

# 2008

# ILLINOIS

# REGISTER

RULES  
OF GOVERNMENTAL  
AGENCIES



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February 1, 2008  
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## INTRODUCTION

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

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

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

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

### 2008 REGISTER SCHEDULE VOLUME #32

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 21, 2007*	January 4, 2008
2	December 31, 2007	January 11, 2008
3	January 7, 2008	January 18, 2008
4	January 14, 2008	January 25, 2008
5	January 22, 2008	February 1, 2008
6	January 28, 2008	February 8, 2008
7	February 4, 2008	February 15, 2008
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11	March 3, 2008	March 14, 2008
12	March 10, 2008	March 21, 2008
13	March 17, 2008	March 28, 2008
14	March 24, 2008	April 4, 2008
15	March 31, 2008	April 11, 2008
16	April 7, 2008	April 18, 2008
17	April 14, 2008	April 25, 2008
18	April 21, 2008	May 2, 2008
19	April 28, 2008	May 9, 2008
20	May 5, 2008	May 16, 2008
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35	August 18, 2008	August 29, 2008
36	August 25, 2008	September 5, 2008
37	September 2, 2008	September 12, 2008
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49	November 24, 2008	December 5, 2008
50	December 1, 2008	December 12, 2008
51	December 8, 2008	December 19, 2008
52	December 15, 2008	December 26, 2008
53	December 22, 2008	January 2, 2009

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Safety Relocation Towing
- 2) Code Citation: 92 Ill. Adm. Code 1715
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1715.5	New Section
1715.10	New Section
1715.20	New Section
1715.30	New Section
1715.40	New Section
1715.50	New Section
1715.60	New Section
1715.70	New Section
1715.80	New Section
1715.100	New Section
1715.110	New Section
1715.120	New Section
1715.130	New Section
1715.200	New Section
1715.300	New Section
1715.400	New Section
1715.410	New Section
1715.420	New Section
1715.430	New Section
1715.500	New Section
1715.600	New Section
1715.610	New Section
1715.620	New Section
1715.630	New Section
1715.640	New Section
1715.650	New Section
1715.660	New Section
1715.670	New Section
1715.700	New Section
- 4) Statutory Authority: Implementing and authorized by the Illinois Commercial Safety Towing Law [625 ILCS 5/18d, Public Act 95-0562, effective July 1, 2008].

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## NOTICE OF PROPOSED RULES

- 5) A Complete Description of the Subjects and Issues Involved: These rules implement Public Act 95-0562, which mandates that the Commission adopt rules regarding the safety towing of damaged or disabled vehicles.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: No published studies or reports were used to compose the proposed rules. The substance of the rules was derived, in part, from two workshops held with members of the towing industry to solicit comments and input on the composition of the proposed rules.
- 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: The proposed rules neither create nor expand any State mandate on units of local government, school districts, or community college districts.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed, within 45 days after the date of this issue of the *Illinois Register* with:

Steven L. Matrisch  
Office of Transportation Counsel  
Transportation Division  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, IL 62701

217/782-6447  
smatrisc@icc.state.il.us

- 13) Initial Regulatory Flexibility Analysis:

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- A) Types of small businesses, small municipalities and not for profit corporations affected: The proposed rules will affect small businesses that are currently registered or will be registered by the Illinois Commerce Commission as safety relocation towers in the State of Illinois and that are small businesses as defined in the Illinois Administrative Procedure Act. These proposed rules will not affect any small municipalities or not for profit corporations.
- B) Reporting, bookkeeping or other procedures required for compliance: Pursuant to the Illinois Commercial Vehicle Safety Towing Law, safety towers must maintain records regarding the disclosure and invoices issued.
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because the Commission did not anticipate the need at that time.

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

TITLE 92: TRANSPORTATION  
CHAPTER III: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER d: RELOCATION TOWING

PART 1715  
SAFETY RELOCATION TOWING

SUBPART A: DEFINITIONS

Section  
1715.5      Definitions

SUBPART B: REGISTRATION

Section  
1715.10      Annual Registration  
1715.20      Registration and Filing of Forms  
1715.30      Processing and Issuance of Registration  
1715.40      Registrations Conditioned Upon Compliance  
1715.50      Registration to be Carried by Holder  
1715.60      Alteration of Registration  
1715.70      Registration Fee  
1715.80      Transfer of Registration

SUBPART C: DISCLOSURES

Section  
1715.100      Approval of Disclosure Forms  
1715.110      Tow Authorized by Law Enforcement Agency  
1715.120      Owner or Operator Authorization  
1715.130      Commercial Towing Contracts

SUBPART D: POSTING OF SIGNS

Section  
1715.200      Posting Requirements

SUBPART E: VEHICLE IDENTIFICATION

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED RULES

Section  
1715.300 Safety Towing Vehicle Identification Requirement

## SUBPART F: INSURANCE REQUIREMENTS

Section  
1715.400 Registration Conditioned Upon Compliance With Insurance Requirements  
1715.410 Proof of Insurance or Bond Coverage  
1715.420 Safety Relocator's Liability  
1715.430 Amounts of Insurance Coverage

## SUBPART G: BOOKS AND RECORDS

Section  
1715.500 Audit and Inspection of Safety Relocator's Books and Records

## SUBPART H: ENFORCEMENT

Section  
1715.600 Enforcement of the Law  
1715.610 Enforcement Proceedings and Imposition of Sanctions  
1715.620 Informal Settlement in Lieu of Formal Proceeding  
1715.630 Initiation of Operating Practices Proceeding  
1715.640 Failure to Appear at Hearing  
1715.650 Service of Order  
1715.660 Standards for the Assessment of Civil Penalties  
1715.670 Payment of Civil Penalties

## SUBPART I: DISPOSITION OF UNCLAIMED VEHICLES

Section  
1715.700 Disposition of Unclaimed Vehicles

AUTHORITY: Implementing and authorized by the Illinois Commercial Safety Towing Law [625 ILCS 5/Ch. 18d].

SOURCE: Adopted at 32 Ill. Reg. \_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: DEFINITIONS

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED RULES

**Section 1715.5 Definitions**

The following terms, when used in this Part, shall have the meanings ascribed to them in this Section.

"Charge": The per unit price, cost or rate for a towing, storage or incidental service multiplied by the number of units of the service provided by the Towing Service.

"Commission": The Illinois Commerce Commission.

"Cost": A per unit rate for towing, storage or incidental services provided by a towing service.

"Entity": A corporation, limited liability company, partnership, sole proprietorship or other business entity.

"Law": The Illinois Commercial Safety Towing Law [625 ILCS 5/Ch. 18d].

"Operator": A person who was operating the vehicle at the time it became disabled or was damaged in an accident.

"Owner": A person to whom title to a vehicle has been issued, or who, without title, has the right to exclusive use of the vehicle for a period longer than 30 days, or who has lawful possession of the vehicle, or in whose name the vehicle is registered.

"Post-tow": After a vehicle has been towed to the safety relocater's storage facility.

"Pre-tow": Prior to rendition of towing, storage or incidental services with respect to a vehicle.

"Price": A per unit rate for towing, storage or incidental services provided by a towing service.

"Registration Certificate": A commercial vehicle safety relocater registration certificate.

## ILLINOIS COMMERCE COMMISSION

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"Safety Relocated", "Safety Relocating", "Safety Relocation" and "Safety Towing": Refers to the towing of damaged or disabled vehicles from public or private property.

"Safety Relocator": Any person or entity that removes damaged or disabled vehicles from public or private property by the use of towing equipment or otherwise and charges the vehicle owner, vehicle operator or third party authorizer for that service.

"Third Party Authorization": An authorization to tow a damaged or disabled vehicle that is made by someone other than a vehicle owner or operator and that is done on behalf of the vehicle owner or operator.

## SUBPART B: REGISTRATION

**Section 1715.10 Annual Registration**

All commercial vehicle safety relocators shall register annually with the Commission. All registrations shall expire on July 31 of each year.

**Section 1715.20 Registration and Filing of Forms**

Applications for safety relocator registration shall be made by completing and filing copies of the Commission's Safety Relocator Registration Form. Completed registration forms shall be filed with the Commission at the following address:

Illinois Commerce Commission  
Transportation Division  
Processing Section  
527 East Capitol Avenue  
Springfield IL 62701

**Section 1715.30 Processing and Issuance of Registration**

Upon receipt of a registration form, the Commission shall review it for completeness. If the form is properly completed, proof of insurance provided as required under Subpart F of this Part and payment received of the annual registration fee as required under Section 1715.70, a Safety Relocator Annual Registration shall be issued by the Commission.

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**Section 1715.40 Registrations Conditioned Upon Compliance**

Each registration issued to a safety relocater is conditioned upon compliance with the provisions of the Law and this Part. Operations in violation of the Law or this Part are unauthorized and render the safety relocater subject to penalties, including suspension, revocation, fines or a combination of sanctions.

**Section 1715.50 Registration to be Carried by Holder**

Each vehicle used for safety towing must carry a copy of the Commission issued registration in its cab. The copy shall be presented to any employee of the Commission on request.

**Section 1715.60 Alteration of Registration**

No safety relocater or its employees shall alter, mark or in any manner change the appearance of a registration issued by the Commission. Any alteration, marking or change in the appearance of a registration shall render the registration invalid.

**Section 1715.70 Registration Fee**

- a) All safety relocater registrations must be accompanied by a \$1,600 fee.
- b) The fee to initially apply for, or renew, a registration shall be paid by certified check, cashier's check or money order made payable to "Illinois Commerce Commission/TRF".
- c) The fee to initially apply for, or renew, a registration is non-refundable.

**Section 1715.80 Transfer of Registration**

A safety relocater registration is not transferable.

## SUBPART C: DISCLOSURES

**Section 1715.100 Approval of Disclosure Forms**

- a) The Commission may prescribe a uniform form for disclosures required by the Law.

## ILLINOIS COMMERCE COMMISSION

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- b) A safety relocater may comply with disclosure requirements of the Law by:
  - 1) Using a form prescribed by the Staff of the Commission;
  - 2) Using a form that contains all of the information contained in a form prescribed by the Staff of the Commission; or
  - 3) Using a form specifically approved by the Staff of the Commission.

**Section 1715.110 Tow Authorized by Law Enforcement Agency**

The disclosures and authorization required under the Law and this Part are not required if a tow was authorized by a law enforcement agency or officer, as evidenced by a tow sheet issued by the law enforcement agency or officer, or if no tow sheet was issued by the authorizing law enforcement agency or officer, then evidenced by records of the safety relocater showing the date and time of authorization, the department and star or badge number of the officer from whom authorization was received, and the incident report number assigned by the law enforcement agency or officer.

**Section 1715.120 Owner or Operator Authorization**

- a) **Personal Authorization from Vehicle Owner or Operator**  
When the vehicle owner or operator has personally authorized a safety relocater to provide towing, storage or incidental services with respect to a vehicle to which this Part applies:
  - 1) If the vehicle owner or operator of the vehicle is present at the scene and not incapacitated, incompetent or otherwise unable to sign, the safety relocater shall obtain the signature of the vehicle owner or operator;
  - 2) If the vehicle owner or operator of the vehicle is not present at the scene, or is otherwise incapacitated, incompetent or unable to sign, the safety relocater shall:
    - A) Make a record of:
      - i) The name, mailing address and telephone number of the person giving the authorization;

## ILLINOIS COMMERCE COMMISSION

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- ii) The date and time authorization was given; and
    - iii) The driver's license, social security, or other unique identifying number of the person by whom the authorization was given; and
  - B) Transmit the disclosures required under Section 18d-120 of the Law to:
    - i) The law enforcement agency having jurisdiction; or
    - ii) The insurance agent for the vehicle owner or operator.
- b) **Third Party Authorization**

A third party, acting as agent for the owner or operator of a vehicle, may give authorization as required by Section 18d-120(a) of the Law, provided the agent is responsible for payment of, or approves, all charges for towing, storage and incidental services so authorized. Examples of third parties include motor clubs, repair shops, body shops and automobile dealers.

**Section 1715.130 Commercial Towing Contracts**

- a) The requirements for authorization and pre-tow disclosure in Section 18d-120 of the Law may be satisfied by a written contract between a safety relocater and a third party authorizer, provided:
  - 1) All items required to be disclosed under Section 18d-120 are contained in the contract or attached to the contract;
  - 2) The safety relocater maintains a record of identifications containing the information provided by the business entity or required by the contract; and
  - 3) The vehicle owner or operator is not responsible for any charges in excess of that agreed to in the contract between the safety relocater and third party authorizer.

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- b) The requirements for final invoices contained in Section 18d-125 of the Law may be satisfied by invoices submitted by the safety relocater in accordance with the contract.

## SUBPART D: POSTING OF SIGNS

**Section 1715.200 Posting Requirements**

Signs meeting the specifications of Section 18d-130 of the Law shall be posted at each storage location from which a vehicle can be claimed. The signs shall be posted in a conspicuous manner and be free of any obstruction or interference.

## SUBPART E: VEHICLE IDENTIFICATION

**Section 1715.300 Safety Towing Vehicle Identification Requirement**

- a) Any vehicle used for safety towing must be identified with the Commission issued registration number and bear the full legal name of the safety relocater, as it appears on the registration, together with the address and telephone number of the relocater. This information shall be on both sides of the vehicle's power unit, in characters not less than 2 inches in height, and in colors contrasting with the color of the background against which the information is painted or printed.
- b) For purposes of this Section, the required address shall be the actual physical location of the safety relocater's place of business, not a post office box.

## SUBPART F: INSURANCE REQUIREMENTS

**Section 1715.400 Registration Conditioned Upon Compliance With Insurance Requirements**

A registration issued by the Commission to a safety relocater has force and effect only while the carrier is in compliance with requirements for the filing of proof of insurance or bond coverage.

**Section 1715.410 Proof of Insurance or Bond Coverage**

Proof of insurance or bond coverage or cancellation shall be on forms E, H and K prescribed by the Commission. The filing of such proof shall constitute acceptance of the minimum terms required by Section 18d-170 of the Law and prescribed in this Part, or higher levels of coverage

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stated in the policy or set forth on the certificate of insurance, and shall bind the insurance company to those terms. The coverage shall remain in effect until a cancellation form is filed with the Commission or the coverage is superseded by filing a subsequent certificate of insurance.

**Section 1715.420 Safety Relocator's Liability**

- a) The safety relocater's liability shall extend to all operations by or under authority of the safety relocater's registration.
- b) The safety relocater's insurance shall cover all operations conducted by or under the authority of the safety relocater's registration.

**Section 1715.430 Amounts of Insurance Coverage**

- a) All safety relocaters shall file with the Commission and have in effect an indemnity bond or insurance policy or certificates of bonds or insurance in lieu of a bond or policy that shall indemnify or insure the safety relocater for its liability in the following amounts:
  - 1) for injury to person, in an amount not less than \$100,000 to any one person and \$300,000 for any one accident;
  - 2) in case of damage to property other than a vehicle being removed, in an amount not less than \$50,000 for any one accident; and
  - 3) in case of damage to any vehicle relocated or stored by the safety relocater, in an amount not less than \$15,000 per vehicle.
- b) Any such bond or policy shall be issued by a bonding or insurance firm authorized to do business as such in the State of Illinois. All certificates or indemnity bonds or insurance filed with the Commission must show the coverage effective continuously until cancelled, and the Commission may require evidence of continued validity as it deems necessary.

## SUBPART G: BOOKS AND RECORDS

**Section 1715.500 Audit and Inspection of Safety Relocator's Books and Records**

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Each safety relocater shall permit any Commission employee to inspect or audit its books and records, on request, at any time when the relocater is open to the public.

## SUBPART H: ENFORCEMENT

**Section 1715.600 Enforcement of the Law**

The enforcement provisions in Article VII of subchapter 1 of the Illinois Commercial Transportation Law [625 ILCS 5/Ch.18c, subch. 1, Art. VII] shall likewise govern the enforcement of the Illinois Commercial Safety Towing Law.

**Section 1715.610 Enforcement Proceedings and Imposition of Sanctions**

The Commission may conduct a proceeding known as an enforcement proceeding when it has reason to believe that a person has committed an act that is a violation of the Law or this Part. The result of the operating practices proceeding may be the imposition of sanctions including, but not limited to, the suspension or revocation of the person's license or registration, issuance of a cease and desist order, assessment of civil penalties, or a combination of sanctions. The operating practices proceeding shall be governed by the Commission's Rules of Practice (83 Ill. Adm. Code 200).

**Section 1715.620 Informal Settlement in Lieu of Formal Proceeding**

Prior to the institution of formal enforcement proceedings before the Commission, a respondent shall be given the opportunity to settle, at an informal staff level, any controversy regarding the respondent's alleged illegal activity under the Law.

- a) The Notice of Alleged Violation and Opportunity to Settle (NAVOS) setting forth the alleged violations of the Law or this Part shall be served on the respondent and shall specify the procedure for the respondent to exercise the option to settle. Included will be instructions to telephone or write to the specific Commission staff member assigned to the case to request and schedule a settlement conference if the respondent chooses to exercise the settlement option. The respondent shall have 20 days from the date of service to exercise the option to settle.
- b) Monetary settlements specified in the NAVOS shall be based upon the available fine amounts contained in the Law.

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- c) An amount less than the minimum established in the NAVOS may be agreed upon between the Staff of the Commission and the respondent during informal settlement discussions. This lesser amount shall be incorporated in a stipulated settlement agreement that shall be presented to the Commission for approval or rejection.
- d) Settlement amounts shall be determined upon consideration of the respondent's past compliance history, cooperation with authorities in the resolution of the dispute, and willingness to comply with the Law and this Part, and the type of violation, the amount of revenue realized from the unlawful activities, and the number of violations.
- e) If a settlement agreement is not reached, the matter will be set for hearing before an Administrative Law Judge pursuant to the Commission's Rules of Practice (83 Ill. Adm. Code 200).
- f) The respondent's right to a hearing and respondent's position at hearing will not be prejudiced in any way if settlement is not reached.

**Section 1715.630 Initiation of Operating Practices Proceeding**

- a) An enforcement proceeding shall be initiated by the issuance of a Complaint that shall set forth the alleged violations of the Law. The Complaint shall be served on the respondent by certified mail, return receipt requested, at the last address known to the Commission, or by personal service if the respondent is not licensed by the Commission and service by mail cannot be accomplished.
- b) The respondent shall have 20 days from the date of service of the Complaint to file a responsive pleading with the Commission. Failure to respond within the specified time shall result in the matter being set for hearing. Notice of the time, date and place for the hearing shall be mailed to the respondent.
- c) All matters set for hearing as a result of this Section shall be conducted in accordance with 83 Ill. Adm. Code 200.
- d) Respondent's failure to appear at a hearing or otherwise respond to a Complaint shall constitute a waiver of the respondent's right to contest the alleged violation or violations. Commission Staff shall present evidence in support of its

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allegations and the Commission is authorized, without further notice or hearing, to make findings and may order the imposition of any applicable sanction.

**Section 1715.640 Failure to Appear at Hearing**

Respondent's failure to appear at the hearing set for the violation in issue may constitute a waiver of respondent's right to appear to contest the alleged violation. Commission Staff shall testify in support of its allegations and the Commission is authorized, without further notice, to find the facts to be as alleged in the order and may order the imposition of any applicable sanction.

**Section 1715.650 Service of Order**

Service of orders shall be made by certified mail, return receipt requested.

**Section 1715.660 Standards for the Assessment of Civil Penalties**

- a) In determining whether to assess civil penalties, the Commission shall consider the following factors:
  - 1) the lack of mitigating circumstances, including:
    - A) whether the violation's occurrence was attributable to causes beyond the respondent's control, rather than to respondent's fault or intent; and
    - B) whether the violation's occurrence was attributable to action by the Commission that precluded compliance;
  - 2) the lack of good faith or intent, including:
    - A) the past compliance history of the respondent; and
    - B) whether a violation is the result of willful conduct or comes about through mistake, inadvertence or negligence;
  - 3) the financial ability of the respondent to pay the penalties assessed;
  - 4) the degree to which the violative conduct was harmful to the public; and

## ILLINOIS COMMERCE COMMISSION

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- 5) the financial benefit accruing to the respondent as a result of its illegal activities.
- b) If it is determined that a civil penalty shall be assessed, the amount of the civil penalty shall be determined in accordance with the following procedure:
  - 1) A numerical value of from 0 to 5 shall be assigned to each of the factors specified in subsections (a)(1), (2), (3), (4) and (5);
  - 2) The values assigned will be summed. The sum will be divided by the maximum possible weighted value per violation (25) and then multiplied by the maximum possible penalty per violation allowed under the Law. The result will be the civil penalty the Commission will seek to assess against the respondent.
- c) The Commission's consideration shall be limited to only those violations for which evidence exists. It shall be the burden of the respondent to establish a compelling reason why the civil penalty should be mitigated.

**Section 1715.670 Payment of Civil Penalties**

Whenever the Commission assesses a civil penalty under this Part:

- a) Payment of the civil penalty shall be made by certified or cashier's check, by money order, or in installments by the foregoing means after execution of a promissory note containing an agreement for judgment.
- b) All remittances shall be made payable to the Illinois Commerce Commission and sent to:

Illinois Commerce Commission  
Transportation Division  
Processing Section  
527 East Capitol Avenue  
Springfield IL 62701

## SUBPART I: DISPOSITION OF UNCLAIMED VEHICLES

**Section 1715.700 Disposition of Unclaimed Vehicles**

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

Unclaimed vehicles shall be disposed of in accordance with 625 ILCS 5/4-208 and 4-209.



## ILLINOIS GAMING BOARD

## NOTICE OF PROPOSED AMENDMENT

3000.840	Amendment	31 Ill. Reg. 10394; July 20, 2007
3000.1071	Amendment	31 Ill. Reg. 14982; November 9, 2007

- 11) Statement of Statewide Policy Objective: The present rulemaking is necessary to provide a unique, identifying badge number for each person licensed as an occupational licensee under the Riverboat Gambling Act.
- 12) Time, place and manner in which interested persons may comment on this proposed rulemaking: Any interested person may submit comments in writing concerning this proposed rulemaking not later than 45 days after publication of this Notice in the *Illinois Register* to:  

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

Fax No. 312/814-7253  
mfries@revenue.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 will impose no additional requirements.
  - C) Types of professional skills necessary for compliance: The proposed rulemaking will impose no additional requirements.
- 14) Regulatory agenda on which this rulemaking was summarized: January 4, 2008

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

## ILLINOIS GAMING BOARD

## NOTICE OF PROPOSED AMENDMENT

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

## SUBPART A: GENERAL PROVISIONS

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

## SUBPART B: LICENSES

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

## ILLINOIS GAMING BOARD

## NOTICE OF PROPOSED AMENDMENT

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

## SUBPART C: OWNER'S INTERNAL CONTROL SYSTEM

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

## SUBPART D: HEARINGS ON NOTICE OF DENIAL,

## ILLINOIS GAMING BOARD

## NOTICE OF PROPOSED AMENDMENT

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

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

## SUBPART E: CRUISING

Section	
3000.500	Riverboat Cruises
3000.510	Cancelled or Disrupted Cruises

## SUBPART F: CONDUCT OF GAMING

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

## ILLINOIS GAMING BOARD

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

## SUBPART G: EXCLUSION OF PERSONS

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

## ILLINOIS GAMING BOARD

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## SUBPART H: SURVEILLANCE AND SECURITY

## Section

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

## SUBPART I: LIQUOR LICENSES

## Section

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

## SUBPART J: OWNERSHIP AND ACCOUNTING RECORDS AND PROCEDURES

## Section

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

## SUBPART K: SEIZURE AND DISCIPLINARY HEARINGS

## Section

3000.1100	Coverage of Subpart
3000.1105	Duty to Maintain Suitability

## ILLINOIS GAMING BOARD

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

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

SOURCE: Emergency rule adopted at 15 Ill. Reg. 11252, effective August 5, 1991, for a maximum of 150 days; adopted at 15 Ill. Reg. 18263, effective December 10, 1991; amended at 16 Ill. Reg. 13310, effective August 17, 1992; amended at 17 Ill. Reg. 11510, effective July 9, 1993; amended at 20 Ill. Reg. 5814, effective April 9, 1996; amended at 20 Ill. Reg. 6280, effective April 22, 1996; emergency amendment at 20 Ill. Reg. 8051, effective June 3, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14765, effective October 31, 1996; amended at 21 Ill. Reg. 4642, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 14566, effective October 22, 1997, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 978, effective December 29, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4390, effective February 20, 1998; amended at 22 Ill. Reg. 10449, effective May 27, 1998; amended at 22 Ill. Reg. 17324, effective September 21, 1998; amended at 22 Ill. Reg. 19541, effective October 23, 1998; emergency amendment at 23 Ill. Reg. 8191, effective July 2, 1999, for a maximum of 150 days; emergency expired November 28, 1999; amended at 23 Ill. Reg. 8996, effective August 2, 1999; amended at 24 Ill. Reg. 1037, effective January 10, 2000; amended at 25 Ill. Reg. 94, effective January 8, 2001; amended at 25 Ill. Reg. 13292, effective October 5, 2001; amended at 26 Ill. Reg. 9307, effective June 14, 2002; emergency amendment at 26 Ill. Reg. 10984, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 15296, effective October 11, 2002; amended at 26 Ill. Reg. 17408, effective November 22, 2002; emergency amendment at 27 Ill. Reg. 10503, effective June 30, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 15793, effective September 29, 2003; amended at 27 Ill. Reg. 18595, effective November 25, 2003; amended at 28 Ill. Reg. 12824, effective August 31, 2004; emergency amendment at 28 Ill. Reg. 13238, effective September 22, 2004, for a maximum of 150 days; emergency expired February 18, 2005; amended at 29 Ill. Reg. 10590, effective July 7,

## ILLINOIS GAMING BOARD

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2005; emergency amendment at 29 Ill. Reg. 20095, effective November 23, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 8643, effective April 19, 2006; amended at 30 Ill. Reg. 9177, effective April 26, 2006; amended at 31 Ill. Reg. 8098, effective June 14, 2007; amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART B: LICENSES

**Section 3000.245 Occupational Licenses**

- a) Overview of Licensing Procedures. Applications for Occupational Licenses shall be subject to the following procedures prior to licensing:
  - 1) Application;
  - 2) Issuance of a temporary identification badge;
  - 3) Investigation of the applicant;
  - 4) Action of the Board; and
  - 5) Different or additional licensing procedures as required of the applicant by the Board.
  
