care Day**

PROCLAMATIONS

WHEREAS, millions of Americans are ill prepared to address their own, or a loved one's, challenges with aging. Not only is addressing the challenges a problem for many people, but simply having the necessary conversations with those they love is often too difficult; and

WHEREAS, in order to give children and caregivers a national day to honor their parents as well as parents everywhere, Dan Taylor, author of "The Parent Care Solution," established National Parent Care Day on May 22, 2007; and

WHEREAS, "The Parent Care Solution" is a program that coaches people and financial advisors on how to address the issues and challenges facing aging American and their families; and

WHEREAS, this day will give children of all ages an opportunity to honor their parents and begin the process of open communication regarding parent care issues and challenges:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 22, 2007 as **NATIONAL PARENT CARE DAY** in Illinois, and encourage all citizens to have the necessary conversations with parents about their wishes and desires as they grow older.

Issued by the Governor April 5, 2007.

Filed by the Secretary of State April 17, 2007.

2007-133**Lincoln Trail Hike Day**

WHEREAS, in 1926 R. Allan Stephens, a former Scout Commissioner of Springfield, Illinois, originated the idea of a Lincoln Trail Hike; believing that Boy Scouts would acquire a greater appreciation of the obstacles Abraham Lincoln overcame in his rise to the presidency if they also walked the same 20-mile route followed by Lincoln from New Salem to Springfield; and

WHEREAS, Lincoln's outstanding example of perseverance caused Mr. Stephens to propose that Boy Scouts be encouraged to walk in Lincoln's steps from New Salem to Springfield and that an award be made to those who successfully completed the trail; and

WHEREAS, the 20-mile route is located as closely as possible to the roadways of Lincoln's New Salem days, keeping hikers on secondary roads, byways and trails. The trail is scenic and historically correct; and while walking the 20-mile route, the Scouts

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foster environmental stewardship by picking up litter along the scenic roadway;
and

WHEREAS, beginning in 1995, in commemoration of the 25th Anniversary of the first Earth Day, the Illinois Environmental Protection Agency teamed with the Abraham Lincoln Council of the Boy Scouts of America to support litter collection along the Lincoln Trail, in order to further earth stewardship and promote environmental consciousness among the Scouts. Illinois Environmental Protection Agency employees support the goals of the Lincoln Trail Hike by volunteering their services to assist the Scouts during the Hike; and

WHEREAS, in 2007, approximately 1000 Scouts will walk the Lincoln Trail Hike and maintain the legacy with the 62nd Annual Lincoln Pilgrimage:

NOW THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 28, 2007, as **LINCOLN TRAIL HIKE DAY** in Illinois, and encourage all citizens to recognize all the committed scouts paying tribute to one of Illinois' greatest historical figures.

Issued by the Governor April 11, 2007.

Filed by the Secretary of State April 17, 2007.

2007-134**Illinois River System Management Month**

WHEREAS, the Illinois River System is a critical component of our state's geography, history, economy and ecology; and

WHEREAS, many attributes are threatened as a result of the cumulative effects of human activities that have significantly altered the Illinois River system; and

WHEREAS, our state is embracing an integrated approach to large river management and is working in a coordinated and continuous manner for this river; and

WHEREAS, the implementation of the Illinois River Coordinating Council, the Conservation Reserve Enhancement Program, the Illinois Conservation 2000 Program, Illinois Rivers 2020, and the Open Lands Trust Fund are important milestones in efforts to protect the resources of the Illinois River, and

WHEREAS, the theme for the 2007 Conference on the Management of the Illinois River System is "The Illinois River: Continuing Our Commitment", and

PROCLAMATIONS

WHEREAS, the conference will be taking place October 2 – 4 at the Holiday Inn City Centre in Peoria, Illinois:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 2007 as **ILLINOIS RIVER SYSTEM MANAGEMENT MONTH** in Illinois, and encourage citizens to recognize the economic, recreational, social and environmental benefits of conserving to properly utilize the resources of the Illinois River basin.

Issued by the Governor April 11, 2007.

Filed by the Secretary of State April 17, 2007.