- b) Temporary Identification Badge Requirements
  - 1) Each occupational applicant shall receive from his employer a partially completed temporary identification badge. The applicant shall deliver such badge to a Board agent at applicant's employer's dock site facility for processing and completion.
  - 2) The ~~temporary~~Temporary identification badge shall:
    - A) Be a white 3½" by 2" card bearing the name and logo of the Riverboat Gaming Operation;
    - B) Provide space for a 1" by 1¼" photograph;
    - C) Display applicant's first name and job title;

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- D) Provide a space for ~~a 9~~<sup>an eight</sup> (8) digit number;
  - E) Provide a space for the Administrator's signature;
  - F) Provide spaces for the dates of issuance and expiration of such temporary badge; and
  - G) Provide on the reverse side a line for the employee's last name, signature, social security number and date of birth.
- 3) Upon presentation of the partially completed badge to a Board agent at the dock facility, the applicant shall be photographed and fingerprinted by the agent who shall complete and laminate the badge.
- 4) A temporary identification badge will not be issued if the Administrator or his designated agent has reason to believe the applicant is the subject of a pending investigation or disciplinary action, or is ineligible for licensing pursuant to Section 9(a)(1) or 9(a)(2) of the Act. If the temporary identification badge is not issued, the applicant is not permitted to work for the Riverboat Gaming Operation until and unless the Board issues a license to the applicant.
- 5) Temporary identification badges are valid for up to one year from the date of the application unless extended by the Administrator. A temporary identification badge is not transferable and upon resignation or termination of employment, must be returned by the Occupational License applicant to the holder of an Owner's License or to the Board. If returned to the holder of an Owner's License, the holder must then return the badge to the Board.
- 6) Withdrawal of Temporary Identification Badge.
- A) The Administrator, upon written notification to the applicant and the holder of the Owner's License, may withdraw an applicant's temporary identification badge upon determining a recommendation of denial to the Board.
  - B) If an applicant's temporary identification badge is withdrawn, the applicant is not permitted to work for the Riverboat Gaming Operation until and unless the Board issues a license to the

## ILLINOIS GAMING BOARD

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applicant.

- C) If an applicant's temporary identification badge is withdrawn, the applicant's application for licensing will proceed to Board action unless it is withdrawn by the applicant prior to Board action on licensure.
- c) Investigation of the Applicant and Application. An applicant is responsible for compliance with all requests for information, documents, or other materials relating to the applicant and his application.
- d) Action of the Board
  - 1) In determining whether to grant such a license, the Board shall consider the character, associations and reputation of the applicant and the qualifications of the applicant to perform the duties of the position to be licensed.
  - 2) If the Board finds the applicant suitable for licensing, it shall direct the Administrator to issue the applicant a license.
  - 3) If the Board finds the applicant not suitable for licensing, it shall issue the applicant a Notice of Denial by certified mail or personal delivery.
- e) Request for Hearing
  - 1) An applicant who is served with a Notice of Denial may request a hearing in accordance with Section 3000.405.
  - 2) If a hearing is not requested, the Notice of Denial becomes the final order of the Board denying the applicant's license application.
- f) Reapplication for Denied License. If an applicant is denied a license, the applicant may not reapply for a license within one year from the date on which the final order of denial was voted upon by the Board, without leave of the Board.
- g) Permanent Identification Badge Requirements
  - 1) Upon notification of a finding of suitability by the Board and issuance of

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an Occupational License to applicant, applicant shall receive from his employer a partially completed permanent identification badge. Applicant shall deliver such badge to a Board agent at applicant's dock site facility for completion and processing.

- 2) The permanent identification badge shall:
    - A) Be of a color selected by the Riverboat Gaming Operation for use on all permanent identification badges utilized by its occupational licensees;
    - B) Be a 3½" by 2" card bearing the name and logo of the Riverboat Gaming Operation;
    - C) Provide space for a 1" by 1¼" photograph;
    - D) Provide a space for an eight digit number;
    - E) Display the employee's first name and job title;
    - F) Provide a space for the Administrator's signature;
    - G) Provide a space for the dates of issuance and expiration of applicant's Occupational License;
    - H) Provide on the reverse side of the card a line for the employee's last name, signature, social security number and date of birth.
  - 3) Permanent identification badges are not transferable and upon resignation or termination of employment must be returned by the occupational licensee to the holder of an Owner's License or to the Board. If returned to the holder of an Owner's License, the holder must then return the badge to the Board.
- h) **Display of Identification Badges**  
Identification badges as required by subsections (b) and (g) of this Section shall be worn by all employees during work hours, including those persons employed on the dock site. Identification badges shall be clearly displayed.

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- i) A fee of \$10.00 shall be paid to the Board for any necessary ~~replacement~~ replacement(s) of identification badges.

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Appeals and Hearings
- 2) Code Citation: 89 Ill. Adm. Code 510
- 3) Section Number: 510.10                      Proposed Action: Amendment
- 4) Statutory Authority: Implementing the Disabled Persons Rehabilitation Act [20 ILCS 2405], and authorized by Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking affects the Vocational Rehabilitation (VR) program. It repeals definitions in Section 510.10 and places them in 89 Ill Adm. Code 521 (a new Part). The new Part was created to include all definitions used for VR rules. This rulemaking also updates terms used in this Section.
- 6) Published Studies or Reports, and Sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services

## DEPARTMENT OF HUMAN SERVICES

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100 South Grand Avenue East  
Harris Building, 3<sup>rd</sup> Floor  
Springfield, Illinois 62762

217/557-1544

- 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: This rulemaking was not included on either of the 2 most recent regulatory agendas.

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

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER a: GENERAL PROGRAM PROVISIONSPART 510  
APPEALS AND HEARINGS

Section	
510.5	Scope and Purpose
510.10	General Information
510.20	What May Be Appealed
510.30	What May Not Be Appealed
510.40	Grievant Rights
510.50	DHS-ORS Rights
510.60	Service Notice
510.70	Level I Hearings (Repealed)
510.80	Request for a Hearing
510.90	Impartial Hearings Officers
510.100	Informal Resolution Conference
510.103	Mediation Process for the Vocational Rehabilitation Program
510.105	Conduct of Hearings
510.110	Associate Director's Review for Residential/Training Programs for Persons with Visual Impairments
510.115	Associate Director's Decision for Hearings Regarding a Blind Vendor
510.120	Exhaustion of Administrative Remedies

**AUTHORITY:** Implementing the Disabled Persons Rehabilitation Act [20 ILCS 2405], and authorized by Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16].

**SOURCE:** Adopted and codified at 7 Ill. Reg. 5230, effective April 1, 1983; amended at 7 Ill. Reg. 14526, effective October 19, 1983; amended at 9 Ill. Reg. 12325, effective July 30, 1985; preemptory amendment at 11 Ill. Reg. 6563, effective March 31, 1987; Part repealed, new Part adopted at 13 Ill. Reg. 15769, effective September 26, 1989; amended at 16 Ill. Reg. 8537, effective May 20, 1992; Emergency Amendments at 17 Ill. Reg. 11608, effective July 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20296, effective November 15, 1993; amended at 20 Ill. Reg. 8505, effective June 17, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 13195, effective November 15, 1999; amended at 27 Ill. Reg. 9576, effective June 13, 2003; amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## DEPARTMENT OF HUMAN SERVICES

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**Section 510.10 General Information**a) **Definitions**

For the purposes of this Part, the following terms shall have the following meanings:

"Associate Director" means the Associate Director of the Office of Rehabilitation Services within the Department of Human Services (DHS-ORS).

"Client Assistance Program" (CAP) means a program funded by the federal Rehabilitation Act to provide assistance in informing and advising all customers and applicants of all available benefits under the federal Vocational Rehabilitation (VR) Act and upon request of such a customer to assist in the customer's relationship with projects, programs and services provided by the VR Act. CAP may also serve customers of the Home Services Program. CAP services can include assistance and advocacy in pursuing legal, administrative, or other appropriate remedies to ensure the protection of the customer's rights under the Act.

"Customer" means any individual who has requested, been referred to, applied for, or is receiving services from DHS-ORS (except from the Bureau of Disability Determination Services), or, as appropriate, a parent, family member, guardian, advocate or duly authorized representative of the customer.

"DHS-ORS" means the Department of Human Services—Office of Rehabilitation Services and does not include any contractor, grantee, nominee agency, or service provider.

"Grievant" means any customer, or licensed vendor as specified in 89 Ill. Adm. Code 650 (Vending Facilities Program for the Blind), who has been aggrieved by any action or inaction by DHS-ORS.

"Hearing" means an administrative hearing of the appeal of the grievant as set forth in Section 510.105 and presided over by an Impartial Hearing Officer.

"Hearings Coordinator" means the DHS Chief, Bureau Administrative Hearings, who is responsible for communicating with grievants about their appeal requests,

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENT

~~docketing and scheduling hearings, and coordinating the appointment of Impartial Hearing Officers.~~

~~"Impartial Hearing Officer" means the individual appointed to conduct the hearing as set forth in Section 510.90.~~

~~"Inaction" means the failure of DHS ORS to act within the time lines specified by the program to which a customer has applied for services to make an eligibility determination or to act on a request for any change in services unless an extension of time has been agreed to in writing by the customer or necessitated by the VR customer's participation in a trial work period.~~

~~"Informal Resolution Conference" means an attempt to informally resolve an appeal by the grievant and DHS ORS, as set forth in Section 510.100.~~

~~"Mediator" means an individual who is qualified in mediation and knowledgeable of the laws and regulations relating to the provision of vocational rehabilitation services.~~

~~"Personal representative" means an attorney, CAP representative or other individual designated by a grievant to act on the grievant's behalf in the proceedings contained in this Part, as set forth in subsection (b)(3) of this Section and Section 510.100(d).~~

~~"Schools" means the three State Schools operated by DHS ORS: Illinois Center for Rehabilitation and Education Roosevelt, the Illinois School for the Deaf, and the Illinois School for the Visually Impaired.~~

~~"Services" means services provided directly or purchased by DHS ORS as set forth in 89 Ill. Adm. Code Chapter IV, Subchapters b (Vocational Rehabilitation (VR)), c (Vocational Related Programs), d (Home Services Program (HSP)), and e (Specialized Services for the Visually Impaired (CRSBVI)).~~

~~"Working Days" means Mondays through Fridays, excluding State established holidays or days on which government offices are closed by order of the Governor.~~

b) General Provisions

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## NOTICE OF PROPOSED AMENDMENT

- a1) A grievant ~~that~~who is not satisfied with an action taken by DHS-~~DRSORS~~, or with the failure of DHS-~~DRSORS~~ to take action, is entitled to a hearing. A customer of the Vocational Rehabilitation program may also request mediation.
- b2) Any and all notices and communications to DHS-~~DRSORS~~ made pursuant to this Part should be in writing. Nonwritten communications will be accepted if the information required in subsection (b)(6) of this Section is provided. All nonwritten communications shall be documented by DHS-~~DRSORS~~.
- c3) A grievant may appoint a representative in accordance with Section 510.40(e)(2), who may exercise any right of the grievant on the grievant's behalf. A grievant may only designate one representative at a time. The designation must be in writing or on the record.
- d4) All time periods related to communications arising under this Part commence on the date of receipt (receipt is presumed 5 days after the date of postmark or on the day of delivery for hand delivered items) or, if a nonwritten form of communication, on the date of receipt.
- e5) A request for a hearing by any person not a "grievant" cannot be heard by DHS-~~DRSORS~~ pursuant to this Part.
- f6) The request for a hearing should include the specific determination and the date of the determination or, if appealing inaction, the date the action was requested, and specific identification of any other matter that is being appealed, but if this information is not readily available to the grievant, the grievant must supply sufficient information for DHS-~~DRSORS~~ to identify the specific action or inaction that is being appealed.
- g7) Should a grievant improperly request an appeal and other procedures for appeal are available, DHS-~~DRSORS~~ will advise the grievant of the proper appeal process.
- h8) Failure of a grievant to follow procedures as set forth in this Part or failure to request an appeal within the specified time frames found in Section 510.80 shall result in dismissal of the appeal except if the failure to follow procedure was a result of DHS-~~DRSORS~~ failure to provide required notice or information.
- i9) After a request for a hearing is filed, the grievant or DHS-~~DRSORS~~ may initiate

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENT

attempts to resolve the grievance informally. The grievant and the appropriate DHS-~~DRS~~~~ORS~~ employee may agree to resolve disputed issues, at any time during the appeals process, prior to the issuance of the hearing decision. If prior to the hearing there is mutual agreement on an issue under dispute, this will remove the need for a hearing on that issue.

- j10) DHS-~~DRS~~~~ORS~~, and the Department of ~~Healthcare and Family Services~~~~Public Aid~~ in the case of ~~Home Services Program~~ (HSP) hearings, will assume all administrative costs of the appeal (i.e., interpreters, pursuant to Section 510.40(b), and record, pursuant to Section 510.80(e)) but will not assume costs personally incurred by the grievant because of the proceeding (e.g., legal fees, travel, witness costs, and room and board).

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Program Definitions
- 2) Code Citation: 89 Ill. Adm. Code 521
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
521.10	New
521.20	New
- 4) Statutory Authority: Implementing and authorized by Section 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b), and (k)].
- 5) A Complete Description of the Subjects and Issues Involved: This proposed rule is for the Vocational Rehabilitation (VR) program. The new Part was created to include all definitions used for VR rules. The Department is deleting the definitions found in the accompanying rulemakings in order to have them all in one Part.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the date of this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Tracie Drew, Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED RULES

Harris Building, 3<sup>rd</sup> Floor  
Springfield, Illinois 62762

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- 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: July 2006

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

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED RULES

TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER b: VOCATIONAL REHABILITATIONPART 521  
PROGRAM DEFINITIONS

## Section

521.10	Purpose
521.20	Definitions

**AUTHORITY:** Implementing and authorized by Section 3(a), (b) and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b) and (k)].

**SOURCE:** Adopted at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 521.10 Purpose**

The definitions enumerated in this Part apply to the following Parts of 89 Illinois Administrative Code, Chapter IV:

- a) 89 Ill. Adm. Code 510, Appeals and Hearings
- b) 89 Ill. Adm. Code 530, Criteria for the Evaluation of Programs of Services in Community Rehabilitation Agencies
- c) 89 Ill. Adm. Code 553, Assessment for Determining Eligibility and Rehabilitation Needs
- d) 89 Ill. Adm. Code 557, Application
- e) 89 Ill. Adm. Code 562, Customer Financial Participation
- f) 89 Ill. Adm. Code 567, Comparable Benefits
- g) 89 Ill. Adm. Code 572, Individualized Plan for Employment (IPE)
- h) 89 Ill. Adm. Code 590, Services

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- i) 89 Ill. Adm. Code 595, Closure of a Rehabilitation Case.

**Section 521.20 Definitions**

"Act" means the Disabled Persons Rehabilitation Act [20 ILCS 2405].

"Advocacy" means pleading an individual's cause or speaking or writing in support of an individual that may include representation before public and/or private entities on the behalf of one's self, another individual, or a group of individuals.

"Center for Independent Living" or "CIL" means a consumer-controlled, community based, cross-disability, nonresidential, private not-for-profit agency that is designed and operated within a local community by individuals with disabilities and that provides an array of independent living services.

"Client Assistance Program" or "CAP" means a program funded by the federal Rehabilitation Act of 1973 (VR Act) (29 USC 701 et seq.) to provide assistance in informing and advising all customers and applicants of all available benefits under the VR Act and upon request of such a customer to assist in the customer's relationship with projects, programs and services provided by the VR Act. CAP may also serve customers of the Home Services Program. CAP services can include assistance and advocacy in pursuing legal, administrative or other appropriate remedies to ensure the protection of the customer's rights under the Act.

"Comparable Benefit" means a service that is available at the time the service is needed by a customer and is used to determine eligibility (see 89 Ill. Adm. Code 553) or to achieve the vocational goal and objectives specified in the customer's Individualized Plan for Employment (IPE) (see 89 Ill. Adm. Code 572) that, when provided to DHS-DRS customers by a public or private agency or agencies other than DHS-DRS, offset costs that would otherwise be paid by DHS-DRS or the customer.

"Competitive Employment Outcome" means full-time or part-time work in the competitive labor market in an integrated setting, for which the customer is compensated with the customary wage and level of benefits, but not less than the minimum wage.

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"Confidential Information" means all closed, active and future records and conversations (including Teletypewriter/Telecommunication Devices for the Deaf (TTY) and Nextalk) kept by DHS-DRS concerning the customer's program of services. Printouts from TTY conversations must be destroyed upon completion and documentation of the call.

"Customer" means a person who has requested, been referred for, is receiving, or has received any DHS-DRS services, including a student at a DHS-DRS school.

"Customer Financial Analysis" means a calculation using form IL 488-0265, developed by DHS-DRS to determine the customer and family financial participation.

"Customer Financial Participation" means the amount of money, as determined by the completion of the Customer Financial Analysis, that a customer and/or the customer's family must contribute to the cost of services and the amount of any voluntary contributions the customer and/or his or her family wish to contribute to the cost of services.

"Dependent" means an individual who receives half or more of his or her support from his or her family; however, the dependency of an individual receiving training service at an institution that participates in the federal assistance program shall be verified by information contained in the Free Application for Federal Student Aid (FAFSA).

"DHS" means the Illinois Department of Human Services.

"DHS-DRS" means the Illinois Department of Human Services-Division of Rehabilitation Services.

"Director" means the Director of the Division of Rehabilitation Services.

"Employee" means any person employed by DHS-DRS to participate in the delivery of DHS-DRS programs. The term shall also include supervisory level personnel and others in management positions.

"Extended Services" means services that are needed over an extended period of time to maintain a customer with a most significant disability who had

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participated in the Supported Employment Program. Extended services include both paid and unpaid services.

"Family", for purposes of identifying individuals included in the family when completing the Customer Financial Analysis, shall include the customer and all other family members. A family member is anyone who resides in the same household and is related to the customer by blood or marriage or has a close interpersonal relationship with the customer.

"Financial Contribution" means the amount of DRS' payment for services that are needed to determine eligibility or to assist in achieving an employment outcome.

"Financial Participation" means the amount of money, as determined by the completion of the Customer Financial Analysis, that a customer and/or the customer's family must contribute to the cost of services, and the amount of any voluntary contributions the customer and/or the customer's family wishes to contribute to the cost of services.

"Grievant" means any customer, or licensed vendor as specified in 89 Ill. Adm. Code 650 (Vending Facilities Program for the Blind), who has been aggrieved by any action or inaction by DHS-DRS.

"Guardian" means the person appointed by a court as the guardian of the person of a minor or an adult.

"Hearing" means an administrative hearing of the appeal of the grievant as set forth in 89 Ill. Adm. Code 510.105 and presided over by an Impartial Hearing Officer.

"Hearings Coordinator" means the DHS Chief, Bureau of Administrative Hearings, who is responsible for communicating with the grievant about the appeal requests, docketing and scheduling hearings, and coordinating the appointment of Impartial Hearing Officers.

"Impartial Hearing Officer" means the individual appointed to conduct the hearing (see 89 Ill. Adm. Code 510.90).

"Inaction" means the failure of DHS-DRS to act within the time lines specified by the program rules.

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"Income" means all earned and other income from all sources, including all types of public support; wages, tips, disability payments, Worker's Compensation, interest or dividends from investments, savings, trust funds, certificates of deposit, etc.; child support, spousal support, income from rental and leased property; and private sources. The value of readily available assets (i.e., cash-on-hand, checking accounts, savings accounts, certificates of deposit, stocks, bonds, accessible trust funds) shall not be considered as income for the purpose of completion of the Customer Financial Analysis, unless those assets have been established for the support or training of the customer.

"Independent Living Core Services" means the minimum services an organization must provide to be considered a CIL. These services are information and referral services, independent living skills training, peer counseling, including cross-disability peer counseling, and individual and system advocacy.

"Independent Living Plan" or "ILP" means a written plan that outlines the Independent Living Services that are to be provided to a customer determined eligible to receive Independent Living Services. The ILP must be jointly developed by the CIL and the customer, who will receive Independent Living Services. An ILP must be developed for each customer who receives Independent Living Services unless the customer specifically signs a statement waiving his or her rights to have an ILP.

"Independent Living Services" means services in addition to the Independent Living Core Services provided by a CIL that DHS would take into consideration when approving funding or continued funding for a CIL.

"Informal Resolution Conference" means an attempt to informally resolve an appeal by the grievant and DHS-DRS, as set forth in 89 Ill. Adm. Code 510.100.

"Informed Choice" means an interactive process between DHS-DRS and the customer that provides sufficient, objective information and options that are designed to empower the customer in selecting services, providers and outcomes.

"Integrated Setting" means a setting typically found in the community in which customers interact with non-disabled individuals other than individuals who are providing service to the customer. With respect to an employment outcome, an integrated setting means a setting typically found in the community in which the

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customer interacts with non-disabled individuals, to the same extent that non-disabled individuals in comparable positions interact with other persons.

"Job Coaching" means a method of providing ongoing support services through the use of a worker known as a "job coach" who is present with the customer at the job site. These workers provide a variety of training, monitoring and support functions to customers receiving supported employment services.

"Mediator" means an individual who is qualified in mediation and knowledgeable of the laws and regulations relating to the provision of vocational rehabilitation services.

"Natural Supports" mean unpaid assistance provided in the work setting to a customer receiving supported employment services.

"Ongoing Support Services" means support services that are provided over a time-limited period that are designed to assist a customer with a most significant disability to maintain employment in a supported employment setting. Ongoing support services are provided in accordance with a support reduction schedule as described in the customer's IPE.

"Order of Selection" means the process that determines the priority in which customers are served, based on the categories listed in 89 Ill. Adm. Code 553.130.

"Parent" means either a natural or adoptive parent, except those whose parental rights have been terminated voluntarily or by order of a court, or otherwise restricted by order of a court.

"Personal Representative" means an attorney, CAP representative or other individual designated by a grievant to act on the grievant's behalf in the proceedings of a hearing.

"Placement" means services necessary to assist a customer in obtaining employment in his or her chosen occupational area. Placement services shall include, but not be limited to: interviewing skills training; resume preparation; interview preparation; referral to other agencies and prospective employers; and identification of prospective employers.

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"Post-employment Services" means a VR service provided to a customer, not lasting more than 6 months, to maintain, regain or advance in employment.

"Post-school Activities" means vocationally oriented activities undertaken by a client/student after he or she leaves the secondary education system. These activities may include: post-secondary education; vocational training; integrated employment, including supported employment; continuing and adult education; VR services; and community participation.

"Proof of Income" means the portion of the most recent tax return that contains the adjusted gross income and the signature of the person submitting the return. Proof of income must be provided for each individual included in the definition of family. An estimated annual income will be calculated based on current wage records if an annual federal tax return has not yet been completed or if the financial status has significantly changed since the last submitted tax return.

"Rehabilitation Closure" means a closure taken on a customer's case when he or she was provided substantial services over an extended period of time that enabled the customer to achieve a successful employment outcome.

"Rehabilitation Services Administration" or "RSA" is a division under the U.S. Department of Education that administers the federal VR program.

"Representative" means an attorney, CAP representative or other individual designated by the customer who is authorized to act on the customer's behalf.

"Residency" means proof of residency as identified under 89 Ill. Adm. Code 557.15. Eligible individuals who are a resident of the State of Illinois must be available to plan, discuss and implement services through an IPE. Individuals from other states who are attending training programs in Illinois are considered residents of their home state.

"Schools" means the three State Schools operated by DHS-DRS: Illinois Center for Rehabilitation and Education-Roosevelt, the Illinois School for the Deaf, and the Illinois School for the Visually Impaired.

"Secondary Transitional Experience Program" or "STEP" means a program of transition services provided through cooperative agreement of DHS-DRS and a Local Educational Agency (LEA).

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"Services" means the services provided by and through DHS-DRS to customers of the Vocational Rehabilitation program and as described in 89 Ill. Adm. Code 590 (Services).

"Standard Budget Allowance" or "SBA" means a figure equal to 70% of the State Median Income established by the Office of Community Programs of the U.S. Department of Health and Human Services that are published annually in the Federal Register.

"State Plan for Independent Living" means the plan jointly developed by DHS and the Statewide Independent Living Council (SILC) (see 89 Ill. Adm. Code 515) and approved by the Director and the Chairperson of SILC, which is submitted for review and approval by RSA. The State Plan includes outlines for services, goals and objectives of the DHS-DRS Independent Living Program, as well as the plan for Independent Living Services throughout the State, and is the basis for Part B Funds received from RSA.

"Statewide Independent Living Council" or "SILC" means the council established pursuant to the VR Act and the Disabled Persons Rehabilitation Act [20 ILCS 2405/12a] and governed by 89 Ill. Adm. Code 515.

"Successful Outcome" means, with respect to a customer:

entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market;

satisfying the vocational outcome of supported employment; or

satisfying any other vocational outcome recognized by RSA.

"Support Reduction Schedule" means a planned method of gradual reduction in the amount of ongoing support services provided to a customer receiving supported employment services. The purpose of the support reduction schedule is to reduce reliance on supports during the course of the customer's participation in supported employment services to the greatest degree possible while maintaining the customer in employment, and to assist the customer in making a transition to extended services.

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"Supported Employment" means competitive employment in an integrated setting with ongoing support services for customers with the most significant disabilities:

for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of their disability; and

who, because of the nature of their disabilities, need intensive supported employment services in order to perform this work.

"Supported Employment Services" means ongoing services needed to support and maintain an individual with the most significant disability in supported employment. These services are provided for a period of time not to exceed 18 months, unless, under special circumstances, the time is extended to achieve the rehabilitation objectives identified in the IPE.

"Time-limited Services", in the context of supported employment services, means services that are provided for a period of no more than 18 months in accordance with a support reduction schedule. Under special circumstances this time period may be extended with the agreement of the customer and the counselor when an extension is needed to achieve the employment outcome.

"Transition" means a coordinated set of services for a customer/student, usually enrolled at the secondary education level, designed to promote movement from school to employment.

"Transitional Employment" means a series of temporary job placements in competitive work, in an integrated work setting with ongoing support services for individuals with the most severe disabilities due to mental illness.

"Un-served" or "Under-served" means groups or populations of individuals with severe disabilities living in the State that are not receiving sufficient services.

"Unusual Allowable Expenses" means expenses directly related to the customer's or other family member's disability, such as on-going medical treatment, medication, adaptive equipment, a one-time allowance for the purchase of a van or van modification and rehabilitation technology services, that are currently being paid by the customer and/or customer's family that are not paid for through insurance or any other source and/or cost associated with another family member attending post-secondary education that are paid by the family. Unusual

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Allowable Expenses shall not be included in the customer Financial Analysis without appropriate documentation of each expense.

"VR Act" means the federal Rehabilitation Act of 1973 (29 USC 701 et seq.).

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- 1) Heading of the Part: Criteria for the Evaluation of Programs of Services in Community Rehabilitation Agencies
- 2) Code Citation: 89 Ill. Adm. Code 530
- 3) Section Number: 530.1      Proposed Action: Repealed
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking affects the Vocational Rehabilitation (VR) program. It repeals all definitions in Section 530.1 and places them in 89 Ill. Adm. Code 521 (a new Part). The new Part was created to include all definitions used for VR rules.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENT

100 South Grand Avenue East  
Harris Building, 3<sup>rd</sup> Floor  
Springfield, Illinois 62762

217/557-1544

- 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: This rulemaking was not included on either of the 2 most recent regulatory agendas.

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

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## NOTICE OF PROPOSED AMENDMENT

## TITLE 89: SOCIAL SERVICES

## CHAPTER IV: DEPARTMENT OF HUMAN SERVICES

## SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

## PART 530

CRITERIA FOR THE EVALUATION OF PROGRAMS OF  
SERVICES IN COMMUNITY REHABILITATION AGENCIES

## SUBPART A: INTRODUCTION

## Section

- 530.1 Definitions (~~Repealed~~)
- 530.5 Applicable Standards
- 530.10 Evaluation Procedure
- 530.20 Recommended Procedures In Preparation For And During The On-Site Visit  
(Repealed)

## SUBPART B: PROGRAM STANDARDS

## Section

- 530.100 Available Programs of Service (Repealed)
- 530.105 Instructions for Completing the Criteria (Repealed)
- 530.110 Organization & Administration
- 530.120 Personnel (Repealed)
- 530.130 Programs and Services
- 530.140 Safety
- 530.150 Other (Repealed)

## SUBPART C: CONTRACTS WITH COMMUNITY REHABILITATION AGENCIES

## Section

- 530.200 Disposition of Referrals
- 530.230 Program Outcomes
- 530.240 Designated Program Week
- 530.250 Types of Contracts
- 530.260 Fiscal and Administrative Standards

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS

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5/5-625].

SOURCE: Adopted at 2 Ill. Reg. 52, p. 481, effective December 29, 1978; codified at 7 Ill. Reg. 3200; amended at 13 Ill. Reg. 141, effective December 27, 1988; emergency amendment at 17 Ill. Reg. 11701, effective July 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20380, effective November 15, 1993; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 14663, effective December 13, 1999; emergency amendment at 24 Ill. Reg. 9245, effective June 14, 2000, for a maximum of 150 days; emergency expired November 10, 2000; amended at 24 Ill. Reg. 18132, effective November 30, 2000; amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: INTRODUCTION

**Section 530.1 Definitions ~~(Repealed)~~**

~~Competitive Employment Outcome—means full time or part time work in the competitive labor market in an integrated setting, for which the customer is compensated with the customary wage and level of benefits.~~

~~Extended Services—means ongoing support services and other appropriate services that are needed to support and maintain an individual with a most significant disability in supported employment.~~

~~Integrated Setting—with respect to the provision of services, integrated setting means a setting typically found in the community in which customers interact with non-disabled individuals other than individuals who are providing service to the customer; or with respect to an employment outcome, integrated setting means a setting typically found in the community in which the customers interact with non-disabled individuals.~~

~~Successful Outcome—means, with respect to a customer:~~

~~entering or retaining full time or, if appropriate, part time competitive employment in the integrated labor market;~~

~~satisfying the vocational outcome of supported employment; or~~

~~satisfying any other vocational outcome recognized by the Federal~~

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~~Rehabilitation Services Administration.~~

~~Supported Employment—means competitive employment in an integrated setting with ongoing support services for individuals with the most significant disabilities:~~

~~for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of their disability; and~~

~~who because of the nature of their disabilities, need intensive supported employment services in order to perform this work.~~

~~Supported Employment Services—means ongoing services needed to support and maintain an individual with the most significant disability in supported employment. Such services are provided for a period of time not to exceed 18 months, unless under special circumstances the time is extended to achieve the rehabilitation objectives identified in the customer's Individual Plan for Employment.~~

~~Work Services—means work in a non integrated or sheltered setting for a public or private non profit agency that provides compensation in accordance with Fair Labor Standards Act and any needed support services to an individual with a disability to enable the individual to continue to train or otherwise prepare for competitive employment, unless the individual through informed choice chooses to remain in work services.~~

(Source: Repealed at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Application
- 2) Code Citation: 89 Ill. Adm. Code 557
- 3) Section Number: 557.10      Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b) and (k)].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking affects the Vocational Rehabilitation (VR) program. It repeals the definition of "customer" in Section 557.10 and places it in 89 Ill. Adm. Code 521 (a new Part). The new Part was created to include all definitions used for VR rules. This rulemaking also updates terms used in this Section.
- 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 rulemaking does not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

Harris Building, 3<sup>rd</sup> Floor  
Springfield, Illinois 62762

217/557-1544

- 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: This rulemaking was not included on either of the 2 most recent regulatory agendas.

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

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TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER b: VOCATIONAL REHABILITATIONPART 557  
APPLICATION

## Section

557.10	General Applicability
557.15	Residency
557.20	Informed Choice
557.25	Geographical Customer Assignment
557.30	Application for Vocational Rehabilitation Services
557.40	Parent or Guardian Signature
557.50	Assistance in Attaining Necessary Financial Support
557.60	Application for Services by DHS-DRS Employees, Individuals Holding Contracts with DHS-DRS, DHS-DRS Advisory Council Members, Family Members of DHS-DRS Employees or Close Friends of DHS-DRS Employees

**AUTHORITY:** Implementing and authorized by Sections 3(a), (b) and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b) and (k)].

**SOURCE:** Adopted at 9 Ill. Reg. 8755, effective June 10, 1985; amended at 11 Ill. Reg. 820, effective December 23, 1986; amended at 11 Ill. Reg. 15220, effective August 31, 1987; amended at 12 Ill. Reg. 12099, effective July 7, 1988; amended at 13 Ill. Reg. 16552, effective October 10, 1989; emergency amendment at 17 Ill. Reg. 11654, effective July 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20341, effective November 15, 1993; amended at 19 Ill. Reg. 1135, effective January 23, 1995; amended at 19 Ill. Reg. 2473, effective February 21, 1995; amended at 19 Ill. Reg. 10706, effective July 11, 1995; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 484, effective December 28, 1998; amended at 23 Ill. Reg. 12621, effective September 29, 1999; amended at 27 Ill. Reg. 12582, effective July 21, 2003; amended at 28 Ill. Reg. 13756, effective October 1, 2004; amended at 30 Ill. Reg. 7758, effective April 6, 2006; amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 557.10 General Applicability**

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a) Rules contained within this Part are applicable to all Department of Human Services-  
~~Division~~Office of Rehabilitation Services (DHS-DRS) Vocational Rehabilitation (VR)  
customers.

b) ~~The term "customer" shall mean any individual seeking VR services from DHS-  
DRS.~~

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Customer Financial Participation
- 2) Code Citation: 89 Ill. Adm. Code 562
- 3) Section Numbers: 562.20      Proposed Action: Repealed
- 4) Statutory Authority: Implementing and authorized by Section 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b), and (k)].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking affects the Vocational Rehabilitation (VR) program. It repeals all definitions in Section 562.20 and places them in 89 Ill. Adm. Code 521 (a new Part). The new Part was created to include all definitions used for VR rules.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace any emergency rulemaking currently in effect?  
No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East

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Harris Building, 3<sup>rd</sup> Floor  
Springfield, Illinois 62762

217/557-1544

- 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: This rulemaking was not included on either of the 2 most recent agendas.

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

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER b: VOCATIONAL REHABILITATIONPART 562  
CUSTOMER FINANCIAL PARTICIPATION

## Section

562.10	General Applicability
562.20	Definitions ( <b>Repealed</b> )
562.30	Financial Analysis Completion
562.40	Financial Participation
562.50	Client Emancipation (Repealed)
562.60	Consideration of Settlements from Litigation or Other Sources
562.70	Refusal to Financially Participate (Repealed)
562.80	Timing of Financial Analysis (Repealed)
562.90	Impact of Review of Financial Analysis
562.100	Exclusion for Public Aid Recipients (Repealed)
562.TABLE A	Determination Table for Client Participation (Repealed)
562.APPENDIX A	Standard Budget Allowances (Repealed)

**AUTHORITY:** Implementing and authorized by Section 3(a), (b) and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b) and (k)].

**SOURCE:** Adopted at 9 Ill. Reg. 8763, effective June 10, 1985; amended at 11 Ill. Reg. 4021, effective February 18, 1987; amended at 11 Ill. Reg. 15223, effective August 31, 1987; amended at 11 Ill. Reg. 19127, effective November 9, 1987; amended at 12 Ill. Reg. 20827, effective November 30, 1988; amended at 13 Ill. Reg. 2866, effective February 17, 1989; amended at 14 Ill. Reg. 1466, effective January 8, 1990; amended at 14 Ill. Reg. 18555, effective November 5, 1990; amended at 15 Ill. Reg. 10179, effective June 24, 1991; amended at 15 Ill. Reg. 18750, effective December 17, 1991; amended at 17 Ill. Reg. 3895, effective March 15, 1993; emergency amendment at 17 Ill. Reg. 11676, effective July 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20356, effective November 15, 1993; amended at 19 Ill. Reg. 8803, effective June 20, 1995; amended at 21 Ill. Reg. 4833, effective April 1, 1997; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 1386, effective January 14, 1999; amended at 23 Ill. Reg. 13082, effective October 6, 1999; amended at 27 Ill. Reg. 12588, effective July 21, 2003; amended at 31 Ill. Reg. 3178, effective February 9, 2007; amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENT

**Section 562.20 Definitions (Repealed)**

For the purposes of this Part, the following terms shall have the following meanings:

~~Customer Financial Analysis (IL 488-0265) (Financial Analysis)—the form developed by DHS-DRS to determine customer and family financial participation.~~

~~Customer Financial Participation—the amount of money, as determined by the completion of the Financial Analysis, that a customer and/or the customer's family must contribute to the cost of services and the amount of any voluntary contributions the customer and/or his/her family wish to contribute to the cost of services.~~

~~Dependent—a customer who receives half or more of his/her support from the family; however, customers receiving training service at an institution that participates in the federal assistance program, dependency of the customer shall be verified by information contained in the Free Application for Federal Student Aid (FAFSA).~~

~~Family—for the purpose of identifying those individuals included in the family when completing the Financial Analysis, the term "family" shall include the customer and all other family members. A family member is anyone who resides in the same household and is related to the customer by blood or marriage or has a close interpersonal relationship with the customer.~~

~~Income—all earned and other income from all sources, including all types of public support; wages, tips; disability payments; Workers' Compensation; interest or dividends from investments, savings, trust funds, certificates of deposit, etc.; child support, spousal support; income from rental and leased property; and private sources. The value of readily available assets (i.e., cash on hand, checking accounts, savings accounts, certificates of deposit, stocks, bonds, accessible trust funds) shall not be considered as income for the purpose of completion of the Financial Analysis, unless those assets have been established for the support or training of the customer.~~

~~Proof of Income—the portion of the most recent tax return that contains the adjusted gross income and the signature of the person submitting the return. Proof of income must be provided for each individual included in the definition of~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENT

~~family. An estimated annual income will be calculated based on current wage records if an annual federal tax return has not yet been completed or if the financial status has significantly changed since the last submitted tax return.~~

~~Services—those services provided by and through DHS DRS to customers of the Vocational Rehabilitation Program VR and as described at 89 Ill. Adm. Code 590—Services.~~

~~Standard Budget Allowance (SBA)—a figure equal to 70% of the State Median Income figures established by the Office of Community Programs of the United States Department of Health and Human Services that are published annually in the Federal Register.~~

~~Unusual Allowable Expenses—expenses directly related to the customer's or other family member's disability, such as on-going medical treatment, medication, adaptive equipment, a one-time allowance for the purchase of a van or van modification and rehabilitation technology services, that are currently being paid by the customer and/or customer's family that are not paid for through insurance or any other source and/or cost associated with another family member attending post-secondary education that are paid by the family. Unusual Allowable Expenses shall not be included in the customer Financial Analysis without appropriate documentation of each expense.~~

(Source: Repealed at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Individualized Plan for Employment (IPE)
- 2) Code Citation: 89 Ill. Adm. Code 572
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
572.50	Amendment
572.200	Repealed
- 4) Statutory Authority: Implementing and authorized by Section 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b), and (k)].
- 5) A Complete Description of the Subjects and Issues Involved: Supported employment is one of the services provided by the vocational rehabilitation program. The new language outlines how supported employment services shall be documented on the Individualized Plan for Employment. Section 572.200 is being repealed because we are no longer required to report this information due to the implementation of the Ticket to Work Program.
- 6) Published Studies or Reports, and Sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief  
Bureau of Administrative Rules and Procedures

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

Department of Human Services  
100 South Grand Avenue East  
Harris Building, 3<sup>rd</sup> Floor  
Springfield, Illinois 62762

217/557-1544

- 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: July 2006

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

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER b: VOCATIONAL REHABILITATIONPART 572  
INDIVIDUALIZED PLAN FOR EMPLOYMENT (IPE)

## Section

572.10	General Applicability
572.20	Commencement of the IPE
572.30	Purpose of the IPE
572.40	Coordination of the IPE with an Individualized Educational Program (IEP)
572.50	IPE Development and Content
572.60	Format of the IPE
572.70	Services to Families
572.80	IPE Amendments
572.90	Notice of Changes to the IPE
572.100	Case File Documentation
572.110	Review of IPE
572.200	Reporting of Customer Participation <b>(Repealed)</b>

AUTHORITY: Implementing and authorized by Section 3(a), (b) and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b) and (k)].

SOURCE: Adopted at 9 Ill. Reg. 8801, effective June 10, 1985; amended at 11 Ill. Reg. 5144, effective March 17, 1987; amended at 14 Ill. Reg. 18561, effective November 5, 1990; amended at 15 Ill. Reg. 17367, effective November 19, 1991; emergency amendments at 17 Ill. Reg. 11770, effective July 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20438, effective November 15, 1993; amended at 19 Ill. Reg. 7963, effective June 2, 1995; amended at 20 Ill. Reg. 6311, effective April 18, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 1656, effective January 20, 1999; amended at 23 Ill. Reg. 12631, effective September 29, 1999; amended at 29 Ill. Reg. 15959, effective October 7, 2005; amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 572.50 IPE Development and Content**

- a) The IPE must be developed, agreed to and signed by the customer, or, as appropriate, the customer's parent, family member, guardian, advocate, or

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

authorized representative, and approved and signed by the counselor. The IPE shall be developed and implemented in a manner that affords the customer the opportunity to exercise informed choice in selecting an employment outcome, the specific vocational services to be provided, the provider of the services and the methods used to provide services.

- b) The IPE must contain the following:
- 1) a statement of the specific employment outcome that is chosen by the customer based on the assessment of rehabilitation needs (89 Ill. Adm. Code 553.100), including an assessment of the customer's career interests. The goal shall be, to the maximum extent possible, an employment outcome in an integrated setting;
  - 2) timelines for the initiation of the services and for the achievement of the employment outcome;
  - 3) the customer's rights and remedies, including filing of an appeal under 89 Ill. Adm. Code 510;
  - 4) a description of the Client Assistance Program (CAP), its services, and how to contact CAP;
  - 5) a statement of the specific VR services to be provided;
  - 6) identification of the entity or entities that will provide VR services to the customer and how the customer will receive the specific services, including comparable benefits (e.g., by attending an on-site training program, by office visits to a medical services provider, etc.). This shall include a statement describing how service shall be provided or arranged through cooperative agreements with other service providers;
  - 7) how progress toward achieving the employment outcome will be evaluated;
  - 8) an assessment, and a reassessment prior to case closure, of the expected need for post-employment services. If post-employment services are to be provided, the IPE must include a description of the terms and conditions for the provision of any post-employment services, including the

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

anticipated duration of those services; and

- 9) a description of the terms and conditions under which services will be provided to the customer in the most integrated setting possible.

c) When the IPE includes supported employment services as defined in 89 Ill. Adm. Code 521.20, the IPE must include the elements in subsection (b), as well as the following components:

- 1) the specific supported employment services to be provided;
- 2) the number of hours the individual is expected to work by the time of transition to extended services;
- 3) the expected extended services needed, which may include natural supports, as well as a description of the source of the extended services;
- 4) a support reduction schedule that identifies the anticipated change in the level of support required by the individual during the time period covered by the IPE;
- 5) a description of a method for periodic monitoring of the individual in order to ensure satisfactory progress toward achievement of the hourly work target described in subsection (c)(2); and
- 6) a description of any job skills training that will be provided at the job.

de) The IPE must be developed as soon as possible, but no later than 90 days after the customer is determined eligible for the VR program, except when the customer is a high school student receiving transition services, in which case the IPE must be developed no later than the last semester of the year in which the student is expected to leave school.

ed) In unusual circumstances, the Chief of the Bureau of Field Services or the Bureau of Blind Services may grant an exception to the timeline in subsection (de) upon request and when an appropriate justification is provided by the counselor with acknowledgement from the customer.

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

**Section 572.200 Reporting of Customer Participation (Repealed)**

~~Counselors shall report to the Social Security Administration SSI/SSDI beneficiaries who:~~

- ~~a) are refusing VR services,~~
- ~~b) are failing to cooperate, or~~
- ~~c) cannot be located.~~

(Source: Repealed at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Services
- 2) Code Citation: 89 Ill. Adm. Code 590
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
590.710	Repealed
590.740	Repealed
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking affects the Vocational Rehabilitation (VR) program. It repeals all definitions in Section 590.710 and 590.740 and places them in 89 Ill. Adm. Code 521 (a new Part). The new Part was created to include all definitions used for VR rules.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace any emergency rulemaking currently in effect?  
No
- 8) Does this rulemaking contain an automatic repeal date? Yes
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief  
Bureau of Administrative Rules and Procedures

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

Department of Human Services  
100 South Grand Avenue East  
Harris Building, 3<sup>rd</sup> Floor  
Springfield, Illinois 62762

217/557-1544

- 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: This rulemaking was not included on either of the 2 most recent agendas.

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

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER b: VOCATIONAL REHABILITATIONPART 590  
SERVICES

## SUBPART A: GENERAL ISSUES

Section	
590.10	General Applicability
590.20	Availability of Services
590.30	Effect of Financial Status on Services
590.35	Effect of Comparable Benefits
590.40	Choice of Service Providers
590.45	DHS-DRS Bidding Procedure

## SUBPART B: MEDICAL, PSYCHOLOGICAL AND RELATED SERVICES

Section	
590.50	Provision of Services
590.60	Qualification of Medical and Psychological Service Providers
590.70	Treatment of Acute Conditions
590.80	Medication and Treatment
590.90	Hearing Aids
590.100	Binaural Hearing Aids
590.110	Speech and Language Services
590.120	Low Vision Devices
590.130	Mental Restoration Services
590.140	Heart Surgeries
590.150	Kidney Transplant and Related Services
590.160	Chiropractic Services
590.170	Prosthetic and Orthotic Devices
590.180	Wheelchairs
590.190	Prohibited Services

## SUBPART C: TRAINING AND RELATED SERVICES

Section

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

590.200	Provision of Services
590.210	Qualification of Training Facilities/Institutions
590.220	Purpose and Types of Training
590.230	Financial Guidelines for Training Services
590.240	Graduate School Training
590.250	Choice of Training Facility/Institution
590.260	Summer School
590.270	Grades and Attendance
590.280	Health Status
590.290	On-the-Job Training
590.300	Default on Educational Loans

## SUBPART D: PROGRAM FOR SELF-EMPLOYMENT

Section	
590.310	Provision of Services
590.315	Eligibility for Participation in the Program for Self-Employment
590.320	Program for Self-Employment
590.330	Ineligible Costs
590.340	Bidding Requirements (Repealed)
590.350	Recovery of Tools, Equipment, Supplies and Initial Stock
590.360	Transfer of Title
590.370	Limitation of Financial Participation (Repealed)

## SUBPART E: VEHICLE ADAPTATION AND ENVIRONMENTAL MODIFICATION

Section	
590.375	Provision of Services
590.380	Vendor Requirements
590.390	Bidding Requirements (Repealed)
590.400	Vehicle Adaptation
590.410	DHS-DRS Financial Participation in Van Adaptation
590.420	Environmental Modification
590.430	Written Agreements for Environmental Modification
590.440	Compliance with Capital Development Board Specifications

## SUBPART F: PERSONAL SUPPORT SERVICES AND AUXILIARY AIDS

Section

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

590.450	Provision of Services
590.460	Types of Services
590.470	Services
590.480	Qualifications for Services Provided by Individuals
590.490	Payment for Support Services Provided by Individuals and Conditions of Service Provision

## SUBPART G: COMPUTER EQUIPMENT AND SENSORY AID LOAN

Section	
590.500	Provision of Services (Repealed)
590.510	Definitions (Repealed)
590.520	Purpose of Equipment Loans (Repealed)
590.530	Criteria for Loan of Equipment/Aids (Repealed)
590.540	Equipment/Aids Loan Request Procedures and Approval Process (Repealed)
590.550	Duration of Loans (Repealed)
590.560	Maintenance and Return of Equipment/Aids (Repealed)
590.570	Assistance in Obtaining Permanent Equipment/Aids (Repealed)
590.580	Limitations on Available Equipment/Aids (Repealed)

## SUBPART H: OTHER SERVICES

Section	
590.590	Provision of Services
590.600	Transportation and Temporary Lodging
590.610	Other Goods and Services
590.620	Equipment Sets

## SUBPART I: PLACEMENT

Section	
590.630	Provision of Placement Services
590.640	Description of Services

## SUBPART J: INCREASED COSTS

Section	
590.650	Provision of Services
590.660	Increased Costs

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 590.670 Determination of the Need for Increased Costs  
590.675 Determination of Client Financial Participation in Maintenance (Repealed)  
590.680 Exceptions

## SUBPART K: POST-EMPLOYMENT SERVICES

- 590.700 Provision of Services  
590.710 Definitions (Repealed)  
590.720 Scope of Services

## SUBPART L: TRANSITION

- 590.730 Provision of Services  
590.740 Definitions (Repealed)  
590.750 Secondary Transitional Experience Program (STEP)

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625].

SOURCE: Emergency rules adopted at 17 Ill. Reg. 11812, effective July 1, 1993, for a maximum of 150 days; adopted at 17 Ill. Reg. 20461, effective November 15, 1993; amended at 18 Ill. Reg. 11275, effective June 30, 1994; emergency amendment at 18 Ill. Reg. 16468, effective October 20, 1994, for a maximum of 150 days; amended at 19 Ill. Reg. 7260, effective May 12, 1995; amended at 19 Ill. Reg. 7435, effective May 19, 1995; amended at 19 Ill. Reg. 10153, effective June 29, 1995; amended at 19 Ill. Reg. 10709, effective June 29, 1995; amended at 20 Ill. Reg. 6319, effective April 18, 1996; amended at 20 Ill. Reg. 6523, effective April 18, 1996; amended at 20 Ill. Reg. 10375, effective July 19, 1996; amended at 21 Ill. Reg. 1395, effective January 17, 1997; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 201, effective December 15, 1998; amended at 23 Ill. Reg. 7502, effective June 17, 1999; emergency amendment at 24 Ill. Reg. 6728, effective April 14, 2000, for a maximum of 150 days; emergency amendment at 24 Ill. Reg. 10372, effective July 1, 2000, for a maximum of 150 days; emergency expired on November 27, 2000; amended at 24 Ill. Reg. 13687, effective August 23, 2000; amended at 24 Ill. Reg. 18561, effective November 30, 2000; amended at 25 Ill. Reg. 4568, effective April 1, 2001; amended at 27 Ill. Reg. 12602, effective July 21, 2003; amended at 30 Ill. Reg. 1886, effective January 30, 2006; amended at 31 Ill. Reg. 7006, effective April 30, 2007; amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

## SUBPART K: POST-EMPLOYMENT SERVICES

**Section 590.710 Definitions (Repealed)**

~~For the purpose of this Subpart the follow terms shall have the following meanings:~~

~~Post employment Services—VR services, as described in this Part, provided to a client which do not require opening of a new case file or the client to undergo a new determination of eligibility (89 Ill. Adm. Code 553) when the client's closed case file is still available.~~

~~Rehabilitation Closure—a closure taken on a client's case when he/she was provided comprehensive services over an extended period of time which enabled the client to achieve a successful employment outcome.~~

(Source: Repealed at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART L: TRANSITION

**Section 590.740 Definitions (Repealed)**

~~For the purpose of this Subpart, the following terms shall have the following meanings:~~

~~Post school Activities—vocationally oriented activities undertaken by a customer/student after he/she leaves the secondary education system. Such activities may include: post secondary education; vocational training; integrated employment, including Supported Employment; continuing and adult education; VR services; and community participation.~~

~~Secondary Transitional Experience Program (STEP)—a program of transition services provided through cooperative agreement of DHS DRS and a Local Educational Agency (LEA).~~

~~Transition—a coordinated set of services for a customer/student, usually enrolled at the secondary education level, designed to promote movement from school to post school activities.~~

(Source: Repealed at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS GREEN GOVERNMENTS COORDINATING COUNCIL

## NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Green Cleaning for Elementary and Secondary Schools
- 2) Code Citation: 23 Ill. Adm. Code 2800
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
2800.10	New Section
2800.20	New Section
2800.30	New Section
2800.40	New Section
2800.50	New Section
2800.APPENDIX A	New Section
2800.APPENDIX B	New Section
- 4) Statutory Authority: Implementing and authorized by Green Cleaning Schools Act [105 ILCS 140].
- 5) Complete Description of the Subjects and Issues Involved: The Green Cleaning Schools Act was adopted to protect the environmental and occupant health of primary and secondary schools.
- 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
- 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 rulemaking implements Public Act 95-657, which creates a non-reimbursable State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

## ILLINOIS GREEN GOVERNMENTS COORDINATING COUNCIL

## NOTICE OF PROPOSED RULES

Kate Tomford  
Office of Lt. Governor Pat Quinn  
100 W. Randolph, Suite 15-200  
Chicago IL 60601

312/814-5220  
Fax: 312/814-4862

The Office will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

This proposed rulemaking may have an impact on small businesses as defined in Section 1-75 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75]. These entities may submit written comments in writing to the Office at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses as part of any written comments they submit to the Office.