2007-135**Student Council Week**

WHEREAS, Student Council is a terrific opportunity for our leaders of tomorrow; and

WHEREAS, Student Council is a hands-on experience that teaches students the fundamentals of leading. The first ingredient of leadership is establishing a vision that others share and are willing to invest their personal resources for; and

WHEREAS, once a vision is established, it is important to determine how to get there, and essential to that success is communication, teamwork, and perseverance. Finding common ground, building consensus, and inspiring cooperation to achieve a goal is what leadership is all about; and

WHEREAS, the good leaders are those who know that, and the best leaders are those whose results support their vision; and

WHEREAS, Student Council is a civics lesson in motion, and in the process, members also promote school spirit, raise money for charity, and volunteer their time to community service. Indeed, Student Council is a wonderful organization that benefits students, schools, and the entire community; and

WHEREAS, this year, the 73rd Annual Illinois Association of Student Councils State Convention at the Hilton Chicago Hotel will be held from May 10-12. The conference will attract students from all across the state. There, they will participate in seminars and workshops to exchange event ideas and to help them become better leaders:

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THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 6 - 12, 2007 as **STUDENT COUNCIL WEEK** in Illinois in support of Student Council, and to encourage our future leaders attending the Illinois Association of Student Councils State Convention to share and apply what they learn there.

Issued by the Governor April 11, 2007.

Filed by the Secretary of State April 17, 2007.

2007-136**Lions Candy Day**

WHEREAS, the Lions Club was founded in 1917 by Melvin Jones. His goal was to create an organization of businesses who shared a common goal of bettering the community; and

WHEREAS, Lions Club International has grown to incorporate 1.4 million members who participate in 46,000 clubs in 193 countries across the globe; and

WHEREAS, the Lions Club of Illinois has raised an unprecedented amount of money for those who are visually and hearing impaired over the years through events such as Candy Day; and

WHEREAS, Candy Day allows the citizens of Illinois citizens to contribute to an organization that will in turn, give back to the public. The candy they receive is a token of appreciation from the Lions Club for their donation; and

WHEREAS, all proceeds made from Candy Day will go to the programs the Lions Club of Illinois promotes to continue to help the visually and hearing impaired:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 12, 2007 as **LIONS CANDY DAY** in Illinois, and applaud the Lions Club for so nobly serving the public for so many years.

Issued by the Governor April 11, 2007

Filed by the Secretary of State April 17, 2007.

2007-137**Lions and Lioness Tootsie Pop Day**

WHEREAS, the Lions and Lioness Clubs of Illinois have dedicated their time to helping the blind, visually impaired, deaf, and hearing impaired; and

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WHEREAS, the Lions and Lioness Clubs of Illinois are sponsoring Lions and Lioness Tootsie Pop Day for Sight and Sound throughout our State May 4, 2007; and

WHEREAS, Tootsie Pop Day is being held under the auspices of the Lions and Lioness of Illinois Foundation, a nonprofit organization that raises money for worthwhile projects through Tootsie Pop sales; and

WHEREAS, the proceeds from Tootsie Pop Day will help to provide detection treatment and rehabilitation programs for the blind, visually impaired, deaf, and hearing impaired residents of Illinois:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 4, 2007 as **LIONS AND LIONESS TOOTSIE POP DAY** in Illinois, and encourage all citizens to support this noble endeavor aimed at creating a better and more independent life for the blind, visually impaired, deaf, and hearing impaired of our communities.

Issued by the Governor April 11, 2007.

Filed by the Secretary of State April 17, 2007.

2007-138**Radiologic Technology Week**

WHEREAS, the health and well-being of our citizens is a major concern of Illinois health care professionals; and

WHEREAS, qualified practitioners who specialize in the use of medical radiation and imaging technology to aid in the diagnosis and treatment of disease, share a commitment to creating for the people of this state a safer and more compassionate environment; and

WHEREAS, professionals in the radiologic sciences continually maintain their highest standards of professionalism through education, lifelong learning, credentialing and personal commitment; and

WHEREAS, Radiologic Technology Week, in conjunction with the 72nd Annual Illinois State Society of Radiologic Technologists (ISSRT) Conference, will focus on the safe, medical radiation environment provided through the skilled and conscientious efforts of radiologic technologists:

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THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 18 – 20, 2007 as **RADIOLOGIC TECHNOLOGY WEEK** in Illinois, and encourage all citizens to recognize the importance of radiologic technology to the health industry in this state, and across the country.