- 13) Initial Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Businesses manufacturing or distributing certain cleaning products
  - 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: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The statute creating the Council was not effective until late 2007, so the Council did not file a January 2008 regulatory agenda.

The full text of the Proposed Rules is identical to the text of the Emergency Rule that appears in this issue of the *Illinois Register* on page 1479:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Prequalification of Contractors, Authorization to Bid, and Subcontractor Registration
- 2) Code Citation: 44 Ill. Adm. Code 650
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
650.50	Amend
650.120	Amend
650.170	Amend
650.190	Amend
650.320	Amend
650.APPENDIX A	Amend
650.APPENDIX B	Repeal
650.APPENDIX C	Amend
650.APPENDIX D	Repeal
650.APPENDIX E	Amend
- 4) Statutory Authority: Implementing Section 20-45 of the Illinois Procurement Code [30 ILCS 500/20-45] and Section 4-103 of the Illinois Highway Code [605 ILCS 5/4-103] and authorized by Section 4-201.1 of the Illinois Highway Code [605 ILCS 5/4-201.1] and Section 5-25 of the Illinois Procurement Code [30 ILCS 500/5-25]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is the primary means by which the Illinois Department of Transportation (the Department) determines the responsibility of bidders on competitively bid contracts to undertake and complete the work to be accomplished. By this rulemaking, the Department is proposing to amend Part 650 to update provisions to reflect current practice. For example, at Section 650.50, the Department is adding a provision addressing the time frame for submission to the Department of a request for a revision or revisions to the applicant's prequalification ratings. At Section 650.170(c)(1)(B), the Department is clarifying that an applicant must include a complete reviewed or compiled financial report in order to be considered for a financial rating in an unaudited status of \$1,500,000 or less. Additionally, throughout this rulemaking, the Department is eliminating provisions and references to "Bituminous Plant Mix", "Bituminous Paving", and "Bituminous Aggregate Mixtures" (and other related terms). Those terms are out-of-date and will be replaced by the correct reference – "Hot-Mix Asphalt (HMA)" in the applicable provisions. Finally, the Department is repealing Appendices B and D because form letters are no longer supplied by the Department to the applicant.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENTS

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: No
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will not affect units of local government or not-for-profit corporations.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning these proposed amendments. Written submissions shall be filed with:

Mr. Michael Copp, Prequalification Engineer  
Illinois Department of Transportation  
Division of Highways  
2300 S. Dirksen Parkway, Room 322  
Springfield, Illinois 62764

217/782-3413

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager  
Illinois Department of Transportation  
Office of Chief Counsel  
2300 South Dirksen Parkway, Room 317  
Springfield, Illinois 62764

217/524-3838

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

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- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: Small businesses in the construction industry will not be impacted any differently than any other entity that voluntarily participates in the program.
  - B) Reporting, bookkeeping or other procedures required for compliance: No new reporting requirements are necessary for compliance with this rulemaking.
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2008
- 15) Does this rulemaking require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? Yes

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

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TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT  
AND PROPERTY MANAGEMENT  
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES  
CHAPTER IX: DEPARTMENT OF TRANSPORTATION

## PART 650

PREQUALIFICATION OF CONTRACTORS, AUTHORIZATION TO BID,  
AND SUBCONTRACTOR REGISTRATION

## SUBPART A: PREQUALIFICATION

Section	Purpose
650.10	Purpose
650.20	Definitions
650.30	Introduction to Prequalification
650.40	Application Requirements
650.50	Time for Submission
650.60	Public Disclosure of Contractor Information
650.70	Waiver of Prequalification and Additional Responsibility Considerations
650.80	Issuance and Effect of Ratings
650.90	Effective Date of Ratings
650.100	Expiration Date of Ratings
650.110	Denial or Revocation of Ratings
650.120	Extension of Ratings
650.130	Revisions to Prequalification Ratings
650.140	Transfer of Prequalification Ratings
650.150	Reconsideration and Appeal
650.160	Financial Rating - General
650.170	Financial Statement
650.180	Balance Sheet Schedules
650.190	Other Factors Considered in Determining Financial Ratings
650.200	Methods of Improving a Financial Rating
650.210	Computation of Financial Rating
650.220	Work Rating - General
650.230	Determination of Work Ratings
650.240	Performance Factor (PF)
650.250	Experience Factor (EF)
650.260	Equipment Factor (EqF)
650.270	Capacity to Perform (CP)

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650.280 Calculation of Work Ratings

## SUBPART B: AUTHORIZATION TO BID

## Section

650.290 Advertising for Bids  
 650.300 Request for Authorization to Bid or Not for Bid Status  
 650.310 Affidavit of Availability  
 650.315 Disclosure of Other Procurement Relationships  
 650.320 Analyzing Requests for Authorization to Bid  
 650.330 Issuance of Authorization to Bid  
 650.340 Joint Ventures  
 650.350 Denial of Authorization to Bid

## SUBPART C: SUBCONTRACTOR REGISTRATION

## Section

650.360 Purpose  
 650.370 Registration of Subcontractors  
 650.380 Eligibility to Quote or Perform Subcontract Work

650.APPENDIX A Available Work Categories~~AVAILABLE WORK CATEGORIES~~  
 650.APPENDIX B Request for Extension of Prequalification Ratings~~REQUEST FOR EXTENSION OF PREQUALIFICATION RATINGS (Repealed)~~  
 650.APPENDIX C Financial Pledge Letters~~FINANCIAL PLEDGE LETTERS (Repealed)~~  
 650.APPENDIX D Financial Verification Letter~~FINANCIAL VERIFICATION LETTER (Repealed)~~  
 650.APPENDIX E Corporate Resolution~~CORPORATE RESOLUTION (Repealed)~~

AUTHORITY: Implementing Section 20-45 of the Illinois Procurement Code [30 ILCS 500/20-45] and Section 4-103 of the Illinois Highway Code [605 ILCS 5/4-103] and authorized by Section 4-201.1 of the Illinois Highway Code [605 ILCS 5/4-201.1] and Section 5-25 of the Illinois Procurement Code [30 ILCS 500/5-25].

SOURCE: Adopted at 18 Ill. Reg. 9478, effective July 2, 1994; amended at 21 Ill. Reg. 11238, effective July 29, 1997; amended at 22 Ill. Reg. 20393, effective November 4, 1998; amended at 24 Ill. Reg. 18775, effective December 7, 2000; amended at 30 Ill. Reg. 16373, effective October 10, 2006; amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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## SUBPART A: PREQUALIFICATION

**Section 650.50 Time for Submission**

- a) An applicant seeking to be prequalified with the Department for the first time must submit a complete application for prequalification no later than 4:30 p.m. prevailing time no later than twenty-one days prior to the scheduled date of the letting for which the applicant desires to bid. If the day of receipt falls on a weekend or a holiday, the following work day will determine the cut-off. The Department gives public notice of the letting dates and cut-off dates in the Transportation Bulletin. The Prequalification Section will make its determination at least three days prior to the relevant letting date.
- b) An applicant seeking to renew its prequalification ratings with the Department must submit a complete renewal application prior to the expiration of the applicant's existing prequalification ratings (see Section 650.100 for additional information).
- c) An applicant seeking to revise its current prequalification ratings with the Department must submit revisions no later than 4:30 p.m. prevailing time no later than 21 days prior to the scheduled date of the letting for which the applicant desires to bid.
- de) If additional projects are advertised for a letting through the issuance of a supplemental bulletin, the day of receipt for application forms or additional information is seven days after the date of issuance of the supplemental bulletin to submit bids on those projects advertised in the supplemental bulletin.

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 650.120 Extension of Ratings**

- a) A temporary extension of prequalification ratings due for expiration may be granted by the Department for good cause which may include, but is not limited to, the following examples:
- 1) The contractor has changed the fiscal year end of the company.
  - 2) The contractor has changed the certified public accountant who will

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perform the audit after the audit has started.

- 3) The contractor has been granted an extension for filing taxes by the Internal Revenue Service.
  - 4) The contractor's records have been destroyed by fire, wind, water, or such other similar event beyond the contractor's control.
  - 5) The contractor's certified public accountant requests an extension of time because of a heavy workload of tax returns.
  - 6) The contractor's certified public accountant is unable to complete the audit due to his/her illness.
  - 7) The certified public accountant is unable to complete the audit due to illness of the sole owner, stockholder, officer or director of the company being audited.
  - 8) The contractor has a minor organizational change involving ownership, officers or directors without financial impact. An extension will not be granted due to organizational changes involving an acquisition by the contractor.
  - 9) The contractor changes from individual to corporate status.
  - 10) The contractor changes from partnership to corporate status.
- b) A request for an extension must be received by the Department in writing no later than 4:30 p.m. prevailing time on the day of expiration of the prequalification ratings. If this day falls on a holiday or weekend, then the following work day will determine the cut-off. The exception for accepting receipt of an extension request is the ~~21~~twenty-one day prequalification period in advance of a letting established in Section 650.50 of this Part. Extensions will not be granted if the request for extension is received during the ~~21~~twenty-one day prequalification cut-off period in advance of a letting and the prequalification ratings expire prior to that letting.
- c) Extensions will be given in ~~30~~thirty day increments with the maximum extension being ninety days.

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- d) Requests for a ~~30~~thirty, ~~60~~sixty or ~~90~~ninety day extension shall include:
- 1) A letter from the certified public accountant detailing the reason for the request ~~(see Section 650. Appendix B of this Part)~~.
  - 2) Submittal of an adjusted trial balance sheet as of the audit date. This shall be provided by the certified public accountant for ~~60~~sixty and ~~90~~ninety day extension requests only.
- e) Extensions of ~~60~~sixty or ~~90~~ninety days will not be granted if the adjusted trial balance sheet shows more than a 20 percent reduction in the contractor's financial rating.
- f) Extensions of ~~30~~thirty, ~~60~~sixty or ~~90~~ninety days will not be granted if such extensions have been granted for two consecutive prior ratings before the current request.
- g) Extensions will not be granted to contractors who are prequalified in an unaudited status or contractors who are changing from an audited status to an unaudited status.

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 650.170 Financial Statement**

An applicant may obtain a financial rating in either an audited or unaudited status. Audited financial information provides the Prequalification Section with reliable information, whereas unaudited financial information is subject to certain restrictions as provided for in subsection (c) of this Section.

- a) **Audited Status**  
The Department will require all applicants seeking an audited status to adhere to the following:
- 1) An applicant shall submit the Department's "Certificate of Accountant" with the completed financial statement. An Independent Auditor's Opinion Letter is acceptable in lieu of the Certificate of Accountant, if the applicant desires to submit only the balance sheet, auditor's notes, and an

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income statement.

- 2) All data shall be secured from an audit conducted no more than ~~12~~twelve months prior to the time the financial statement is received by the Department.
  - 3) Financial statements which are only compiled or reviewed by a CPA are not accepted for prequalification in an audited status.
  - 4) The audit of the applicant's records shall be conducted in accordance with generally accepted accounting standards.
  - 5) The financial statement shall be prepared by a Certified Public Accountant (CPA) who has been licensed by the Illinois Department of ~~Financial and~~ Professional Regulation or an out-of-state CPA who has been issued a license by that state. A financial statement will be considered unaudited if prepared by a non-licensed CPA.
  - 6) No certified financial statement will be accepted ~~that~~which has been prepared by an accountant who has a direct or indirect interest, financial or otherwise, in the business of the applicant submitting the statement.
  - 7) The applicant shall submit a report prepared by the CPA who conducted the audit if the Department's Certificate of Accountant is not submitted. The report shall contain the following information:
    - A) name, address, and telephone number of the accounting firm involved with the audit;
    - B) the license number, state of license, expiration date of license and signature of the CPA conducting the audit;
    - C) the date of audit;
    - D) the degree of responsibility assumed by the CPA; and
    - E) the accountant's opinion (see subsection (b) of this Section).
- b) Opinion of Certified Public Accountant

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An auditor's or CPA's opinion is a report that either contains an expression of opinion regarding the financial statements, taken as a whole, or an assertion to the effect that an overall opinion cannot be expressed. When the latter occurs, the CPA should state the reasons. There are several types of opinions a CPA can issue:

- 1) Unqualified opinion - an opinion which contains no exceptions and conveys the CPA's belief that the financial statement presents a fair and accurate statement of the applicant's financial position. An unqualified opinion is the most desirable because it allows the applicant to obtain audited status. Additionally, the unqualified opinion enables the Department to accept the applicant's financial statement with the confidence that the audit was conducted in accordance with generally accepted auditing standards; that the CPA acquired all the information necessary to render an informed opinion; and, that the same accounting principles were used as those used in the preceding year.
- 2) Qualified opinion - an opinion which contains an exception. An exception indicates that the CPA is not in agreement with a certain accounting principle. When a qualified opinion is in order, the CPA shall express the reasons for the qualification, the approximate amount involved, and the overall effect on the financial statement. Depending on the impact of these three factors, the Department may or may not accept the opinion for prequalification purposes. If the Department chooses not to accept the opinion, the applicant's financial statement will preclude prequalification in an audited status.
- 3) Adverse opinion - an opinion expressing the CPA's belief that the applicant's financial statement does not present a fair and accurate statement of the applicant's financial position. Pursuant to the rendering of an adverse opinion, the CPA shall disclose all substantive reasons for issuing such an opinion in his report. The Department shall view the applicant's financial statement as unaudited, thereby precluding prequalification in an audited status.
- 4) Disclaimer of opinion - a report used when a CPA believes an opinion cannot be expressed. Pursuant to the rendering of a disclaimer, the CPA shall present the reasons for refusing to express an opinion, such as client imposed restrictions. The Department shall view the applicant's financial

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statement as precluding prequalification in an audited status.

c) Unaudited Status

The Department will require all applicants seeking an unaudited status to adhere to the following:

- 1) The financial rating in the unaudited status is determined subject to the following limitations:
  - A) the applicant's financial rating shall be limited to no more than \$500,000 when a balance sheet is prepared and submitted by the applicant; or
  - B) the applicant's financial rating shall be limited to no more than \$1,500,000 when a reviewed or compiled financial statement including an opinion letter, balance sheet, accountant's notes, and income statement ~~balance sheet~~ is prepared by an accountant and submitted by the applicant.
- 2) The financial statement shall be prepared by either the applicant or an accountant. It is not necessary that the statement be prepared and certified by a licensed accountant. The financial statement:
  - A) must be prepared from data secured from the applicant's records;
  - B) must not be more than 12~~twelve~~ months old at the time of receipt by the Department;
  - C) must be completed and in balance; and
  - D) the financial information release must be completed and submitted by the applicant's financial institution to verify account balances.

d) Interest in Other Firms

- 1) Any parent and all affiliates or subsidiaries of the applicant shall be identified.
- 2) If an individual, a member of a partnership, or an officer or director of a

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corporation is interested financially in more than one company, the accountant shall submit a letter explaining such interest, the extent of the investment, and the individual's relationship with such companies. The Department may require these individuals to furnish financial statements from these companies as of the same date as the financial statement submitted by the applicant requesting prequalification.

- 3) Each applicant shall disclose, in the application for prequalification, the name of each owner, shareholder, partner, member, beneficiary or any other person expected to have a direct pecuniary interest in a contract awarded by the Department who holds an elective office in the State of Illinois; who is appointed to or employed in any office or agency of State government; or who is the spouse or minor child of any such person. If the company is a corporation, the name of all the officers and directors and their respective positions shall be disclosed.

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 650.190 Other Factors Considered in Determining Financial Ratings**

- a) Notes and Accounts
  - 1) Long term notes and accounts payable to stockholders, officers, directors, employees, parent, subsidiaries and affiliates will not be considered a liability if subordinated. A subordination is not permitted if it takes place more than one year from the date of the financial statement. Long term notes that are not subordinated will be considered as current liabilities. Subordinations that are not honored will not be considered on subsequent financial statements.
  - 2) Long term notes (that are in the company's name) payable to banks or other financial institutions when secured by the personal assets of the owners, officers or directors will be considered as additional working capital if properly subordinated. If not subordinated, they will be considered as liabilities against current assets.
  - 3) Notes payable due within one year from the financial statement date are considered current liabilities. Installments on notes due beyond one year are considered deferred liabilities.

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- 4) When notes payable are secured by all assets of a firm, the amount of the loan is deducted from the value of fixed assets (against equipment first, then real estate) in determining the financial rating. No excess of encumbrance will be charged against working capital. When notes payable are unsecured, there will be no deductions from the value of fixed assets with the exception of Section 650.180(a)(1)(D).
  - 5) The reduction of long term notes before their due date will cause a reduction in the computed financial rating. In the event of long term debt reduction, the contractor shall furnish in writing the details of the transaction. This information shall be verified by a certified public accountant for those contractor's who have an audited status.
  - 6) Any long term unsecured notes payable shall be accompanied by a signed statement from the lending agency and the contractor indicating that a decrease in the unsecured borrowing shall be reported to the Department immediately. In addition, the contractor shall provide a copy of the loan agreement that shall disclose the date of the loan, the termination date, the terms of payment, a statement that the loan is free of conditions and whether it is interest or noninterest bearing. Any unsecured note payable not accompanied by such a statement and loan agreement shall be considered a current liability for prequalification rating purposes.
- b) **Income Taxes**  
The Department shall utilize the maximum corporate tax rate as stipulated by the Internal Revenue Code to reclassify deferred taxes as a current liability. This situation occurs when an applicant reports its income to the Internal Revenue Service on the cash or completed contract method, but submits such to the Department on the accrual method, thus deferring 100 percent of any income taxes due on its receivables. When deferred taxes are represented as a long term asset, the asset will be given no credit.
  - c) **Dividends**  
Where dividends of the applicant, declared or proposed, have neither been paid nor included as a current liability in the submitted application for prequalification, the Department shall establish reserve distributions equal to the unpaid portion.
  - d) **Treasury Stock**

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If debentures have been issued, or, if long term obligations have been assumed by an applicant for repurchase of treasury stock, the Department will not consider the long term portion of these obligations as long as the applicant has provided for repayment of any current portion.

## e) Related Companies

- 1) Applicants may be related to other concerns or companies by virtue of a parent, subsidiary or affiliate connection. Also, two or more concerns or companies may operate in a coordinated manner to maintain a single set of ratings. Applicants seeking a prequalification financial rating based upon the financial strength of the applicant and a related company or seeking a financial rating in conjunction with the financial strength of a group of related companies will be evaluated and issued ratings based upon an assessment of the financial statements submitted in accordance with this subsection (e) provided that the operational roles of the related companies in the business activity of the applicant are consistent with the work ratings applied for pursuant to this Part.
- 2) A consolidated financial statement from a parent corporation may be used to prequalify a subsidiary corporation or group of subsidiary corporations. A ~~Guaranty~~~~Certified Assumption and Guarantor~~ Agreement must be submitted with the financial statement. If more than one subsidiary is identified by a holding company for bidding purposes, the Department will establish the bidding identity for each subsidiary.
- 3) The Department may request a consolidated financial statement from the parent corporation of a subsidiary requesting prequalification. The Department will deny credit for assets of a subsidiary that are unduly burdened or otherwise heavily encumbered, or are not available because of the financial condition of the parent corporation.
- 4) A combining financial statement may be used to prequalify an affiliated company or group of affiliated companies. Separate financial statements may be used to prequalify two or more related companies that provide the material production and construction capability necessary to support a work rating classification. An applicant seeking a financial rating for a group of affiliated companies based upon the combined affiliate data presented in a combining financial statement or separate financial

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statements shall present a full description of the businesses' operations and interdependencies. A Guaranty Agreement will be required. The Department will not credit assets between affiliates for purposes of individual affiliate financial ratings without a Guaranty Agreement and any necessary lease agreements in accordance with Section 650.260(b)(2) of this Part. In all instances, if more than one affiliate is identified for bidding purposes, the Department will establish the bidding identity for each affiliate.

- f) Letters of Credit  
Bank letters or letters of credit will not be considered in the computation of the financial rating.

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART B: AUTHORIZATION TO BID

**Section 650.320 Analyzing Requests for Authorization to Bid**

- a) In analyzing a contractor's request for Authorization to Bid, it is necessary to determine the contractor's available bidding capacity.
- 1) The total value of all uncompleted work awarded to the contractor, as shown on the Affidavit of Availability, is deducted from the financial rating shown on the Certificate of Eligibility. The result is the Available Financial Rating.
  - 2) The value of each type of work uncompleted and included in pending low bids the contractor will perform with its own forces as a prime or subcontractor, as shown on the Affidavit of Availability, is deducted from the corresponding category of work rating shown on the Certificate of Eligibility. The result is the Available Work Rating in each category. If a contractor has a work rating designated for "Illinois Work Only," then only Illinois work is deducted from the corresponding category of work rating; however, all work must be shown on the affidavit to determine the Available Financial Rating.
  - 3) When the proposed work requires more than one construction season (18 months or 168 working days) to complete, the work ratings shown on the

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Certificate of Eligibility are multiplied by the number of construction seasons required for completion. The Available Work Rating is then determined as stated in subsection (a)(2) of this Section. Similar consideration is given to work reported on the Affidavit of Availability. Each work category of a project is divided by the number of construction seasons to complete the project. The Available Work Rating is then determined as stated in subsection (a)(2) of this Section.

- 4) Contractors who have ratings in major work categories are given credit for work in applicable minor work categories. For example, a contractor with a rating in Portland Cement Concrete Paving or Structures is given credit for work in the minor work category of ~~Miscellaneous~~ Concrete Construction. The work category definitions in ~~Section 650~~ Appendix A of this Part will indicate if a minor work category is applicable. Credit given for a minor work category is deducted from the contractor's available rating in the corresponding major work category.
- 5) ~~Bituminous Plant Mix is rated at \$32/ton as compared to \$26/ton for Bituminous Aggregate Mixtures. See Section 650 Appendix A of this Part. However, the plant's hourly capacity remains the same. Therefore, the dollar value of outstanding Bituminous Aggregate Mixtures shown on the Affidavit of Availability will be increased by twenty percent in determining available work rating for Bituminous Plant Mix if a contractor's plant produces both Class I and BAM.~~
- b) In order to be issued an Authorization to Bid, a contractor's Available Work Ratings for all applicable categories must equal or exceed 50 percent of the estimated value of the contract, less designated specialty items. For Division of Aeronautics work, the Available Work Ratings must equal or exceed 51 percent of the estimated value. A contractor's Available Financial Rating must equal or exceed the total estimated value of each contract. However, the low bidder will not be awarded the contract unless the Available Financial Rating equals or exceeds the actual price bid.
- c) The Department will ~~occasionally~~ ~~occasionally~~ advertise for bids a contract which consists of an item or items which are of the type commonly constructed by the Capital Development Board (such as general building construction, roofing, plumbing, heating, ventilation and air conditioning) rather than by the Department of Transportation. In such instances, the advertisement will indicate waiver of

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prequalification under the rules of the Department according to Section 650.70 and will specify prequalification by the Capital Development Board pursuant to 44 Ill. Adm. Code 950. Any contractor requesting Authorization to Bid on such a project should include a current "Capitol Development Board Certificate of Contractor Prequalification."

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 650.A** **APPENDIX A** Available Work Categories ~~AVAILABLE WORK CATEGORIES~~

- 1 Earthwork
- 2 Portland Cement Concrete (PCC) Paving
- 3 Hot-Mix Asphalt (HMA) ~~Bituminous~~ Plant Mix
- 4 ~~Bituminous Aggregate Mixtures~~
- 5 HMA ~~Bituminous~~ Paving
- 6 Cleaning and Sealing Cracks & Joints
- 7 Soil Stabilization and Modification
- 8 Aggregate Bases & Surfaces (Type A and Type B)
- 9 Structures (Highway, Railroad, and Waterway)
- 10 Structures Repair
- 11 Anchors and Tiebacks
- 12 Drainage
- 13 Drainage Cleaning
- 14 Electrical
- 15 Cover and Seal Coats (Type A and Type B)
- 16 Slurry Applications
- 17 Concrete Construction
- 18 Landscaping

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- 19 Seeding and Sodding
- 20 Vegetation Spraying
- 21 Tree Trimming and Selective Tree Removal
- 22 Fencing
- 23 Guardrail
- 24 Grouting
- 25 Painting
- 26 Signing
- 27 Pavement Markings (Paint, Thermoplastic, Epoxy, and Polyurea)
- 28
- 29
- 30 Installation of Raised Pavement Markers
- 31 Pavement Texturing and Surface Removal
- 32 Cold Milling, Planing and Rotomilling
- 33 Erection
- 34 Demolition
- 35 Fabrication
- 36 Tunnel Excavation
- 37 Expressway Cleaning
- 38 Railroad (Track) Construction

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- 39 Marine Construction
- 40 Hydraulic Dredging
- 41 Hot (in-place) Recycling
- 42 Cold (in-place) Recycling

1 - EARTHWORK

Consists of clearing, grubbing, tree removal (except selective tree removal), hedge removal, roadway excavation, channel excavation, borrow excavation, special excavation, topsoil excavation and placement, ditch excavation, common excavation, solid rock excavation, mine refuse excavation, pavement removal, hauling, embankment (earth, stone, gravel or other materials), backfilling (all types of materials), grading, compacting and trenching. This category is also applicable to projects involving Demolition (see definition), riprap installation, construction of aggregate ditch, construction of gabions, slope mattress and revetment mats (riprap or interlocking concrete blocks) and removals. In addition, this category is applicable to Seeding for Land Reclamation projects.

EQUIPMENT: Scrapers, gradalls, graders, cranes, shovels, excavators, backhoe loaders, front-end loaders, skid-steer loaders, bulldozers, sheeps foot rollers, vibratory rollers or fine grading equipment are required to establish a rating.

CALCULATION OF WORK RATING: Primary or advanced formula.

<u>Equipment</u>	<u>Equipment factor (EqF)</u>
Self-propelled scrapers	\$21,000 per cubic meter of heaped capacity \$16,000 per cubic yard of heaped capacity
Pull type scrapers	\$12,000 per cubic meter of heaped capacity \$9,000 per cubic yard of heaped capacity
Gradalls	\$115,000 each
Graders	\$100,000 each
Cranes, shovels, excavators and backhoe loaders	\$360,000 for .5 cubic meter bucket size \$405,000 for .75 cubic meter bucket size \$480,000 for 1 cubic meter bucket size

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	\$580,000 for 1.25 cubic meter bucket size
	\$730,000 for 1.5 cubic meter bucket size
	\$800,000 for 1.75 cubic meter bucket size
	\$880,000 for 2 cubic meter bucket size
	\$1,060,000 for 2.5 cubic meter bucket size
	\$1,400,000 for 3 cubic meter bucket size
	\$1,730,000 for 3.5 cubic meter bucket size
	\$375,000 for .75 cubic yard bucket size
	\$405,000 for 1 cubic yard bucket size
	\$460,000 for 1.25 cubic yard bucket size
	\$550,000 for 1.5 cubic yard bucket size
	\$635,000 for 1.75 cubic yard bucket size
	\$750,000 for 2 cubic yard bucket size
	\$835,000 for 2.5 cubic yard bucket size
	\$1,010,000 for 3 cubic yard bucket size
	\$1,210,000 for 3.5 cubic yard bucket size
	\$1,440,000 for 4 cubic yard bucket size
	\$1,610,000 for 4.5 cubic yard bucket size
Front-end loaders	\$115,000 for less than 1.5 cubic meter bucket size
	\$210,000 for 1.5 to 2 cubic meter bucket size
	\$340,000 for 2.1 to 3 cubic meter bucket size
	\$475,000 for 3.1 to 4 cubic meter bucket size
	\$605,000 for greater than 4 cubic meter bucket size
	\$115,000 for less than or equal to 2 cubic yard bucket size
	\$230,000 for 2.1 to 3 cubic yard bucket size
	\$375,000 for 3.1 to 4 cubic yard bucket size
	\$460,000 for 4.1 to 5 cubic yard bucket size
	\$605,000 for greater than 5 cubic yard bucket size
Skid-steer loaders	\$50,000 each
Bulldozers	\$200,000 each
Fine grading equipment	\$200,000 each
Self-propelled rollers	\$50,000 each
Pull-type rollers	\$15,000 each
Disc	\$15,000 each
Water truck	\$1.35 per liter
	\$5 per gallon
Off-road and bottom-dump trucks	\$20,000 per cubic meter of heaped capacity

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\$15,000 per cubic yard of heaped capacity

2 - PORTLAND CEMENT CONCRETE (PCC) PAVING

Consists of constructing pcc pavement, continuously reinforced pcc pavement, pcc base course and pcc base course widening, cement aggregate mixture sub-base, pozzolanic stabilized mixture sub-base and pozzolanic stabilized base course. This category is also applicable to Miscellaneous Concrete Construction.

EQUIPMENT: A central mix plant or a batch plant with truck mixers, formless paver and finishing machine. A concrete plant with either a formless paver or a finishing machine is the minimum equipment requirement.

CALCULATION OF WORK RATING: Primary or advanced formula.

<u>Equipment</u>	<u>Equipment Factor (EqF)</u>
Central Mix Plant and Batch Plant*	(C.M./Batch) x (20 Batches/Hr.) x (8 Hrs./Day) x (80 Days/Yr.) x (\$105/C.M.) x (1.0) for an approved plant (C.Y./Batch) x (20 Batches/Hr.) x (8 Hrs./Day) x (80 Days/Yr.) x (\$80/C.Y.) x (1.0)
Central Mix Dual Plant and Dual Batch Plant*	(C.M./Batch) x (20 Batches/Hr.) x (8 Hrs./Day) x (80 Days/Yr.) x (\$105/C.M.) x (1.7) for an approved plant (C.Y./Batch) x (20 Batches/Hr.) x (8 Hrs./Day) x (80 Days/Yr.) x (\$80/C.Y.) x (1.7)

\* To receive the maximum equipment factor (EqF) for a batch plant, the contractor shall possess a minimum of one truck mixer for every cubic yard of batch capacity of the plant.

3 - ~~HOT-MIX ASPHALT (HMA)~~ BITUMINOUS PLANT MIX

The placement of HMA pavement (Full Depth), ~~bituminous concrete~~ binder and surface course (Class I and Superpave), ~~bituminous concrete~~ base course widening, ~~bituminous~~ base course, ~~bituminous aggregate mixture~~ stabilized sub-base, ~~bituminous~~ shoulder, ~~shoulder~~ ~~bituminous~~ curb, ~~bituminous gutter~~, ~~bituminous curb and gutter~~, ~~bituminous~~ sidewalk, ~~bituminous~~ driveway, ~~bituminous~~ median, ~~bituminous~~ patching, open graded asphalt friction course and incidental ~~bituminous~~ surfacing. Also includes placement and hot recycling of reclaimed aggregates and

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asphaltic cements, and placement and production of cold mix stabilized base. This category is also applicable to ~~HMA~~ Bituminous Paving.

EQUIPMENT REQUIRED: An approved ~~bituminous~~ (HMA) plant, an approved ~~HMA~~ bituminous spreading and finishing machine and compaction equipment.

CALCULATION OF WORK RATING: Primary or advanced formula.

<u>Plant Production Rating</u>	<u>Equipment Factor (EqF)</u>
Metric Tons Per Hour (MTPH)	$MTPH \times (8 \text{ Hrs./Day}) \times (80 \text{ Days/Yr.}) \times (\$35/\text{Ton})$
Tons Per Hour (TPH)	$TPH \times (8 \text{ Hrs./Day}) \times (80 \text{ Days/Yr.}) \times (\$32/\text{Ton})$

Note: An approved HMA plant is a new or used plant that is used to calculate the EqF pursuant to Section 650.260 of this Part, and that is assigned a nominal production rating by the Bureau of Materials and Physical Research for the work category. Contracts may require the production of Class I or Superpave mixtures. The approved plant will be rated for production of Class I and Superpave mixtures prior to the production of such mixtures.

~~4—BITUMINOUS AGGREGATE MIXTURES~~

~~Consists of the placement of bituminous aggregate mixture, stabilized sub base and bituminous shoulder. Also includes placement and hot recycling of reclaimed aggregates and asphaltic cements, and placement and production of cold mix stabilized base. This category is also applicable to Bituminous Paving.~~

~~EQUIPMENT REQUIRED: An approved bituminous (HMA) plant, an approved bituminous spreading and finishing machine and compaction equipment.~~

~~CALCULATION OF WORK RATING: Primary or advanced formula.~~

<del><u>Plant Production Rating</u></del>	<del><u>Equipment Factor (EqF)</u></del>
<del>Metric Tons Per Hour (MTPH)</del>	<del><math>MTPH \times (8 \text{ Hrs./Day}) \times (80 \text{ Days/Yr.}) \times (\\$29/\text{Ton})</math></del>
<del>Tons Per Hour (TPH)</del>	<del><math>TPH \times (8 \text{ Hrs./Day}) \times (80 \text{ Days/Yr.}) \times (\\$26/\text{Ton})</math></del>

~~Note: An approved HMA plant is a new or used plant that is used to calculate the EqF pursuant to Section 650.260 of this Part, and that is assigned a nominal production rating by the Bureau of Materials and Physical Research for the work category. Contracts may require~~

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~~the production of Class I or Superpave mixtures. The approved plant will be rated for production of Class I and Superpave mixtures prior to the production of such mixtures.~~

5 - HMA BITUMINOUS PAVING

Consists of placing HMA bituminous base, surface, widening or shoulders with a HMA bituminous spreading and finishing machine. This category is restricted to either 1,200 tons in any one contract (Class I, BAM, or Superpave) or as specified by the local agency. HMA Bituminous curb and gutter, sidewalk, driveway, median and patching are not to be included in the tonnage determination. This work can also be completed under HMA Bituminous Plant Mix and Bituminous Aggregate Mixtures categories.

EQUIPMENT REQUIRED: An approved HMA bituminous spreading and finishing machine and compaction equipment.

CALCULATION OF WORK RATING: Secondary formula.

6 - CLEANING AND SEALING CRACKS & JOINTS

Consists of routing and sealing cracks for asphaltic and concrete pavements.

EQUIPMENT REQUIRED: Router and melter.

CALCULATION OF WORK RATING: Secondary formula.

7 - SOIL STABILIZATION AND MODIFICATION

Consists of constructing soil-cement base course and lime modified soils.

EQUIPMENT REQUIRED: Grader, rotary speedmixer, mechanical spreader, water tanker and compaction equipment.

CALCULATION OF WORK RATING: Secondary formula.

8 - AGGREGATE BASES & SURFACES (TYPE A)

Consists of constructing granular sub-base, aggregate base course, aggregate surface course, aggregate shoulders and aggregate-turf pavement. Also includes construction of cement aggregate mixture sub-base, pozzolanic stabilized mixture sub-base, pozzolanic stabilized base

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course, lime modified soils (disc harrow method), calcium chloride applications, and sub-ballast.

8 - AGGREGATE BASES & SURFACES (TYPE B)

Consists of hauling and spreading aggregate.

EQUIPMENT REQUIRED: Grader or mechanical spreader, and compaction equipment if applicable.

CALCULATION OF WORK RATING: Primary or advanced formula.

<u>Equipment</u>	<u>Equipment Factor (EqF)</u>
Grader and compaction equipment (Type A)	\$375,000 each
Mechanical spreader and compaction equipment (Type A)	\$375,000 each
Grader (Type B)	\$375,000 each
Mechanical spreader (Type B)	\$375,000 each
Widener	\$200,000 each

9 - STRUCTURES (HIGHWAY)

Consists of excavation for structures (includes cofferdams, temporary cribs, etc.), constructing concrete structures (bridges, box culverts, etc.), membrane waterproofing, constructing steel structures (bridges, corrugated structural plate drainage structures, etc.), constructing metal railings, constructing timber structures (bridges, etc.), erection, installation of reinforcement bars, piling (all types), and construction of temporary bridges. This category is also applicable to Structures Repair, Demolition, ~~Miscellaneous~~ Concrete Construction, Fencing and Signing.

EQUIPMENT REQUIRED: see Structures (Waterway) Equipment.

CALCULATION OF WORK RATING: see Structures (Waterway) Calculation.

9 - STRUCTURES (RAILROAD)

Consists of items listed above. This category is specific to structures carrying railroad transportation.

9 - STRUCTURES (WATERWAY)

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Consists of the construction of major structures and appurtenances for water storage and distribution, flood control and recreation. This includes dams, spillways, spillway crest gates, sluiceway, sluiceway gates, canals, channel appurtenances (culverts, flumes, inverted siphons, etc.), pump stations (including mechanical equipment), aqueducts, irrigation structures (checks, dams, gates, etc.), locks and dams, dikes, groins and jetties. This category also includes excavation for structures (includes cofferdams, temporary cribs, etc.), piling (all types), de-watering and Demolition

**EQUIPMENT:** Bulldozers, front-end loaders, shovels, cranes, backhoe loaders, excavators, pile hammers and bridge deck finishing machines. A crane is the minimum equipment requirement. However, a crane is not required for those contractors requesting a structures rating for \$150,000 or less.

**CALCULATION OF WORK RATING:** Secondary formula.

#### 10 - STRUCTURES REPAIR

Consists of bridge deck repair or bridge deck removal and replacement. This includes the use of latex modified concrete, polymer concrete, epoxy and other materials for patching, deck overlays, sealing, etc. Also includes membrane waterproofing, constructing metal railings, installation of reinforcement bars, superstructure repairs such as replacement of joints, replacement of bearings, beam straightening (heat or mechanical), repair and retrofit of fracture and fatigue distressed steel girders, member strengthening, etc. Substructure repairs are also included and consist of the use of epoxy, shotcrete and other materials for minor repairs of spalled or deteriorated concrete. This category is also applicable to [Miscellaneous](#)-Concrete Construction, Fencing and Signing. This work can be completed under the Structures (Highway) category.

**EQUIPMENT:** Front-end loaders, cranes, backhoe loaders, excavators and bridge deck finishing machines. A crane is the minimum equipment requirement. However, a crane is not required for those contractors requesting a structures repair rating for \$150,000 or less.

**CALCULATION OF WORK RATING:** Secondary formula.

#### 11 - ANCHORS AND TIEBACKS

Construction of all types of anchors and tiebacks that provide resistance to lateral and uplift forces in bridge abutments, retaining walls, bulkheads, dams, deep excavations and various

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support systems (underpinning, etc.).

EQUIPMENT REQUIRED: Auger, drilling, or jacking equipment. Grouting equipment to include air compressor, mixing equipment, agitator-type reservoir tank and grout pump.

CALCULATION OF WORK RATING: Secondary formula.

12 - DRAINAGE

Consists of the installation and removal of precast concrete box culverts, installation and removal of pipe culverts and storm sewers, relining of pipe culverts and storm sewers, installation of pipe drains and pipe underdrains, exploration trenches for locating farm underdrains, minor boring and jacking of pipe-in-place, installation of cast iron soil pipe, installation of water mains and water service lines, adjusting sanitary sewers and water service lines, construction of catch basins, manholes, inlets, inspection holes and valve vaults, minor cleaning of catch basins, adjustment and reconstruction of catch basins, manholes, inlets, inspection holes and valve vaults, installation and adjustment of frames and grates, filling existing manholes, catch basins, inlets, wells and drainage structures, moving fire hydrants, moving domestic meter vaults and water service boxes, riprap installation, construction of aggregate ditch, installation of excelsior blanket, fiber mat and fiberglass roving, construction of gabions, slope mattress and revetment mats (riprap or interlocking concrete blocks), construction of trench and backfill for communication cables, ducts and conduits, construction of inverted siphons, construction of flumes, construction of pump stations (including mechanical equipment) and installation of corrugated structural plate drainage structures. This category is also applicable to de-watering projects, well drilling, slurry trench cut-off walls (soil-bentonite or cement-bentonite), and Drainage Cleaning.

EQUIPMENT REQUIRED: Trenching machine or backhoe loader or excavator.

CALCULATION OF WORK RATING: Secondary formula.

13 - DRAINAGE CLEANING

Consists of cleaning of pipe culverts, storm sewers and catch basins. This work can also be completed under the Drainage Category.

EQUIPMENT REQUIRED: Vacuum or jetting equipment.

CALCULATION OF WORK RATING: Secondary formula.

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14 - ELECTRICAL

Consists of the installation of electric cable, duct and conduits, construction of trench and backfill for cables, ducts and conduits, traffic surveillance and control installations, traffic signal installations, installation of light pole, installation of light tower, installation of vapor luminaire, installation of sign lighting, installation of temporary lighting systems, installation of navigational lighting systems, installation of photocell relay service, installation of airport lighting systems, installation of airport beacon towers and airport rotating beacons, and other appropriate illumination systems. This category is also applicable to electronic weigh scale installations, installation and maintenance of motorist call box systems and installation of electrical controls/mechanical equipment for pump stations.

EQUIPMENT REQUIRED: Trenching machine or backhoe loader or excavator or aerial equipment.

CALCULATION OF WORK RATING: Secondary formula.

15 - COVER AND SEAL COATS (TYPE A)

Consists of the application of bituminous materials for priming, road oiling, cover coating and seal coating.

15 - COVER AND SEAL COATS (TYPE B)

Consists of sealing parking lots and driveways.

EQUIPMENT REQUIRED: Distributor (Type A).

CALCULATION OF WORK RATING: Primary or advanced formula.

<u>Equipment</u>	<u>Equipment Factor (EqF)</u>
Distributor (Type A)	\$400,000 each
Tanker Truck* (Type A)	\$50,000 each

\* A maximum of two tanker trucks per distributor will be allowed.

16 - SLURRY APPLICATIONS

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Consists of slurry sealing and micro-surfacing.

EQUIPMENT REQUIRED: Slurry or micro-surfacing equipment.

CALCULATION OF WORK RATING: Secondary formula.

17 - CONCRETE CONSTRUCTION

Consists of masonry work or the construction of concrete barrier, curb, gutter, combination curb and gutter, sidewalk, driveway pavement, median, paved ditch, flumes, slope wall, retaining wall, railroad crossing, pavement, base course, base course widening and all types of pavement patching. This category also includes construction of revetment mats (cast-in-place concrete slabs), construction of foundations (light pole, light tower, etc.) and various undersealing projects that allow the voids to be filled by gravity flow. Removal of concrete that consists of any of the aforementioned items or similar items is applicable to this work rating. This category is also applicable to construction of box culverts and other similar miscellaneous drainage structures. The total of pavement, base course and base course widening cannot exceed 15,000 square yards in any one contract. This work can also be completed under the PCC Paving and Structures (Highways, Waterways) categories.

EQUIPMENT: Concrete saws, generators, vibrators, forms, tampers, screeds and concrete placement equipment.

CALCULATION OF WORK RATING: Secondary formula.

18 - LANDSCAPING

Consists of planting trees, shrubs, vines and other materials. This category also includes applying fertilizing nutrients, mulching, watering, pruning and selective removal of unwanted plants and Seeding and Sodding.

EQUIPMENT: Auger equipment or hoe, tillers, disks, slope harrows, hydraulic seeders, tractor drawn or mounted seeders, rangeland type grass drill, mulch blowers, tree spade and water trucks. Seed bed preparation and seeding equipment, a tractor loader and a water truck is the minimum equipment requirement.

CALCULATION OF WORK RATING: Secondary formula.

19 - SEEDING AND SODDING

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Consists of seeding, sodding, applying fertilizer nutrients, mulching, watering, installation of excelsior blanket, fiber mat and other erosion work. This work can also be completed under the Landscaping category.

EQUIPMENT: Tillers, disks, slope harrows, hydraulic seeders, tractor drawn or mounted seeders, rangeland type grass drill, mulch blowers and water tankers. Seed bed preparation, seeding equipment and a tractor is the minimum equipment requirement.

CALCULATION OF WORK RATING: Secondary formula.

2021 - VEGETATION SPRAYING

Consists of the application of chemicals to remove or control vegetation.

EQUIPMENT REQUIRED: Tanker truck with on- and off-road spraying equipment.

CALCULATION OF WORK RATING: Secondary formula. The contractor must have an Illinois Commercial Pesticide Applicator's license. Workers must have an Illinois Commercial Pesticide Operator's license issued by the Illinois Department of Agriculture.

21 - TREE TRIMMING AND SELECTIVE TREE REMOVAL

Consists of commercial arborist work such as trimming and thinning of trees, root pruning and removal of individual trees and tree stumps.

EQUIPMENT REQUIRED: Aerial equipment, brush chipper, pruning tools and stump grinder.

CALCULATION OF WORK RATING: Secondary formula.

22 - FENCING

Consists of constructing chain link fence, wire fence and wood fence. This category is also applicable to the installation of object markers, delineators and mile post markers. This work can also be completed under the Structural (Highway, Railroad) and Structures Repair categories.

EQUIPMENT: Post hole auger equipment needed for Fencing rating of \$200,000 or more.

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CALCULATION OF WORK RATING: Secondary formula.

23 - GUARDRAIL

Consists of constructing steel plate beam guardrail, wood guardrail, cable road guard, posts (including guard posts), pipe handrail and metal railings. Removal of any of the aforementioned items or similar items is applicable to this work category.

EQUIPMENT REQUIRED: Post hammer or post hole auger.

CALCULATION OF WORK RATING: Secondary formula.

24 - GROUTING

Consists of shotcrete construction, lime injection systems, clay grouting, chemical grouting, compaction grouting, cement grouting, jet grouting, asphalt grouting and bituminous or cement fly ash undersealing of concrete pavements. Applicable to soil stabilization and rehabilitation of dams, bridges, sewers, tanks, reservoirs, tunnels, culverts, walls, masonry structures, etc. This category is also applicable to mud jacking, slab jacking and various under-sealing projects.

EQUIPMENT REQUIRED: Air compressor, mixing equipment, agitator-type reservoir tank and grout pump.

CALCULATION OF WORK RATING: Secondary formula.

25 - PAINTING

Consists of the cleaning, containment and painting of metal surfaces. This includes structural steel, sign structures, sign supports, traffic signal hardware, lighting hardware, etc.

EQUIPMENT REQUIRED: Air compressor, sandblast equipment and paint spraying equipment.

CALCULATION OF WORK RATING: Secondary formula.

26 - SIGNING

Consists of installing, relocating, renovating, refurbishing and cleaning sign panels. This category also includes the installation and relocation of sign supports and sign structures,

## DEPARTMENT OF TRANSPORTATION

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installation of object markers, installation of delineators and installation of mile post markers. Removal of any of the aforementioned items is also applicable to this work category. This work can also be completed under the Structures (Highway) and Structure Repair categories.

EQUIPMENT REQUIRED: Auger and aerial equipment. A crane will also meet minimum equipment requirements. Auger only will be limited to roadside signing.

CALCULATION OF WORK RATING: Secondary formula.

27 - PAVEMENT MARKINGS (PAINT)

Consists of the installation of paint pavement marking lines, letters and symbols.

EQUIPMENT REQUIRED: Truck mounted or hand operated painting equipment.

CALCULATION OF WORK RATING: Secondary formula.

27 - PAVEMENT MARKINGS (THERMOPLASTIC)

Consists of the installation of thermoplastic pavement marking lines, letters and symbols.

EQUIPMENT REQUIRED: Truck mounted or hand operated equipment that is approved by the Bureau of Operations within the Division of Highways.

CALCULATION OF WORK RATING: Secondary formula.

27 - PAVEMENT MARKINGS (EPOXY)

Consists of the installation of epoxy pavement marking lines, letters and symbols.

EQUIPMENT REQUIRED: Equipment that is approved by the Bureau of Operations within the Division of Highways.

CALCULATION OF WORK RATING: Secondary formula.

27 - PAVEMENT MARKINGS (POLYUREA)

Consists of the installation of polyurea pavement marking lines, letters and symbols.

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EQUIPMENT REQUIRED: Equipment that is approved by the Bureau of Operations within the Division of Highways.

CALCULATION OF WORK RATING: Secondary formula.

30 - INSTALLATION OF RAISED PAVEMENT MARKERS

Consists of the installation of raised reflective pavement markers and their removal.

EQUIPMENT REQUIRED: Plunge router or saw.

CALCULATION OF WORK RATING: Secondary formula.

31 - PAVEMENT TEXTURING AND SURFACE REMOVAL

Consists of grooving or grinding PCC pavement or continuously reinforced PCC pavement.

EQUIPMENT REQUIRED: Grooving or grinding equipment.

CALCULATION OF WORK RATING: Secondary formula.

32 - COLD MILLING, PLANING AND ROTOMILLING

Consists of bituminous surface removal or texturing bituminous pavements. Also applicable to pulverizing and mixing existing bituminous material.

EQUIPMENT REQUIRED: Milling, planing or grinding machine.

CALCULATION OF WORK RATING: Secondary formula.

33 - ERECTION

Consists of erecting structural steel or sign trusses. This work can be completed under the Structures (Highway, Railroad) category.

EQUIPMENT REQUIRED: Crane.

CALCULATION OF WORK RATING: Secondary formula.

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34 - DEMOLITION

Consists of the removal of timber, steel and concrete structures and buildings. This work can be completed under the Structures (Highway, Railroad, Waterway) and Earthwork categories.

EQUIPMENT REQUIRED: Crane or excavator or front-end loader, backhoe loader or bulldozer.

CALCULATION OF WORK RATING: Secondary formula.

35 - FABRICATION

Consists of fabricating, delivering and storing structural steel.

EQUIPMENT REQUIRED: Fabrication plant.

CALCULATION OF WORK RATING: Secondary formula.

36 - TUNNEL EXCAVATION

Consists of earth and rock excavation for tunnels, and construction of liner plate shafts, steel sheeted shafts and wood sheeted shafts. This category also includes rock bolting and major boring and jacking of pipe-in-place.

EQUIPMENT REQUIRED: Tunnel boring machine.

CALCULATION OF WORK RATING: Secondary formula.

37 - EXPRESSWAY CLEANING

Consists of sweeping expressways and arterial routes.

EQUIPMENT REQUIRED: Motorized street sweeping equipment.

CALCULATION OF WORK RATING: Secondary formula.

38 - RAILROAD (TRACK) CONSTRUCTION

Consists of sub-ballast construction, ballast construction, installation of crossites and installation

## DEPARTMENT OF TRANSPORTATION

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of steel rails.

EQUIPMENT REQUIRED: Ballast regulator, tamper and lifting equipment.

CALCULATION OF WORK RATING: Secondary formula.

39 - MARINE CONSTRUCTION

Consists of the construction of harbors and docking facilities on lakes or rivers. This includes breakwater structures, groins, jetties, seawalls, major revetments (riprap, interlocking concrete blocks and cast-in-place concrete slabs), bulkheads, piers, wharves, fenders and dolphins. This work category is also applicable to excavation for structures (includes cofferdams, temporary cribs, etc.), piling (all types), de-watering, mechanical dredging, underwater inspection and underwater repair.

EQUIPMENT REQUIRED: Barge and barge-mounted crane.

CALCULATION OF WORK RATING: Secondary formula.