Issued by the Governor April 11, 2007.

Filed by the Secretary of State April 17, 2007.

2007-139**Red, White, and BBQ Competition Days**

WHEREAS, on May 26th and 27th, 2007, the first annual "Red, White, and BBQ Competition" will be held in Westmont, Illinois; and

WHEREAS, the "Red, White, and BBQ Competition," as an Illinois State Championship, allows teams to qualify for national level barbeque competitions; and

WHEREAS, this event, a Kansas City Barbecue Society (KCBS) sanctioned event, will bring together amazing entertainment and award winning BBQ competitors; and

WHEREAS, the State of Illinois is proud to recognize the many talented individuals who are putting their barbeque grilling skills to the test during this event:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 26-27, 2007 as the **RED, WHITE, AND BBQ COMPETITION DAYS** in Illinois, and encourage all citizens to recognize and participate in this entertaining event that will undoubtedly showcase a variety of tasty barbeque recipes.

Issued by the Governor April 12, 2007.

Filed by the Secretary of State April 17, 2007.

2007-140**Federation of Women Contractors Day**

WHEREAS, there has been a continuous struggle in our society for women to receive the same rights as their male counterparts. Equally as pervasive is their struggle for equality in the workplace; and

WHEREAS, males continue to have a seat at the decision-making table, especially in fields historically dominated by men, such as the construction industry; and

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WHEREAS, the Federation of Women Contractors (FWC), created in 1989, is "committed to the advancement of entrepreneurial women in the construction industry;" and

WHEREAS, through educational, social and professional efforts, FWC provides an arena for its more than 100 members to have a voice; and

WHEREAS, the breadth of their message reaches far beyond the FWC membership, joining in alliance with other associations in the industry and other professional women's organizations to make a difference:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 17, 2007 as **FEDERATION OF WOMEN CONTRACTORS DAY** in Illinois, and join FWC in celebration of their 18th Anniversary and 15th Annual Awards Reception.

Issued by the Governor April 16, 2007.

Filed by the Secretary of State April 17, 2007.

2007-141**Armenian Martyrs Day**

WHEREAS, the Armenian community, as well as the global community, remembers the Armenian Genocide, which occurred 92 years ago; and

WHEREAS, during this tragic historical period between the years of 1915 and 1923, Armenians were forced to witness the genocide of their loved ones, and the loss of their ancestral homelands; and

WHEREAS, this extermination and forced relocation of over 1.5 million Armenians by the Ottoman Turks is recognized every year; and

WHEREAS, Armenians continue to be a people full of hope, courage, faith, and pride in their heritage, working together to rebuild a firm foundation for Armenia; and

WHEREAS, many of the 15,000 Armenian-Americans in Illinois are descendants or survivors of the Armenian genocide, and have been forthright in their efforts to preserve their culture, heritage, and language, while contributing much to our state and our nation's diverse society and economy; and

WHEREAS, both recognition and education concerning past atrocities such as the Armenian Genocide is crucial in the prevention of future crimes against humanity:

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THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 24, 2007 as **ARMENIAN MARTYRS DAY** in Illinois, in honor of the 92nd Anniversary of the Armenian Genocide.

Issued by the Governor April 16, 2007.

Filed by the Secretary of State April 17, 2007.

2007-142**Virginia Tech Tragedy**

WHEREAS, on April 16, 2007, tragedy befell our nation when over 30 students and faculty were murdered, and over 20 were injured, on the campus of Virginia Tech in Blacksburg, Virginia; and

WHEREAS, this event marks the most deadly massacre the United States has ever seen, and all across the nation Americans mourn with the families of the victims and the entire Virginia Tech community; and

WHEREAS, the State of Illinois is saddened by this horrific disaster, and we join Governor Tim Kaine and Commonwealth of Virginia, along with President George W. Bush, in lowering the flag of the United States of America to express our grief and anguish at this senseless loss of lives:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby order that the flag of the United States of America fly at half-staff, in accordance with the timeframe set forth by President George W. Bush, in honor of the victims of the Virginia Tech tragedy.