40 - HYDRAULIC DREDGING

Dredging of various waterways by the use of pumping equipment.

EQUIPMENT REQUIRED: Barge and pumping equipment.

CALCULATION OF WORK RATING: Secondary formula.

41 - HOT (IN-PLACE) RECYCLING

A road construction technique that involves a single-pass or a two-pass operation that scarifies and rejuvenates the existing pavement material or combines existing pavement material with virgin material.

EQUIPMENT REQUIRED: Either a single recycle machine or a recycling train capable of heating, scarifying, remixing and relaying pavement material. Compaction equipment is also required.

CALCULATION OF WORK RATING: Secondary formula.

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42 - COLD (IN-PLACE) RECYCLING

A road construction technique that reuses existing pavement material.

EQUIPMENT REQUIRED: Emulsion tanker truck, recycle machine, paver and compaction equipment.

CALCULATION OF WORK RATING: Secondary formula.

(Source: Amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

**Section 650.APPENDIX B Request for Extension of Prequalification Ratings ~~REQUEST FOR EXTENSION OF PREQUALIFICATION RATINGS~~ (Repealed)**

~~Engineer of Construction  
Illinois Department of Transportation  
2300 South Dirksen Parkway, Room 322  
Springfield, IL 62764~~

~~Extension Letter  
from the CPA (30 Day)~~

Dear \_\_\_\_\_:

~~Our client, (firm), requires a thirty (30) day extension of their prequalification ratings (include the reason for the extension).~~

\_\_\_\_\_  
Signature(s)

~~Engineer of Construction  
Illinois Department of Transportation  
2300 South Dirksen Parkway, Room 322  
Springfield, IL 62764~~

~~Extension Letter  
from the CPA (60 or 90 Day)~~

Dear \_\_\_\_\_:

~~Our client, (firm), requires a (sixty (60) or ninety (90)) day extension of their prequalification ratings (include the reason for the extension). Included is an adjusted trial balance sheet as of the audit date for your use.~~

\_\_\_\_\_  
Signature(s)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Repealed at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

DEPARTMENT OF TRANSPORTATION

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**Section 650.APPENDIX C Financial Pledge Letters ~~FINANCIAL PLEDGE LETTERS~~**  
**(Repealed)**

(Source: Repealed at 24 Ill. Reg. 18775, effective December 7, 2000)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

**Section 650.APPENDIX D Financial Verification Letter FINANCIAL VERIFICATION LETTER (Repealed)**

Engineer of Construction  
Illinois Department of Transportation  
2300 South Dirksen Parkway, Room 322  
Springfield, IL 62764

Verification Letter from the CPA,  
Required Only for an Individual Pledge to a  
Contractor with an Audited Financial  
Statement.

Dear \_\_\_\_\_ :

Our client, (firm), has requested us to write this letter to verify the information below concerning asset(s) pledged by the officer(s) or director(s) or shareholder(s) or employee(s) of the firm in order to improve the financial prequalification rating of (firm) for their (date of balance sheet) Contractor's Statement of Experience and Financial Condition.

If a bank account:

- A) Name of bank
- B) Location of bank
- C) Name of account holder(s)
- D) Amount
- E) Disclosure of any pledge  
(Example: A pledge against a Certificate of deposit)
- F) Method of verification

If equipment:

- A) Description (i.e., make, model, year, serial number and size or capacity)
- B) Owner(s)
- C) Book or appraised value
- D) Disclosure of any encumbrance
- E) Method of verification

If real estate:

- A) Description
- B) Owner(s)
- C) Book or appraised value
- D) Disclosure of any encumbrance
- E) Method of verification

If other investments:

- A) Description
- B) Owner(s)
- C) Book or appraised value
- D) Disclosure of any pledge  
(Example: A pledge against a stock or bond)
- E) Method of verification

\_\_\_\_\_  
Signature(s)

(Source: Repealed at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

**Section 650.APPENDIX E Corporate Resolution~~CORPORATE RESOLUTION~~**  
**(Repealed)**

(Source: Repealed at 24 Ill. Reg. 18775, effective December 7, 2000)

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Agrichemical Facility Response Action Program
- 2) Code Citation: 8 Ill. Adm. Code 259
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
259.110	Amendment
259.120	Amendment
259.140	Amendment
259.150	Amendment
259.210	Amendment
259.220	Amendment
259.230	New Section
259.240	New Section
259.310	Amendment
259.320	Amendment
259.330	Amendment
259.340	Amendment
259.350	Amendment
259.420	Amendment
259.430	Amendment
259.450	Amendment
259.510	Amendment
259.530	Amendment
259.540	Amendment
259.550	Amendment
259.APPENDIX A	Amendment
259.APPENDIX B	Amendment
259.APPENDIX C	New Section
259.APPENDIX D	Amendment
259.APPENDIX E	Amendment
259.APPENDIX F	New Section
- 4) Statutory Authority: Illinois Pesticide Act [415 ILCS 60/19]
- 5) Effective Date of Amendments: January 21, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: October 12, 2007; 31 Ill. Reg. 14120
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: Nonsubstantive technical changes were made. In Section 259.350(d), added a new parameter:  
  
"CEC                      Cation exchange capacity                      see Appendix F"
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Retail agrichemical facilities conducting remediation activities of soil or groundwater contamination from fertilizer releases may opt to request a written approval from the Department of Agriculture for the voluntary site assessment and corrective action. The owner or operator of the facility can apply for Department review and approval for plans and reports detailing the scope and implementation of the environmental response actions. Upon successful completion of the fertilizer release cleanup and remediation, the Department shall issue a notice of closure indicating that site specific cleanup objectives have been met and no further remedial action is required to remedy the fertilizer release pursuant to the Illinois Pesticide Act [415 ILCS 60/19.3].
- 16) Information and questions regarding these adopted amendments shall be directed to:

Warren D. Goetsch, P.E.  
Illinois Department of Agriculture  
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DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

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CHAPTER I: DEPARTMENT OF AGRICULTURE  
SUBCHAPTER i: PESTICIDE CONTROL

## PART 259

## AGRICHEMICAL FACILITY RESPONSE ACTION PROGRAM

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AUTHORITY: Authorized by Section 19.3 of the Illinois Pesticide Act [415 ILCS 60/19.3].

SOURCE: Adopted at 26 Ill. Reg. 1647, effective February 1, 2002; amended at 32 Ill. Reg. 1308, effective January 21, 2008.

## SUBPART A: GENERAL

**Section 259.110 Purpose**

- a) *It is the policy of the State of Illinois that an Agrichemical Facility Response Action Program be implemented to reduce potential agrichemical~~pesticide~~ pollution and minimize environmental degradation risk potential at the sites [415 ILCS 60/19.3a].*
- b) The purposes of this Part are to:
  - 1) establish minimum default soil cleanup objectives for possible remediation

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of an agrichemical facility;

- 2) establish procedures for developing appropriate site-specific soil cleanup objectives;
- 3) provide general guidance on procedures for voluntary site assessments to assess the threat of groundwater contamination; and
- 4) establish procedures for the review and approval of voluntary corrective action plans and issuance of a notice of closure upon successful completion of corrective actions.

(Source: Amended at 32 Ill. Reg. 1308, effective January 21, 2008)

**Section 259.120 Applicability**

- a) This Part applies to the owner or operator of an agrichemical facility who voluntarily requests approval of corrective action plans to remediate past **agr**ichemical**pesticide** contamination.
  - 1) An owner or operator who elects to participate in the Agrichemical Facility Response Action Program shall determine if soil or groundwater at an agrichemical facility contains **agr**ichemicals**pesticides** at concentrations requiring cleanup pursuant to Subpart B of this Part.
  - 2) An owner or operator who elects to participate in the Program shall conduct a site assessment to identify any **agr**ichemical**pesticide** contamination of soil or groundwater and to develop sufficient information regarding the extent of any contamination to guide decisions about corrective actions pursuant to Subpart C of this Part.
  - 3) If soil or groundwater at an agrichemical facility contains **agr**ichemicals**pesticides** at concentrations requiring cleanup pursuant to Subpart B of this Part, an owner or operator who elects to participate in the Program, shall submit a corrective action plan for review by the Department and final approval by the Board pursuant to Subpart D of this Part.
- b) Nothing in this Part limits the authority of the Illinois Environmental Protection

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Agency to provide notice of potential liability and need to conduct response actions or remedial activities or the release or threatened release of a regulated substance under Section 58.9(b) or Section 4(q) of the Illinois Environmental Protection Act [415 ILCS 5/~~58.9(b) or 4(q)~~], to provide notice of apparent violations of the Environmental Protection Act, related regulations and/or permits pursuant to Section 31 of the Environmental Protection Act, to make enforcement referrals regarding apparent violations of the Environmental Protection Act, related regulations and/or permits pursuant to Section 42 or 43 of the Environmental Protection Act, or to undertake investigative, preventive or corrective action under any other applicable provisions of the Illinois Environmental Protection Act.

- c) This Part does not apply to facilities at which the contaminated soils exhibit a characteristic of hazardous waste as defined in 35 Ill. Adm. Code 721.120 through 124.

(Source: Amended at 32 Ill. Reg. 1308, effective January 21, 2008)

**Section 259.140 Definitions**

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition of the words or terms in this Part shall be the same as that applied to the same words or terms in the Act.

"Act" means the Illinois Pesticide Act [415 ILCS 60].

"Agency" means the Illinois Environmental Protection Agency.

"Agrichemical" means pesticides or commercial fertilizers at an agrichemical facility. [415 ILCS 60/19.3]

"Agrichemical facility" means *a site where agricultural ~~agrichemicals~~pesticides are stored or handled, or both, in preparation for end use. The term does not include basic manufacturing facility sites or central distribution sites utilized only for wholesale purposes.* [415 ILCS 60/19.3]

"Agrichemical Facility Response Action Program" or "Program" means a voluntary environmental remediation program as set forth in Section 19.3 of the Act.

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"Applicant" means an owner, operator or duly authorized agent of an agrichemical facility submitting a request for approval of a corrective action plan.

"Board" or "Agrichemical Facility Response Action Program Board" means the board set forth in Section 19.3 of the Act.

"Class I groundwater" means potable resource groundwater as described in 35 Ill. Adm. Code 620.210.

"Class II groundwater" means general resource groundwater as described in 35 Ill. Adm. Code 620.220.

"Class III groundwater" means special resource groundwater as described in 35 Ill. Adm. Code 620.230.

"Commercial fertilizer" means a substance containing one or more recognized plant nutrients that is used for its plant nutrient content or that is designated for use or claimed to have value in promoting plant growth, including, but not limited to, nitrogen-containing compounds.

"Department" means the Illinois Department of Agriculture.

"Detection" means the identification of any ~~agr~~ ~~ichemical~~ ~~pesticide~~ or pesticide residue in a sample at a value equal to or greater than the:

"Method Detection Limit" or "MDL", which means the minimum concentration of a substance that can be measured as reported with 99% percent confidence that the true value is greater than zero, pursuant to 40 CFR 136, Appendix B (1997); or

"Method Quantitation Limit" or "MQL", which means the minimum concentration of a substance that can be measured and reported pursuant to "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods, SW-846" or "Methods for the Determination of Organic Compounds in Drinking Water, Supplement III of 1995".

"Duly authorized agent" means a person who is authorized by written consent or by law to act on behalf of an owner or operator including, but not limited to: for

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corporations, a principal executive officer of at least the level of vice president; or, for a sole proprietorship or partnership, the proprietor or a general partner.

"Groundwater" means groundwater as defined in Section 3 of the Illinois Groundwater Protection Act [415 ILCS 55/3].

"Groundwater quality standards" means the standards for groundwater set forth in 35 Ill. Adm. Code 620.

"Health advisory level" means a human threshold toxicant advisory concentration, as set forth in 35 Ill. Adm. Code 620, Subpart F.

"Licensed professional geologist" means a person who has a current license pursuant to the Professional Geologist Licensing Act of 1996 [225 ILCS 745].

"Licensed industrial hygienist" means a person who has a current license pursuant to the Industrial Hygienists Licensing Act of 1993 [225 ILCS 52].

"Notice of closure" means a written statement issued by the Department indicating that no further action is required to remedy the past ~~agricultural~~ ~~pesticide~~ contamination at an agricultural facility.

"Operator" means the person responsible for the operation and maintenance of an agricultural facility.

"Owner" means the person who holds legal interest, liability or claim to the real property of an agricultural facility.

"Pesticide" means *any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant* [415 ILCS 60/4.29].

"Professional engineer" means a person who has a current license pursuant to the Professional Engineering Practice Act of 1989 [225 ILCS 325].

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of ~~agricultural~~ ~~pesticides~~ into the environment, but excludes application of

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~~agricultural~~~~pesticides~~ at agronomic rates under regulations established by the Department in accordance with the Act.

"Remediation suitability determination level" or "RSDL" means the concentration of a pesticide residue in soil that represents a level below which the Department considers the remediation media to be suitable for land application pursuant to 8 Ill. Adm. Code 258.

"Soil cleanup objective" or "SCO" means the concentration of any ~~agricultural~~~~pesticide~~ in soil below which there is a minimal risk that the ~~agricultural~~~~pesticide~~ will move from soil to groundwater and cause an exceedence of a Class I, Class II or Class III groundwater quality standard or a health advisory level.

"Target pesticide" means any pesticide that can reasonably be expected by persons conducting a site assessment to be present at an agricultural facility on the basis of past and current storage or mixing and loading of the pesticide at the site.

(Source: Amended at 32 Ill. Reg. 1308, effective January 21, 2008)

**Section 259.150 Incorporation by Reference**

This Section incorporates the following material by reference. These incorporations by reference do not include any amendments or editions beyond the dates specified.

[Roy, W.R. and I.G. Krapac, Potential Soil Cleanup Objectives for Nitrogen-Containing Fertilizers at Agricultural Facilities, Soil and Sediment Contamination, 15:241-251, 2006.](#)

NTIS. National Technical Information Service, 5285 Port Royal Road, Springfield VA 22161, (703) 487-4600.

"A Compendium of Superfund Field Operations Methods", EPA Publication No. EPA/540/0-87-001, OSWER Directive 9355.0-14 (December 1987).

"Methods for the Determination of Organic Compounds in Drinking Water, Supplement III", EPA Publication No. EPA/600/R-95/131 (August

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1995).

"Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods", EPA Publication No. SW-846 (Third Edition, April 1998), as amended by Updates I, IIA, III and IIIA.

"Soil Screening Guidance: Technical Background Document", EPA Publication No. EPA/540/R-95/128, PB96-963502 (May 1996).

"Soil Screening Guidance: User's Guide", EPA Publication No. EPA/540/R-96/018, PB96-963505 (April 1996).

"Subsurface Characterization and Monitoring Techniques: A Desk Reference Guide, Volume I: Solids and Ground Water, Appendices A and B", EPA Publication No. EPA/625/R-93/003a (May 1993).

"Subsurface Characterization and Monitoring Techniques: A Desk Reference Guide, Volume II: The Vadose Zone, Field Screening and Analytical Methods, Appendices C and D", EPA Publication No. EPA/625/R-93/003b (May 1993).

(Source: Amended at 32 Ill. Reg. 1308, effective January 21, 2008)

## SUBPART B: SOIL AND GROUNDWATER CLEANUP OBJECTIVES

**Section 259.210 ~~General Soil Cleanup Objectives~~**

An owner or operator of an agrichemical facility who elects to participate in the Agrichemical Facility Response Action Program shall use the criteria in this Subpart to determine if soil at an agrichemical facility contains ~~agrichemicals~~~~pesticides~~ at concentrations that represent a significant environmental risk that must be managed under hazardous waste regulations, has ~~agrichemical~~~~pesticide~~ concentrations of moderate concern that may be managed under more flexible regulations, or has ~~agrichemical~~~~pesticide~~ concentrations that are below regulatory concern.

- a) ~~If the pesticide concentrations in soil are equal to or greater than the remediation suitability determination levels in Appendix A of this Part, the soil is considered a high risk to cause an exceedence of a Class I or Class III groundwater quality standard or a health advisory level and is also considered to contain a hazardous~~

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~~constituent, subject to all applicable hazardous waste management requirements and restrictions (35 Ill. Adm. Code: Subtitle G: Chapter I: Subchapter c), and not suitable for land application pursuant to 8 Ill. Adm. Code 258.~~

- b) ~~Notwithstanding the requirements of subsection (a) of this Section, applicants may demonstrate that the contaminated soils may be safely land applied pursuant to 8 Ill. Adm. Code 258.150.~~
- e) ~~If the pesticide concentrations in soil are less than the remediation suitability determination levels in Appendix A of this Part, but are equal to or greater than the default soil cleanup objectives in Appendix B of this Part, the soil is considered a moderate risk to cause an exceedence of a groundwater quality standard or a health advisory level, and a corrective action plan to remediate the past contamination may be submitted to the Department and the Board for review. The soil may be suitable for the land application treatment program pursuant to 8 Ill. Adm. Code 258.~~
- d) ~~If the pesticide concentrations in soil are less than the default SCOs in Appendix B of this Part, the pesticide concentrations are considered below regulatory concern and the facility may apply for a notice of closure in accordance with Subpart E of this Part.~~
- e) ~~If the pesticide concentrations are less than the remediation suitability determination levels in Appendix A of this Part, but equal to or greater than the default SCOs in Appendix B of this Part, the applicant may undertake a detailed site assessment as described in Section 259.340 of this Part to develop the information necessary to propose site specific SCOs, using the equations in Section 259.350(a) of this Part. All site specific cleanup objectives are subject to Board approval.~~
- f) ~~Pesticide concentrations in soils proposed to remain in place at the conclusion of corrective actions may not exceed the default SCOs in Appendix B of this Part, unless appropriate engineering barriers, in conjunction with necessary institutional controls, are approved as part of a corrective action plan.~~
- g) ~~If soil samples at a facility contain pesticides for which default SCOs are not listed in Appendix B of this Part, the applicant shallshould consult with the Department to develop an appropriate SCO.~~

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(Source: Amended at 32 Ill. Reg. 1308, effective January 21, 2008)

**Section 259.220** ~~Pesticides~~ ~~Groundwater Cleanup Objectives~~

- a) If the pesticide concentrations in soil are equal to or greater than the remediation suitability determination levels in Appendix A of this Part, the soil is considered a high risk to cause an exceedence of a Class I or Class III groundwater quality standard or a health advisory level and is also considered to contain a hazardous constituent, subject to all applicable hazardous waste management requirements and restrictions (35 Ill. Adm. Code: Subtitle G: Chapter I: Subchapter c), and not suitable for land application pursuant to 8 Ill. Adm. Code 258.
- b) Notwithstanding the requirements of subsection (a) of this Section, applicants may demonstrate that the contaminated soils may be safely land applied pursuant to 8 Ill. Adm. Code 258.150.
- c) If the pesticide concentrations in soil are less than the remediation suitability determination levels in Appendix A of this Part, but are equal to or greater than the default soil cleanup objectives in Appendix B, the soil is considered a moderate risk to cause an exceedence of a groundwater quality standard or a health advisory level, and a corrective action plan to remediate the past contamination may be submitted to the Department and the Board for review. The soil may be suitable for the land application treatment program pursuant to 8 Ill. Adm. Code 258.
- d) If the pesticide concentrations in soil are less than the default SCOs in Appendix B of this Part, the pesticide concentrations are considered below regulatory concern and the facility may apply for a notice of closure in accordance with Subpart E.
- e) If the pesticide concentrations are less than the remediation suitability determination levels in Appendix A, but equal to or greater than the default SCOs in Appendix B, the applicant may undertake a detailed site assessment as described in Section 259.340 to develop the information necessary to propose site-specific SCOs, using the equations in Section 259.350(a). All site-specific cleanup objectives are subject to Board approval.
- f) Pesticide concentrations in soils proposed to remain in place at the conclusion of corrective actions may not exceed the default SCOs in Appendix B, unless

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appropriate engineering barriers, in conjunction with necessary institutional controls, are approved as part of a corrective action plan.

- g) If soil samples at a facility contain pesticides for which default SCOs are not listed in Appendix B, the applicant shall consult with the Department to develop an appropriate SCO.
- h) The default SCOs for pesticides for surface soils in Appendix B apply to the upper 12 inches of the soil and any soil/gravel mixture within 12 inches of land surface. The subsurface SCOs for pesticides apply from 12 inches below land surface to 60 inches below land surface.
- i) Default surface SCOs for pesticides are calculated using the equations in Section 259.350(a) and an organic carbon content ( $f_{oc}$ ) of 0.008. The subsurface SCOs for pesticides are calculated using an  $f_{oc}$  of 0.002. If pesticides are present in soil at depths greater than 60 inches below land surface, the applicant shall measure the  $f_{oc}$  of at least 2 soil samples representative of the interval between 60 inches and the maximum depth at which pesticides are present in each boring within the area of contaminated soil. The variable  $f_{oc}$  may not be measured in soil samples with visible evidence of pesticide contamination. The measured  $f_{oc}$  shall be used in the equation in Section 259.350(a) to calculate the soil cleanup objective for contaminated soil below a depth of 60 inches.
- ~~a) The groundwater cleanup objectives for Class I and Class II groundwater are listed in Appendix C of this Part.~~
- ~~b) The applicant may use the Class II groundwater cleanup objectives in Appendix C of this Part to calculate a site specific SCO using the equations in Section 259.350 of this Part, if adequately demonstrated during an initial site assessment, final assessment or a detailed site assessment that the uppermost 15 feet of groundwater underlying the contaminated area is classified as Class II groundwater. If this cannot be demonstrated, the Class I groundwater objective must be used.~~
- ~~e) If groundwater samples from a facility contain pesticides for which groundwater cleanup objectives are not listed in Appendix C of this Part, the applicant should contact the Department for a determination of the groundwater objective.~~

(Source: Amended at 32 Ill. Re g. 1308, effective January 21, 2008)

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**Section 259.230 Nitrate and Ammonium**

- a) If the nitrate or ammonium concentrations in soil are equal to or greater than the default soil cleanup objectives in Appendix C of this Part, the soil is considered a moderate risk to cause an exceedence of a groundwater quality standard or a health advisory level, and a corrective action plan to remediate the past contamination may be submitted to the Department and the Board for review. The soil may be suitable for the land application treatment program under 8 Ill. Adm. Code 258.
- b) If the nitrate or ammonium concentrations in soil are less than the default SCOs in Appendix C of this Part, the nitrate or ammonium concentrations are considered below regulatory concern and the facility may apply for a notice of closure in accordance with Subpart E of this Part.
- c) If the nitrate or ammonium concentrations are equal to or greater than the default SCOs in Appendix C of this Part, the applicant may undertake a detailed site assessment as described in Section 259.340 of this Part to develop the information necessary to propose site-specific SCOs, using the equations in Section 259.350(b) and (c) of this Part. All site-specific cleanup objectives are subject to Board approval.
- d) Nitrate or ammonium concentrations in soils proposed to remain in place at the conclusion of corrective actions shall not exceed the default SCOs in Appendix C of this Part, unless appropriate engineering barriers, in conjunction with necessary institutional controls, are approved as part of a corrective action plan.
- e) The default SCOs for nitrate as N in Appendix C of this Part shall apply to unsaturated soil and soil/gravel mixtures of the site regardless of depth from land surface.
- f) The default SCOs for ammonium in Appendix C of this Part shall apply to the upper 12 inches of the soil and any soil/gravel mixture within 12 inches of land surface.
- g) If ammonium is present at concentrations greater than 100 mg/kg in unsaturated soil at depths greater than 12 inches below land surface, the applicant shall measure the cation exchange capacities (CEC) of at least 2 soil samples

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representative of the interval between 12 inches and the maximum depth at which ammonium is present in each boring within the area of contaminated soil. The measured CEC shall be used in the equation in Section 259.350(c) of this Part to calculate the soil cleanup objective for contaminated soil below a depth of 12 inches.

- h) Appendix F of this Part includes a list of Illinois soils and approximate CECs that shall be used with the table of default SCOs in Appendix C to calculate the SCO for a specific site.

(Source: Added at 32 Ill. Reg. 1308, effective January 21, 2008)

**Section 259.240 Groundwater Cleanup Objectives**

- a) The groundwater cleanup objectives for Class I and Class II groundwater are listed in Appendix D of this Part.
- b) The applicant may use the Class II groundwater cleanup objectives in Appendix D of this Part to calculate a site-specific SCO using the equations in Section 259.350 of this Part, if adequately demonstrated, during an initial, final or detailed site assessment, that the uppermost 15 feet of groundwater underlying the contaminated area is classified as Class II groundwater. If this cannot be demonstrated, the Class I groundwater objective shall be used.
- c) If groundwater samples from a facility contain pesticides for which groundwater cleanup objectives are not listed in Appendix C of this Part, the applicant should contact the Department for a determination of the groundwater objective.

(Source: Added at 32 Ill. Reg. 1308, effective January 21, 2008)

## SUBPART C: SITE ASSESSMENT

**Section 259.310 General**

An owner or operator who elects to participate in the Agrichemical Facility Response Action Program shall conduct site assessments pursuant to this Subpart. The purposes of the site assessment are to identify any agrichemical~~pesticide~~ contamination of soil or groundwater and to develop sufficient information regarding the extent of any contamination to guide decisions about corrective actions. The findings, opinions and conclusions of the site assessment shall~~must~~

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be supported by adequate documentation. All site assessment activities ~~shall~~ **must** be conducted by or under the supervision of a licensed professional geologist, professional engineer or licensed industrial hygienist. An applicant may request the Department's assistance in investigating suspected site contamination.

- a) The results of the initial assessment pursuant to Section 259.320 of this Part and plans to conduct sampling and analyses ~~shall~~ **must** be submitted to the Department and the Board for review. The results of the final site assessment pursuant to Section 259.330 of this Part ~~shall~~ **must** also be submitted. Both phases may be conducted and the combined results submitted for review. Based on the results of the initial site assessment, the Department may recommend the addition or deletion of compounds from the list of target pesticides and recommend collection and analyses of groundwater samples.
- b) All field and laboratory activities ~~shall~~ **must** satisfy the following to ensure that all data are scientifically valid and of known precision and accuracy:
  - 1) All field sampling activities relative to sample collection, documentation, preparation, labeling, storage, shipment and security, quality assurance and quality control, acceptance criteria, corrective action, and decontamination procedures ~~shall~~ **must** be conducted in accordance with "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW-846), Vol. One, Ch. One (Quality Control) and Vol. Two (Field Manual), incorporated by reference at Section 259.150 of this Part. If approved by the Department, such activities also may be conducted in accordance with ASTM standards; methods identified in "A Compendium of Superfund Field Operations Methods" (EPA/540/0-87-001, OSWER Directive 9355.0-14, December 1987), "Subsurface Characterization and Monitoring Techniques: A Desk Reference Guide, Volume I: Solids and Ground Water, Appendices A and B" (EPA/625/R-93/003a, May 1993), or "Subsurface Characterization and Monitoring Techniques: A Desk Reference Guide, Volume II: The Vadose Zone, Field Screening and Analytical Methods, Appendices C and D" (EPA/625/R-93/003b, May 1993); or other procedures.
  - 2) All field measurement activities relative to equipment and instrument operation, calibration and maintenance, corrective action, and data handling ~~shall~~ **must** be conducted in accordance with SW-846, or with an equipment or instrument manufacturer's or vendor's published standard

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operating procedures.

- 3) All laboratory quantitative analyses of soil samples to determine concentrations of ~~agrichemicals shall~~ pesticides ~~must~~ be conducted fully in accordance with SW-846, relative to all facilities, equipment and instrumentation, operating procedures, sample management, test methods, equipment calibration and maintenance, quality assurance and quality control, corrective action, data reduction and validation, reporting, and records management. The practical quantitation limit (PQL) of the test methods selected ~~shall~~ must be less than or equal to the default SCO contained in Appendix B of this Part, or, if site-specific cleanup objectives have been determined, the PQL ~~shall~~ must be less than or equal to the site-specific SCOs for the site.
- 4) All field or laboratory measurements of samples to determine physical or geochemical characteristics ~~shall~~ must be conducted in accordance with ASTM standards or other procedures as approved by the Department.
- 5) All laboratory quantitative analyses of soil samples to determine concentrations of any regulated substances or ~~agrichemicals pesticides~~ that require more sensitive detection limits or cannot be analyzed by standard methods identified in SW-846 ~~shall~~ must be conducted in accordance with analytical protocols developed in consultation with and approved by the Department.
- 6) All groundwater monitoring and analytical procedures ~~shall~~ must be conducted in accordance with 35 Ill. Adm. Code 620.505 and 620.510.
- 7) ~~All Effective July 1, 2002, all~~ quantitative analyses of soil and groundwater samples ~~collected on or after that date and~~ utilizing any of the approved test methods identified in 35 Ill. Adm. Code 186.180 shall be completed by an accredited laboratory in accordance with the requirements of 35 Ill. Adm. Code 186. Quantitative analyses not utilizing an accredited laboratory in accordance with Part 186 shall be deemed invalid.

(Source: Amended at 32 Ill. Reg. 1308, effective January 21, 2008)

**Section 259.320 Initial Assessment**

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a) The purpose of the initial site assessment is to develop an appropriate sampling and analysis plan based on the environmental conditions at the agrichemical facility. The specific objectives of the initial site assessment are to identify the following:

- 1) target pesticides,
- 2) locations of potable water supply wells,
- 3) the classification of the groundwater underlying the site,
- 4) soil and hydrogeologic conditions based on available information,
- 5) areas that may be locations of past ~~agricultural~~pesticide contamination, and
- 6) whether the facility is located within a delineated well head protection area, the minimum or designated maximum setback zone, or ~~within~~ a regulated recharge area of a potable water supply well.

b) The initial site assessment ~~shall~~must provide the following:

1) a listing of target pesticides, which ~~shall~~must include all pesticides known or suspected to have been released, on the basis of interviews with the owner and operator and a site investigation by or under the supervision of a licensed professional geologist, professional engineer or licensed industrial hygienist.

A) Unless affirmatively demonstrated that a pesticide has not been stored, mixed or loaded on the site, all pesticides listed in this subsection (b)(1)(A) shall~~below~~ must be considered target pesticides.

acetochlor	carbofuran	simazine
alachlor	2,4-D	terbufos
atrazine	metolachlor	trifluralin
butylate	metribuzin	
chlorpyrifos	pendimethalin	

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- B) An applicant may elect to limit the agricultural pesticides, media (soil or groundwater) or area included in a site assessment. If the site assessment is limited in any way, the notice of closure shall be limited to the agricultural pesticides, media or area included in the site assessment and any corrective actions;
- 2) facility site maps, at a scale no larger than 1 inch equals 200 feet, of sufficient detail and accuracy to show all of the following:
- A) areas of the site that involve the storage or mixing and loading of agricultural pesticides,
- B) site structures or buildings,
- C) roads or driveways and parking facilities,
- D) the location of the potable water supply for the site and any groundwater monitoring wells on the site, and
- E) the map scale (graphic and nominal), north arrow, date, name and address of preparer, and location of the site with respect to section, township, range, and principal meridian;
- 3) a map, at a scale no larger than 1 inch equals 400 feet, that shows the facility boundaries and all of the following:
- A) land uses (e.g., residential, commercial/industrial, agricultural and conservation property) within 200 feet of the site boundaries,
- B) any potable water supply wells within 200 feet of the site boundaries, and
- C) the map scale (graphic and nominal), north arrow, date, name and address of preparer, and location of the site with respect to section, township, range, and principal meridian;
- 4) a soil survey map of the site and the surrounding area within 200 feet of the site and soil interpretation for each soil series identified on the site or within 200 feet of the site for:

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- A) soil physical and chemical properties,
  - B) engineering index properties, and
  - C) soil and water features;
- 5) copies of lithologic and construction logs for any monitoring well or potable water supply well on or within 200 feet of the site. If copies are not available, the applicant shall provide:
- A) an explanation as to why such data could not be obtained;
  - B) estimations of the diameter and total depth of each well, the screened interval of each well and the depth to water in each well, and how those values were determined; and
  - C) an estimation of the geologic conditions at each well site;
- 6) U.S. Geological Survey 7.5 minute topographic map showing the location of the facility, any community water supply wells within 2,500 feet of the site boundaries and the boundaries of any delineated well head protection area, the minimum or designated maximum setback zone or regulated recharge area for a community water supply well;
- 7) any pertinent reports containing hydrologic or geologic information by the Illinois State Water Survey, Illinois State Geological Survey or U.S. Geological Survey;
- 8) copies of prior site assessments and any pending, threatened or past litigation, administrative actions or notices from government entities regarding the storage or disposal of pesticides at the site; and
- 9) a detailed sampling and analysis plan including the following:
- A) proposed number and location of soil samples,
  - B) total sampling depth and sampling depth intervals for soil samples,

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- C) locations and construction details for any proposed monitoring wells and any existing monitoring wells or water supply wells proposed for groundwater sampling,
- D) list of analytes, analytical methods and expected detection limits in soil and water, and
- E) quality assurance project plans for field and laboratory activities.

(Source: Amended at 32 Ill. Reg. 1308, effective January 21, 2008)

**Section 259.330 Final Assessment**

- a) The purposes of the final assessment are to execute the sampling and analysis plan for the soil and/or groundwater at the site and determine the locations of the ~~agricultural~~~~pesticide~~ concentrations that are:
  - 1) greater than or equal to the RSDLs,
  - 2) greater than or equal to the SCOs, and
  - 3) below the RSDLs and SCOs.
- b) The final site assessment ~~shall~~~~must~~ provide:
  - 1) results of laboratory analyses or field screening measurements of ~~agricultural~~~~pesticide~~ concentrations in soil and groundwater, including quality control samples;
  - 2) facility site maps, at a scale no larger than 1 inch equals 200 feet, of sufficient detail and accuracy to show all of the following:
    - A) the locations of all soil samples, keyed to a table of analytical results,
    - B) the locations of any monitoring or water supply wells sampled, keyed to a table of analytical results,
    - C) the direction and rate of movement of ~~agricultural~~~~pesticides~~ in

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groundwater, if known,

- D) areas of the site that involve the storage or mixing and loading of ~~agrichemicals~~pesticides,
  - E) site structures or buildings,
  - F) roads or driveways and parking facilities,
  - G) the location of the potable water supply for the site and any groundwater monitoring wells on the site, and
  - H) the map scale (graphic and nominal), north arrow, date, name and address of preparer, and location of the site with respect to section, township, range, and principal meridian;
- 3) characterization of significant physical features of the facility and vicinity that may affect ~~agrichemical~~pesticide fate and transport and risk to potable wells and Class I, Class II or Class III groundwater.
- c) The applicant shall inform the Department of the schedule for conducting the final site assessment to allow representatives of the Department to observe assessment activities.

(Source: Amended at 32 Ill. Reg. 1308, effective January 21, 2008)

### **Section 259.340 Detailed Assessment for Development of Site-Specific Soil Cleanup Objectives**

The purpose of the detailed assessment for site-specific SCOs is to provide the information necessary for the calculation of site-specific SCOs based on the site physical properties. The detailed assessment is optional and is only required when an applicant proposes corrective actions based on site-specific SCOs, instead of reliance on the default SCOs of Appendix B ~~and~~ Appendix C of this Part.

- a) To determine site-specific physical soil and hydrogeologic parameters, a minimum of one boring per 0.5 acre of contaminated soil area ~~shall~~must be collected. This boring ~~shall~~must be deep enough to allow the collection of the required field measurements. The soil taken from the borings ~~shall~~must be

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visually inspected to ensure there are no significant differences in the stratigraphy. If there are similar soil types, one boring may be used to determine the site-specific physical soil parameters. If there are significant differences, all of the borings ~~shall~~ **must** be evaluated before determining the site-specific soil parameters for the site. The site-specific physical parameters ~~shall~~ **must** be determined from the portion of the boring representing the stratigraphic units being evaluated. In general, two samples from the boring ~~shall~~ **will** be required:

- 1) a sample of the predominant soil type in the unsaturated zone, and
  - 2) a sample of the predominant geologic unit in the saturated zone.
- b) Not all of the parameters identified in ~~the equations~~ **Equation 4** in Section 259.350(a) of this Part ~~shall~~ **must** be determined on a site-specific basis. An applicant may collect partial site-specific information and use default values for the other parameters. Applicants should consider measuring the organic carbon content in all soil samples that have been collected to analyze for pesticide concentrations because the product of the Equation in Section 259.350(a) of this Part is most sensitive to the organic carbon content. The variable  $f_{oc}$  may not be measured in soils with visible evidence of pesticide contamination.
- c) A site-specific groundwater dilution factor (**DF**) (used in developing SCOs based upon the protection of groundwater) may be determined by substituting site information in ~~the equation~~ **Equation 3** in Section ~~259.350(a)(1)~~ **259.350(e)** of this Part. A groundwater recharge rate (R in the ~~equation~~ **Equation** in Section ~~259.350(a)(2)~~ **259.350(e)** of this Part) less than 0.15 m/yr may not be used unless it is demonstrated through on-site testing of hydraulic properties that the saturated hydraulic conductivity of the geologic material in which a Class II groundwater occurs or of the geologic material overlying a Class I or III groundwater is smaller than  $1 \times 10^{-6}$  cm/sec. The mixing zone depth (d in the ~~equation~~ **Equation** in Section ~~259.350(a)(2)~~ **259.350(e)** of this Part) is the mean thickness of the geologic unit in which the Class I, II or III groundwater is present. A mixing zone depth larger than 6.5 meters may not be used in calculating a site-specific dilution factor.
- d) In addition to the parameters in the ~~equation~~ **Equation** in Section ~~259.350(a)(2)~~ **259.350(e)** of this Part, the following information on hydrogeologic conditions beneath the site ~~shall~~ **must** be determined:
- 1) mean depth to water table,

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- 2) mean depth to uppermost Class I, Class II or Class III groundwater,
  - 3) mean thickness of uppermost Class I, Class II or Class III groundwater, and
  - 4) groundwater flow direction.
- e) The applicant shall inform the Department of the schedule for conducting the final site assessment to allow representatives of the Department to conduct a site visit and observe assessment activities.

(Source: Amended at 32 Ill. Reg. 1308, effective January 21, 2008)

### Section 259.350 Equations for Calculating Site-Specific Soil Cleanup Objectives

- a) Site-specific soil cleanup objectives **for pesticides** are determined by the following equation:

$$SCO = C_w \left[ (K_{oc} \times f_{oc}) + \frac{(q_w + (q_a \times H'))}{P_b} \right]$$

Where:

SCO	=	soil cleanup objective (mg/kg)
C <sub>w</sub>	=	target soil leachate concentration (mg/L)
K <sub>oc</sub>	=	organic carbon partition coefficient (L/kg)
f <sub>oc</sub>	=	organic carbon content of soil (kg/kg)
T <sub>w</sub>	=	water-filled soil porosity (L <sub>water</sub> /L <sub>soil</sub> )
T <sub>a</sub>	=	air-filled soil porosity (L <sub>air</sub> /L <sub>soil</sub> )
H'	=	Henry's law constant (dimensionless)
ρ <sub>b</sub>	=	dry soil bulk density (kg/L)

References:

"Soil Screening Guidance: User's Guide", [April 1996](#), p. 29, eq. 10.

"Soil Screening Guidance: Technical Background Document", [May 1996](#), p. 37, eq. 24.

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- 1b) The target soil leachate concentration can be determined by the following equation:

$$C_w = DF \times GW_{obj}$$

Where:

$C_w$  = target soil leachate concentration (mg/L)  
 DF = groundwater dilution factor (dimensionless)  
 $GW_{obj}$  = groundwater cleanup objective (mg/L)

- 2e) The dilution factor can be determined by the following equation:

$$DF = 1 + \frac{K \times i \times d \times W}{R \times L \times W}$$

Where:

DF = groundwater dilution factor (unitless)  
 K = aquifer hydraulic conductivity (m/yr)  
 i = hydraulic gradient (m/m)  
 d = mixing zone depth (m)  
 R = groundwater recharge rate (m/yr)  
 L = length of contaminated soil parallel to groundwater flow (m)  
 W = width of contaminated soil perpendicular to groundwater flow (m)

- b) Site-specific soil cleanup objectives for nitrate as nitrogen can be determined by the following equation:

$$\underline{SCO(mg / kg) = 0.125(L / kg)C_w(mg / L)}$$

Where:

L ≡ Liter  
C<sub>w</sub> ≡ Target soil leachate concentration (mg/L)

- c) Site-specific soil cleanup objectives for ammonium can be determined by the

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following empirical equation:

$$SCO = 0.36(CEC)^3 + 8.93(CEC)^2 + 143(CEC) + 103$$

Where:

CEC  $\equiv$  cation exchange capacity (meq/100g)

Reference:

Potential Soil Cleanup Objectives for Nitrogen-Containing Fertilizers at Agrichemical Facilities, Soil and Sediment Contamination.

- d) The default values for the equations in subsections (a) and (b) of this Section are:

Parameter	Description	Default Value
DF	Groundwater dilution factor	30 (dimensionless)
f <sub>oc</sub>	Organic carbon content of soil	0.008 kg/kg (0.8%) surface or 0.002 kg/kg (0.2%) subsurface (see note below)
T <sub>a</sub>	Air-filled soil porosity	0.2 (20%) L <sub>air</sub> /L <sub>soil</sub>
T <sub>w</sub>	Water-filled soil porosity	0.2 (20%) L <sub>water</sub> /L <sub>soil</sub>
? <sub>b</sub>	Dry soil bulk density	1.6 kg/L
H'	Henry's law constant	see Appendix <u>ED</u>
K <sub>oc</sub>	Organic carbon partition coefficient	see Appendix <u>ED</u>
GW <sub>obj</sub>	Groundwater cleanup objective	see Appendix <u>DC</u>
<u>CEC</u>	<u>Cation exchange capacity</u>	<u>see Appendix F</u>

~~NOTE: The default SCOs for surface soils in Appendix B of this Part apply to the upper 12 inches of the soil and any soil/gravel mixture within 12 inches of land~~

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~~surface. Default surface SCOs are calculated using the Equation in subsection (a) of this Section and an organic carbon content ( $f_{oc}$ ) of 0.008. The subsurface SCOs apply from 12 inches below land surface to 60 inches below land surface. They are calculated using an  $f_{oc}$  of 0.002. If pesticides are present in soil at depths greater than 60 inches below land surface, the applicant shall measure the  $f_{oc}$  of at least 2 soil samples representative of the interval between 60 inches and the maximum depth at which pesticides are present in each boring within the area of contaminated soil. The variable  $f_{oc}$  may not be measured in soil samples with visible evidence of pesticide contamination. The measured  $f_{oc}$  must be used in the Equation in subsection (a) of this Section to calculate the soil cleanup objective for contaminated soil below a depth of 60 inches.~~

(Source: Amended at 32 Ill. Reg. 1308, effective January 21, 2008)

SUBPART D: APPLICATION FOR REVIEW AND  
APPROVAL OF CORRECTIVE ACTION PLANS**Section 259.420 Submittal**

The Agrichemical Facility Response Action Program application ~~shall~~**must** be submitted to the Department on forms prescribed and provided by the Department with attachments, plans, and reports, as necessary. The forms may be copied or combined, but ~~shall~~**must** contain original signatures. The application ~~shall~~**must** be mailed or hand-delivered to the address designated by the Department on the forms. Corrective action plans ~~shall~~**must** be prepared and implemented by or under the supervision of a licensed professional geologist, professional engineer, or licensed industrial hygienist.

(Source: Amended at 32 Ill. Reg. 1308, effective January 21, 2008)

**Section 259.430 Contents**

The application ~~shall~~**must**, at a minimum, contain the following information:

- a) the facility name, address and telephone number and the applicant's full legal name, address and telephone number, including any duly authorized agents of the applicant, any contact persons to whom correspondence ~~shall~~**must** be addressed, and the original signature of the applicant certifying the accuracy and completeness of the application;

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- b) the agrichemical facility site identification number, if any, and the approximate size of the site in acres, and copies of all Department and Agency permits and endorsements pertaining to the site that are currently held by the owner or operator;
- c) the results of any environmental site assessment conducted pursuant to Subpart C of this Part; and
- d) the corrective action plan, which ~~shall~~must include the following:
  - 1) a description of the scope of the problems to be addressed by the proposed action, including the specific ~~agrichemical~~target pesticides and the physical area to be addressed by the corrective action plan;
  - 2) a statement of remediation objectives and a description of the method used to determine the remediation objectives;
  - 3) a description and justification of the remediation methods selected and how each remediation method identified in the corrective action plan fits into the overall strategy for addressing the past ~~agrichemical~~pesticide contamination, including but not limited to:
    - A) feasibility of implementation; and
    - B) whether the methods will perform satisfactorily and reliably until the remediation objectives are achieved;
  - 4) the proposed schedule of cleanup activities;
  - 5) a description of any proposed engineered barriers or institutional controls necessary to achieve the remediation objectives, including long-term reliability, operation and maintenance requirements. For remediation of soil contamination, engineered barriers, in conjunction with institutional controls, may be used. The engineered barrier covering the contaminated soil ~~shall~~must consist of either caps constructed of compacted clay, asphalt, concrete or other material approved by the Department or permanent structures such as buildings;
  - 6) if technologies to remediate groundwater contamination are proposed, a

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description of post-remediation monitoring, including:

- A) purpose,
  - B) locations,
  - C) frequency, and
  - D) contingencies in the event of an exceedence of applicable groundwater quality standards or health advisory levels;
- 7) references and other informational sources included as appendices.

(Source: Amended at 32 Ill. Reg. 1308, effective January 21, 2008)

**Section 259.450 Agency Notification and Review**

The Department shall provide notice to the Agency when the results of any environmental site assessment indicate that **agriculturalpesticide** concentrations in Class I or Class III groundwater exceed any concentration level adopted as a standard pursuant to the Illinois Groundwater Protection Act or a health advisory level established by the Agency or the U.S. Environmental Protection Agency. If **agriculturalpesticide** contamination in Class I or Class III groundwater exceeds a groundwater quality standard or health advisory level, an applicant may elect to participate in the Agricultural Facility Response Action Program. In these instances, the scope of the corrective action plans developed, approved and completed under the Program shall be limited to the soil **agriculturalpesticide** contamination at the site unless implementation of the plan is coordinated, pursuant to Section 19.3(f) of the Act, as follows:

- a) Upon receipt of an application for approval of corrective action plans that include remediation of contaminated Class I or Class III groundwater, the Department shall notify the Agency and coordinate a joint review of the plan with the Agency.
- b) The Agency may provide a written endorsement of the corrective action plan.
- c) The Agency may approve a groundwater management zone for a period of 5 years after implementation of the corrective action plan to allow for groundwater impairment mitigation results.
- d) The Department, in cooperation with the Agency, shall recommend a proposed

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corrective action plan to the Board for final approval to proceed with groundwater remediation. The Agency shall have 60 days after the date of the notice by the Department to recommend approval, denial, or modification.

- e) The Department, in cooperation with the Agency, shall provide remedial project oversight, monitor remedial work progress, and report to the Board on the status of the remediation project.

(Source: Amended at 32 Ill. Reg. 1308, effective January 21, 2008)

## SUBPART E: NOTICE OF CLOSURE AND RECORDING REQUIREMENTS

**Section 259.510 General**

This Section provides for the issuance of a Notice of Closure following the satisfactory completion of corrective actions and submittal of a corrective action report.

- a) Upon completion of the activities described in the approved corrective action plan, the owner or operator shall submit a corrective action report to the Department. The report must provide adequate evidence to demonstrate that the actions were completed in accordance with the approved plan and that the cleanup objectives have been attained.
- b) The corrective action report ~~shall~~must provide the following:
  - 1) certification, by the facility owner and by the licensed professional geologist, professional engineer or licensed industrial hygienist who conducted the site assessments and supervised implementation of the corrective action plan, that all components of the approved corrective action plan were fully implemented;
  - 2) facility site maps, at a scale no larger than 1 inch equal to 200 feet, of sufficient detail and accuracy to show all of the following:
    - A) the boundaries of the facility;
    - B) any areas of the site from which ~~agricultural~~pesticide contaminated soils were removed;

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- C) any areas of the site on which an engineered barrier was installed;  
and
  - D) the map scale (graphic and nominal), north arrow, date, name and address of preparer, and location of the site with respect to section, township, range, and principal meridian;
- 3) a list of the ~~agrichemicals~~ ~~target pesticides~~ that were included in the soil or groundwater remediation activities;
  - 4) documentation of the volume of soil removed from the site and how the contaminated soil was disposed of;
  - 5) as-built drawings of any engineered barriers constructed to achieve the approved remediation objectives;
  - 6) copies of any documents describing institutional controls accompanying engineered barriers;
  - 7) if groundwater remediation activities were conducted, copies of all analytical results of groundwater monitoring to demonstrate that the approved groundwater cleanup objectives were attained; and
  - 8) the results of a final inspection by representatives of the Department or Board.

(Source: Amended at 32 Ill. Reg. 1308, effective January 21, 2008)

**Section 259.530 Contents**

A Notice of Closure shall state that cleanup objectives for the site have been met and no further remedial action is required to remedy the past ~~agrichemical~~ ~~pesticide~~ contamination, pursuant to Section 19.3 of the Act, and include the following:

- a) an acknowledgment that the requirements of the corrective action plan were satisfied;
- b) a copy of the corrective action report submitted pursuant to Section 259.510 of this Part;

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- c) a statement that the issuance of the Notice of Closure signifies a release from further responsibilities under the Act;
- d) if the remediation site includes a portion of a larger parcel of property or if the applicant has elected to limit either the area of soil or groundwater or the ~~agricultural~~pesticides to be remediated, or both, the Notice of Closure shall be limited accordingly by its terms;
- e) the prohibition against the use of any remediation site in a manner inconsistent with any institutional limitations without additional appropriate remedial activities;
- f) a description of any preventive, engineering, and institutional controls required in the approved corrective action plan and notification that failure to manage the controls in full compliance with the terms of the corrective action plan may result in avoidance of the Notice of Closure;
- g) the recording obligations and opportunity to request a change in any institutional controls pursuant to this Part; and
- h) if groundwater conditions were addressed during the site assessment or corrective action, the Agency and the Department may choose to include conditional requirements in accordance with the Illinois Groundwater Protection Act [415 ILCS 55] or the Groundwater Quality Standards (35 Ill. Adm. Code 620).

(Source: Amended at 32 Ill. Reg. 1308, effective January 21, 2008)

**Section 259.540 Duty to Record**

The applicant shall record the Notice of Closure with the Office of Recorder or the Registrar of Titles of the county within which the site is located within 30 days after receipt of the Notice of Closure. In addition, proof of recording of a closure report and Notice of Closure ~~shall~~must be submitted to the Department within 30 days after filing. Failure to provide proof of recording may lead to avoidance of a Notice of Closure.

(Source: Amended at 32 Ill. Reg. 1308, effective January 21, 2008)

**Section 259.550 Avoidance**

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- a) The Board may void a Notice of Closure for:
- 1) violation of any applicable institutional controls or land use restrictions;
  - 2) failure of the owner, operator, or any subsequent transferee to maintain any approved engineering barriers or institutional controls;
  - 3) disturbance or removal of contaminated soil that has been left in place in accordance with the corrective action plan;
  - 4) failure to comply with the recording requirements of this Part;
  - 5) obtaining the Notice of Closure by fraud or misrepresentation; and
  - 6) subsequent discovery of agricchemicals~~pesticides~~ not identified as part of the investigative or remedial activities upon which the issuance of the Notice of Closure was based.
- b) If the Board voids a Notice of Closure, it shall provide notice to the current title holder of the remediation site.
- 1) The notice shall specify the cause for the voidance and describe facts in support of that cause.
  - 2) The Department shall mail Notices of Voidance by registered or certified mail, date-stamped with return receipt requested.
  - 3) The Department shall submit the Notice of Voidance to the Office of the Recorder or the Registrar of Titles for the county in which the site is located. The notice shall be filed in accordance with Illinois law so that it forms a permanent part of the chain of title for the site.