Issued by the Governor April 17, 2007.

Filed by the Secretary of State April 17, 2007.

2007-142 (Revised)**Virginia Tech Tragedy**

WHEREAS, on April 16, 2007, tragedy befell our nation when over 30 students and faculty were murdered, and over 20 were injured, on the campus of Virginia Tech in Blacksburg, Virginia; and

WHEREAS, this event marks the most deadly massacre the United States has ever seen, and all across the nation Americans mourn with the families of the victims and the entire Virginia Tech community; and

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WHEREAS, the State of Illinois is saddened by this horrific disaster, and we join Governor Tim Kaine and Commonwealth of Virginia, along with President George W. Bush, in lowering the flag of the United States of America to express our grief and anguish at this senseless loss of lives:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby order, in accordance with the timeframe set forth by President Bush, that the flag of the United States of America fly at half-staff at all State facilities from this day until sunset on Sunday, April 22, in honor of the victims of the Virginia Tech tragedy.

Issued by the Governor April 17, 2007.

Filed by the Secretary of State April 17, 2007.

2007-143**Particle Accelerator Day**

WHEREAS, particle accelerators are the scientific tools for discovery of the fundamental nature of the universe; and

WHEREAS, advances in the technology of particle accelerators produce significant benefits not only to basic science but to health care, medical research, manufacturing, materials science, and to the economy of the State of Illinois and the nation; and

WHEREAS, Northern Illinois, the home of Fermi National Accelerator Laboratory, Argonne National Laboratory, and of Illinois research universities, is a world leader in advanced accelerator research and development; and

WHEREAS, particle accelerators at Fermi National Accelerator Laboratory and Argonne National Laboratory provide unparalleled scientific research opportunities for thousands of scientists and students from throughout the State of Illinois, the nation, and the world; and

WHEREAS, Argonne National Laboratory and Fermi National Accelerator Laboratory have signed a Memorandum of Understanding combining their scientific and technical capabilities for accelerator research and development to accomplish unique scientific goals and to strengthen the world leadership of the State of Illinois in accelerator physics:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 21, 2007 as **PARTICLE ACCELERATOR DAY** in Illinois, and encourage all citizens to

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recognize the contributions of particle accelerators to scientific discovery and to the economic strength of Illinois and the nation.

Issued by the Governor April 17, 2007.

Filed by the Secretary of State April 17, 2007.

2007-144**A Day of Mourning for the Virginia Tech Victims**

WHEREAS, the Commonwealth of Virginia and the United States of America suffered a great tragedy on April 16, 2007 when 32 people were murdered and dozens more were injured on the campus of Virginia Tech in Blacksburg, Virginia; and

WHEREAS, the State of Illinois grieves with those who lost loved ones on that day, and we pray that they and the entire Virginia Tech community can someday find peace and solace in the wake of this senseless act of violence; and

WHEREAS, in the words of Virginia Governor Timothy M. Kaine, "April 16, 2007 will be remembered in the hearts and minds of Virginians and all Americans for the rest of their lives." Indeed this is a tragedy that our nation will never forget, and we come together as a people to mourn with the victims' families; and

WHEREAS, Governor Kaine will declare a Day of Mourning in Virginia on April 20, highlighted by a bell ringing ceremony at noon (Eastern Time) in honor of the victims of the Virginia Tech tragedy; and

WHEREAS, Illinois is humbled yet saddened to join in this solemn observance, and will hold a bell ringing ceremony in accordance with Governor Kaine's declaration:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 20, 2007 as **A DAY OF MOURNING FOR THE VIRGINIA TECH VICTIMS** in Illinois, and encourage all citizens to join in the ringing of bells at 11 am (Central Time) in memory of those who lost their lives on that dreadful day.

Issued by the Governor April 19, 2007.

Filed by the Secretary of State April 19, 2007.

ILLINOIS ADMINISTRATIVE CODE

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