(Source: Amended at 32 Ill. Reg. 1308, effective January 21, 2008)

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**Section 259.APPENDIX A Remediation Suitability Determination Levels of Pesticides Listed as Hazardous Constituents in 35 Ill. Adm. Code 721**

<u>Pesticide Name</u>	<u>CAS No.<sup>a</sup></u>	<u>Recommended Test Method<sup>b</sup></u>	<u>RSDL (mg/kg)<sup>c</sup></u>
aldicarb	116-06-3	8321	0.2
aldrin	309-00-2	8081	0.1
butylate	2008-41-5	8270	150
carbofuran	1563-66-2	8270	3
chlordane	57-74-9	8081	160
2,4-D	94-75-7	8151	6
4,4'-DDD	72-54-8	8081	130
4,4'-DDT	50-29-3	8081	380
dieldrin	60-57-1	8081	0.08
dimethoate	60-51-5	8141	0.07
dinoseb	88-85-7	8151	0.4
disulfoton	298-04-4	8141	0.5
endosulfan	115-29-7	8081	3400
endothall	145-73-3	8270	14
endrin	72-20-8	8081	27
EPTC	759-94-4	8270	57
heptachlor	76-44-8	8081	13
lindane	58-89-9	8081	0.4
methoxychlor	72-43-5	8151	4100
parathion, ethyl	56-38-2	8141	440
parathion, methyl	298-00-0	8141	15
phorate	298-02-2	8141	2
2,4,5-TP	93-72-1	8270	370
toxaphene	8001-35-2	8081	400

## Notes:

<sup>a</sup> Chemical Abstract Service (CAS)<sup>b</sup> USEPA Test Methods (SW-846)<sup>c</sup> Value using Class I groundwater objectives of Appendix [DE](#) and surface soil conditions

(Source: Amended at 32 Ill. Reg. 1308, effective January 21, 2008)

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**Section 259.APPENDIX B Default Soil Cleanup Objectives - Pesticides**

<u>Pesticide Name</u>	<u>CAS No.<sup>a</sup></u>	<u>Recommended Test Method<sup>b</sup></u>	<u>Subsurface (mg/kg)</u>	<u>Surface (mg/kg)</u>
acetochlor	34256-82-1	8151	0.12	0.9*
acifluorfen sodium	62476-59-9	8151	1.0	2.8
alachlor	15972-60-8	8081	0.02	1.7*
aldicarb	116-06-3	8321	0.02	0.03
aldrin	309-00-2	8081	0.01	0.02
atrazine	1912-24-9	8141	0.04	1.7*
bentazon sodium	50723-80-3	8151	1.2	2.6
bromacil	314-40-9	8321	3.3	5.2
bromoxynil (o)	1689-99-2	8270	2.1	6.9
butylate	2008-41-5	8270	7.7	27
carbofuran	1563-66-2	8270	0.3	0.6
chlordane	57-74-9	8081	7.2	29
chlorimuron-ethyl	90982-32-4	8081	1.3	3.6
chlorpyrifos	2921-88-2	8141	13	50
cyanazine	21725-46-2	8141	0.2	1.1*
2,4-D	94-75-7	8151	0.5	1.1
4,4'-DDD	72-54-8	8081	5.6	22
4,4'-DDE	72-55-9	8081	16	64
4,4'-DDT	50-29-3	8081	17	66
diazinon	333-41-5	8141	0.06	0.2
dicamba	1918-00-9	8151	1	1.4
dieldrin	60-57-1	8081	0.004	0.01
dimethoate	60-51-5	8141	0.01	0.01
dinoseb	88-85-7	8151	0.04	0.08
disulfoton	298-04-4	8141	0.02	0.2*
endosulfan	115-29-7	8081	150	600
endothall	145-73-3	8270	0.9	2.4
endrin	72-20-8	8081	1.2	5
EPTC	759-94-4	8270	3	10
glyphosate	1071-83-6	8321	91	350
HCH-alpha	319-84-6	8081	0.003	0.01
heptachlor	76-44-8	8081	0.6	2.3
heptachlor epoxide	1024-57-3	8081	0.9	3.8
lindane	58-89-9	8081	0.02	0.07

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linuron	330-55-2	8321	0.5	1.7
malathion	121-75-5	8141	11	41
methoxychlor	72-43-5	8151	180	730
metolachlor	51218-45-2	8151	8.3	22
metribuzin	21087-64-9	8270	1.2	2.8
parathion, ethyl	56-38-2	8141	19	77
parathion, methyl	298-00-0	8141	0.7	2.6
pendimethalin	40487-42-1	8091	230	900
permethrin	52645-53-1	8081	830	3300
phorate	298-02-2	8141	0.09	1.1*
simazine	122-34-9	8141	0.05	1.7*
2,4,5-TP	93-72-1	8270	17	65
terbufos	13071-79-9	8141	0.07	0.4*
toxaphene	8001-35-2	8081	18	72
trifluralin	1582-09-8	8091	23	100

## Notes:

<sup>a</sup> Chemical Abstract Service (CAS)

<sup>b</sup> USEPA Test Methods (SW-846)

\* Application Rate Equivalents (AREs) are based on USEPA-approved pesticide label rates for the specific pesticide active ingredient and conservative assumptions about soil properties. AREs only apply to the upper one foot of soil or soil/gravel mixture and are used as the SCO for the upper one foot of soil or soil/gravel mixture if the ARE is greater than the SCO value calculated using the Equation in Section 259.350(a) of this Part and less than the RSDL value.

The application rate equivalents can be determined using the equation below:

$$ARE(mg/kg) = Application_{rate}(lb/acre) \times \frac{acrefoot}{43560 ft^3} \times \frac{ft^3}{110lb} \times \frac{1}{0.25 foot} \times \frac{1.0E+06mg}{kg}$$

Where:

ARE<sub>s</sub> = application rate equivalent (mg/kg)

Application<sub>rate</sub> = current label application rate (lb/acre) for coarse-textured, low organic matter content soils

(Source: Amended at 32 Ill. Reg. 1308, effective January 21, 2008)

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**Section 259.APPENDIX C Default Soil Cleanup Objectives – Nitrate-N and Ammonium**

<u>Analyte Name</u>	<u>CEC</u>	<u>Groundwater Conditions</u>	
		<u>Class I</u> <u>(mg/kg)</u>	<u>Class II</u> <u>(mg/kg)</u>
<u>nitrate-N</u>	<u>N/A</u>	<u>80</u>	<u>800</u>
<u>ammonium</u>	<u>&lt;8</u>	<u>500</u>	<u>1,000</u>
	<u>8-15</u>	<u>1,000</u>	<u>3,600</u>
	<u>15-24</u>	<u>2,200</u>	<u>9,300</u>
	<u>&gt;24</u>	<u>5,000</u>	<u>20,300</u>

Note: The default soil cleanup objectives for nitrate-N are based on an application rate equivalent to 160 pounds per acre.

(Source: Added at 32 Ill. Reg. 1308, effective January 21, 2008)

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**Section 259.APPENDIX DC Groundwater Cleanup Objectives (GW<sub>obj</sub>)**

<u>Pesticide-Name</u>	<u>CAS No.<sup>a</sup></u>	<u>Recommended Test Method<sup>b</sup></u>	<u>Subsurface (mg/L)<sup>c</sup></u>	<u>Surface (mg/L)<sup>d</sup></u>
acetochlor	34256-82-1	505	0.002 <sup>j</sup>	0.01 <sup>g</sup>
acifluorfen sodium	62476-59-9	515.1	0.091 <sup>f</sup>	0.455 <sup>g</sup>
alachlor	15972-60-8	505	0.002	0.01
aldicarb	116-06-3	531.1	0.003	0.015
aldrin	309-00-2	508	0.000005 <sup>e</sup>	0.000025 <sup>e</sup>
<b>ammonia</b>	<b>7664-41-7</b>	<b>350.2</b>	<b>10.0<sup>o</sup></b>	<b>50.0<sup>o</sup></b>
atrazine	1912-24-9	505	0.003	0.015
bentazon sodium	50723-80-3	515.1	0.21 <sup>f</sup>	1.05 <sup>g</sup>
bromacil	314-40-9	507	0.7 <sup>f</sup>	3.5 <sup>g</sup>
bromoxynil(o)	1689-99-2		0.14 <sup>f</sup>	0.7 <sup>g</sup>
butylate	2008-41-5	507	0.35 <sup>f</sup>	1.75 <sup>g</sup>
carbofuran	1563-66-2	531.1	0.04	0.2
chlordane	57-74-9	508	0.002	0.01
chlorimuron-ethyl	90982-32-4		0.14 <sup>f</sup>	0.7 <sup>g</sup>
chlorpyrifos	2921-88-2	525.2	0.021 <sup>f</sup>	0.105 <sup>g</sup>
cyanazine	21725-46-2	508.1	0.014 <sup>l</sup>	0.07 <sup>g</sup>
2,4-D	94-75-7	515.1	0.07	0.35
4,4'-DDD	72-54-8	508	0.0004 <sup>e</sup>	0.002 <sup>e</sup>
4,4'-DDE	72-55-9	508	0.0003 <sup>e</sup>	0.0015 <sup>e</sup>
4,4'-DDT	50-29-3	508	0.0003 <sup>e</sup>	0.0015 <sup>e</sup>
diazinon	333-41-5	507	0.00063 <sup>l</sup>	0.00315 <sup>g</sup>
dicamba	1918-00-9	515.1	0.21 <sup>f</sup>	1.05 <sup>g</sup>
dieldrin	60-57-1	508	0.000005 <sup>e</sup>	0.000025 <sup>e</sup>
dimethoate	60-51-5	8141 <sup>h</sup>	0.0014 <sup>f</sup>	0.007 <sup>g</sup>
dinoseb	88-85-7	515.1	0.007	0.07
disulfoton	298-04-4	507	0.00028 <sup>f</sup>	0.0014 <sup>g</sup>
endosulfan	115-29-7	508	0.2 <sup>e</sup>	1.0 <sup>e</sup>
endothall	145-73-3	548.1	0.1	0.1
endrin	72-20-8	508	0.002	0.01
EPTC	759-94-4	507	0.175 <sup>f</sup>	0.875 <sup>g</sup>
glyphosate	1071-83-6		0.7 <sup>k</sup>	3.5 <sup>g</sup>
HCH-alpha	319-84-6	508	0.00001 <sup>e</sup>	0.00005 <sup>e</sup>
heptachlor	76-44-8	505	0.0004	0.002
heptachlor epoxide	1024-57-3	505	0.0002	0.001

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lindane	58-89-9	508	0.0002	0.001
linuron	330-55-2	508	0.014 <sup>f</sup>	0.07 <sup>g</sup>
malathion	121-75-5		0.14 <sup>f</sup>	0.7 <sup>g</sup>
methoxychlor	72-43-5	508	0.04	0.2
metolachlor	51218-45-2	507	1.05 <sup>f</sup>	5.25 <sup>g</sup>
metribuzin	21087-64-9	507	0.175 <sup>m</sup>	0.875 <sup>g</sup>
<u>nitrate, as N</u>	<u>7631-99-4</u>	<u>300.0</u>	<u>10.0<sup>c</sup></u>	<u>100.0<sup>d</sup></u>
parathion, ethyl	56-38-2	8141 <sup>h</sup>	0.042 <sup>f</sup>	0.21 <sup>g</sup>
parathion, methyl	298-00-0	8141 <sup>h</sup>	0.00175 <sup>f</sup>	0.00875 <sup>g</sup>
pendimethalin	40487-42-1		0.28 <sup>f</sup>	1.4 <sup>g</sup>
permethrin	52645-53-1		0.35 <sup>f</sup>	1.75 <sup>g</sup>
phorate	298-02-2	8141 <sup>h</sup>	0.0014 <sup>i</sup>	0.007 <sup>g</sup>
simazine	122-34-9	505	0.004	0.04
2,4,5-TP	93-72-1	515.1	0.05	0.25
terbufos	13071-79-9	507	0.00175 <sup>i</sup>	0.00875 <sup>g</sup>
toxaphene	8001-35-2	508	0.003	0.015
trifluralin	1582-09-8	508	0.0525 <sup>f</sup>	0.2625 <sup>g</sup>

## Notes:

<sup>a</sup> Chemical Abstract Service (CAS)

<sup>b</sup> USEPA "Methods for the Determination of Organic Compounds in Drinking Water" Supplement III of 1995

<sup>c</sup> Groundwater Quality Standards for Class I: Potable Resource Groundwater (35 Ill. Adm. Code 620.410)

<sup>d</sup> Groundwater Quality Standards for Class II: General Resource Groundwater (35 Ill. Adm. Code 620.420)

<sup>e</sup> Tiered Approach to Corrective Action Objectives (TACO): Values Used to Calculate the Tier I Soil Remediation Objectives for the Migration to Groundwater Portion of the Groundwater Ingestion Route (35 Ill. Adm. Code 742.Appendix B:Table F)

<sup>f</sup> Human Threshold Toxicant Advisory Concentration (HTTAC) from "Procedures for Determining Human Threshold Toxicant Advisory Concentration for Class I: Potable Resource Groundwater" (35 Ill. Adm. Code 620.Appendix A) using values from Integrated Risk Information System (IRIS), USEPA

<sup>g</sup> Class II GW<sub>obj</sub> values based on Class I GW<sub>obj</sub> values times 5

<sup>h</sup> USEPA "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods (SW-846)", July 1992

<sup>i</sup> HTTAC using values from Health Effects Assessment Summary Tables (HEAST), 1997, USEPA

<sup>j</sup> Value from the Acetochlor Registration Agreement monitoring program,

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<http://www.epa.gov/oppefed1/aceto/index.htm>

<sup>k</sup> MCL value from Drinking Water Standards and Health Advisories (Summer 2000, EPA 822-B-00-001)

<sup>l</sup> HTTAC using RfD value from Drinking Water Standards and Health Advisories (Summer 2000, EPA 822-B-00-001)

<sup>m</sup> HTTAC using RfD value from Risk Assessment Information System (RAIS),  
[http://risk.lsd.ornl.gov/rap\\_hp.shtml](http://risk.lsd.ornl.gov/rap_hp.shtml)

<sup>n</sup> In order to provide environmentally conservative default SCOs that take into account the potential for long-term nitrification, one-third of the USEPA's Lifetime Health Advisory Level for ammonia in drinking water (30 mg/L) is used as basis for the groundwater cleanup objectives for Class I and Class II groundwater (U.S. Environmental Protection Agency, 2004, 2004 Edition of the Drinking Water Standards and Health Advisories, Office of Water, Washington, D.C., EPA 822-R-04-005). Although the Lifetime Health Advisory Level was established for ammonia, most of the dissolved ammonia occurs as ammonium within the pH range (5.6-9.0) of Illinois groundwater.

(Source: Amended at 32 Ill. Reg. 1308, effective January 21, 2008)

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**Section 259.APPENDIX ED Pesticide Organic Carbon Partition Coefficients and Henry's Law Constants**

<u>Pesticide Name</u>	<u>CAS No.<sup>a</sup></u>	<u>Organic Carbon Partition Coefficients K<sub>oc</sub> (L/kg)<sup>b</sup></u>	<u>Henry's Law Constant H' (unitless)<sup>c</sup></u>
acetochlor	34256-82-1	952 <sup>d</sup>	9.14E-07 <sup>f</sup>
acifluorfen sodium	62476-59-9	113	8.10E-13
alachlor	15972-60-8	124	1.32E-06
aldicarb	116-06-3	26	5.07E-09
aldrin	309-00-2	17500	1.65E-02
atrazine	1912-24-9	147	1.01E-07
bentazon sodium	50723-80-3	35	4.63E-14
bromacil	314-40-9	15 <sup>h</sup>	4.57E-09
bromoxynil(o)	1689-99-2	190	1.31E-03
butylate	2008-41-5	304	3.46E-03
carbofuran	1563-66-2	46	2.10E-08
chlordane	57-74-9	60000	3.86E-03
chlorimuron-ethyl	90982-32-4	91 <sup>h</sup>	7.48E-14
chlorpyrifos	2921-88-2	9930	3.02E-04
cyanazine	21725-46-2	218	1.34E-10
2,4-D	94-75-7	48	7.35E-11
4,4'-DDD	72-54-8	231000	3.64E-04
4,4'-DDE	72-55-9	883000	4.15E-03
4,4'-DDT	50-29-3	921000 <sup>h</sup>	3.65E-04
diazinon	333-41-5	1520	2.90E-05
dicamba	1918-00-9	13	1.79E-08
dieldrin	60-57-1	12000	2.65E-05
dimethoate	60-51-5	20	5.61E-10
dinoseb	88-85-7	30 <sup>g</sup>	2.44E-07
disulfoton	298-04-4	1345	6.68E-05
endosulfan	115-29-7	12400	1.19E-05
endothall	145-73-3	85	1.56E-14 <sup>i</sup>
endrin	72-20-8	10000	5.99E-05
EPTC	759-94-4	223	6.56E-04
glyphosate	1071-83-6	2100	5.732-11
HCH-alpha	319-84-6	5440 <sup>d</sup>	3.53E-04 <sup>e</sup>

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heptachlor	76-44-8	24000	1.43E-01
heptachlor epoxide	1024-57-3	78600 <sup>d</sup>	2.05E-03 <sup>e</sup>
lindane	58-89-9	1355	7.42E-05
linuron	330-55-2	496	2.56E-07
malathion	121-75-5	1200	4.64E-07
methoxychlor	72-43-5	76000	4.80E-04 <sup>i</sup>
metolachlor	51218-45-2	70	9.91E-07
metribuzin	21087-64-9	52	1.48E-09
parathion, ethyl	56-38-2	7660	9.57E-06
parathion, methyl	298-00-0	6300	3.88E-07
pendimethalin	40487-42-1	12400	4.98E-04
permethrin	52645-53-1	39300	7.68E-05
phorate	298-02-2	1057	4.07E-04
simazine	122-34-9	140	3.96E-08
2,4,5-TP	93-72-1	5440 <sup>d</sup>	2.04E-06 <sup>e</sup>
terbufos	13071-79-9	650	1.09E-03
toxaphene	8001-35-2	100000	2.97E-05
trifluralin	1582-09-8	7200	6.21E-03

## Notes:

- <sup>a</sup> Chemical Abstract Service (CAS).
- <sup>b</sup> Selected values from U.S. Department of Agriculture, Agriculture Research Service, Pesticide Properties Database (PPD), Alternate Crops & Systems Laboratory, Beltsville, Maryland, <http://wizard.arsusda.gov/acsl/ppdb3.html>, unless otherwise noted.
- <sup>c</sup>  $H' = K_H \text{ as atm}\cdot\text{m}^3/\text{mol} \{ \text{vapor pressure} \times \text{molecular weight} / \text{solubility in water} \} \times \{ R (\text{gas constant}) \times T (\text{temperature as degrees Kelvin}) \} = K_H \times 41 \text{ at } 25^\circ \text{C}$ . Values from the ARS Pesticide Properties Database (PPD), unless otherwise noted.
- <sup>d</sup>  $K_{oc} = 10((0.983 \times \log K_{ow}) + 0.00028)$ ,  $\log K_{ow}$  linear relationship with  $K_{oc}$  by Di Toro, 1985 (Technical Background Document, p. 140, incorporated by reference at Section 259.150),  $\log K_{ow}$  values from Syracuse Research Corporation, Physical Properties Database (PHYSPROP), <http://esc.syrres.com/interkow/physprop.htm>.
- <sup>e</sup> Estimated  $K_H$  values using data from the SRC Physical Properties Database (PHYSPROP) then converted to  $H'$  as noted in <sup>c</sup> above.
- <sup>f</sup>  $K_H$  values from the SRC Physical Properties Database (PHYSPROP) then converted to  $H'$  as noted in <sup>c</sup> above.
- <sup>g</sup> Low  $K_{oc}$  based on anionic nature (high solubility, low vapor pressure and above pH 5).
- <sup>h</sup> Mean of values listed in ARS Pesticide Properties Database (PPD).
- <sup>i</sup> Estimated using vapor pressure from SRC Physical Properties Database (PHYSPROP).

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(Source: Amended at 32 Ill. Reg. 1308, effective January 21, 2008)

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**Section 259.APPENDIX F Approximate Cation Exchange Capacities (CEC) of Illinois Soils**

This data was provided by Professor R. G. Hoefl, Department of Crop Sciences, University of Illinois at Urbana-Champaign

<u>Soil Name</u>	<u>CEC (meq/100g)</u>
<u>Ade loamy fine sand</u>	<u>&lt;8</u>
<u>Adrian muck</u>	<u>&gt;100</u>
<u>Aholt silty clay</u>	<u>&gt;24</u>
<u>Alford silt loam</u>	<u>8-15</u>
<u>Alford-Baxter complex</u>	<u>8-15</u>
<u>Alford-Bold complex</u>	<u>8-15</u>
<u>Alford-Hickory complex</u>	<u>8-15</u>
<u>Alford-Hurst silty clay loams</u>	<u>8-15</u>
<u>Alford-Ursa silt loams</u>	<u>8-15</u>
<u>Alford-Wellston silt loams</u>	<u>8-15</u>
<u>Alford-Westmore silt loams</u>	<u>8-15</u>
<u>Alganssee fine sandy loam</u>	<u>&lt;8</u>
<u>Allison silty clay loam</u>	<u>&gt;24</u>
<u>Alvin fine sandy loam</u>	<u>&lt;8</u>
<u>Alvin-Lamont complex</u>	<u>&lt;8</u>
<u>Ambraw clay loam</u>	<u>15-24</u>
<u>Ambraw silty clay loam, sandy substratum</u>	<u>15-24</u>
<u>Ambraw-Ceresco-Sarpy complex</u>	<u>8-15</u>
<u>Andres silt loam</u>	<u>15-24</u>
<u>Appleriver silt loam</u>	<u>8-15</u>
<u>Aptakisic silt loam</u>	<u>8-15</u>
<u>Aptakisic and Nappanee silt loams</u>	<u>8-15</u>
<u>Arenzville silt loam</u>	<u>8-15</u>
<u>Argyle silt loam</u>	<u>15-24</u>

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<u>Armiesburg silty clay loam</u>	<u>15-24</u>
<u>Ashdale silt loam</u>	<u>15-24</u>
<u>Ashkum silty clay loam</u>	<u>&gt;24</u>
<u>Assumption silt loam</u>	<u>15-24</u>
<u>Atkinson loam</u>	<u>8-15</u>
<u>Atlas silt loam</u>	<u>8-15</u>
<u>Atlas-Grantfork complex</u>	<u>8-15</u>
<u>Atlas-Grantfork variant complex</u>	<u>8-15</u>
<u>Atterberry silt loam</u>	<u>8-15</u>
<u>Aurelius muck</u>	<u>&gt;100</u>
<u>Aurelius muck, sandy substratum</u>	<u>&gt;100</u>
<u>Ava silt loam</u>	<u>8-15</u>
<u>Ava-Blair complex</u>	<u>8-15</u>
<u>Ava-Hickory complex</u>	<u>8-15</u>
<u>Aviston silt loam</u>	<u>15-24</u>
<u>Ayr sandy loam</u>	<u>&lt;8</u>
<u>Backbone loamy sand</u>	<u>8-15</u>
<u>Banlic silt loam</u>	<u>8-15</u>
<u>Barony silt loam</u>	<u>15-24</u>
<u>Barrington silt loam</u>	<u>15-24</u>
<u>Barrington and Varna silt loams</u>	<u>15-24</u>
<u>Bartelso silt loam</u>	<u>15-24</u>
<u>Batavia silt loam</u>	<u>8-15</u>
<u>Baxter cherty silt loam</u>	<u>8-15</u>
<u>Baylis silt loam</u>	<u>8-15</u>
<u>Beardstown loam</u>	<u>8-15</u>
<u>Beasley silt loam</u>	<u>8-15</u>
<u>Beaucoup silty clay loam</u>	<u>&gt;24</u>
<u>Beavercreek loam</u>	<u>&lt;8</u>
<u>Bedford silt loam</u>	<u>8-15</u>

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<u>Beecher silt loam</u>	<u>8-15</u>
<u>Belknap silt loam</u>	<u>8-15</u>
<u>Berks loam</u>	<u>8-15</u>
<u>Bertrand silt loam</u>	<u>8-15</u>
<u>Bethalto silt loam</u>	<u>15-24</u>
<u>Biddle silt loam</u>	<u>15-24</u>
<u>Biggsville silt loam</u>	<u>&gt;24</u>
<u>Biggsville-Mannon silt loams</u>	<u>15-24</u>
<u>Billett sandy loam</u>	<u>&lt;8</u>
<u>Binghampton sandy loam</u>	<u>8-15</u>
<u>Birds silt loam</u>	<u>8-15</u>
<u>Birkbeck silt loam</u>	<u>8-15</u>
<u>Birkbeck-Miami silt loams</u>	<u>8-15</u>
<u>Blackoar silt loam</u>	<u>15-24</u>
<u>Blair silt loam</u>	<u>8-15</u>
<u>Blair-Atlas silt loams</u>	<u>8-15</u>
<u>Blair-Grantfork complex</u>	<u>8-15</u>
<u>Blair-Ursa silt loams</u>	<u>8-15</u>
<u>Blake silty clay loam</u>	<u>15-24</u>
<u>Blake-Beaucoup complex</u>	<u>15-24</u>
<u>Bloomfield fine sand</u>	<u>&lt;8</u>
<u>Blount silt loam</u>	<u>8-15</u>
<u>Bluford silt loam</u>	<u>8-15</u>
<u>Bluford silt loam, bench</u>	<u>15-24</u>
<u>Bluford-Darmstadt complex</u>	<u>8-15</u>
<u>Blyton silt loam</u>	<u>&lt;8</u>
<u>Bold silt loam</u>	<u>8-15</u>
<u>Bonfield silt loam</u>	<u>8-15</u>
<u>Bonnie silt loam</u>	<u>8-15</u>
<u>Booker silty clay</u>	<u>&gt;24</u>

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<u>Boone loamy fine sand</u>	<u>&lt;8</u>
<u>Bowdre silty clay</u>	<u>&gt;24</u>
<u>Bowes silt loam</u>	<u>8-15</u>
<u>Boyer sandy loam</u>	<u>&lt;8</u>
<u>Brandon and Saffell soils</u>	<u>8-15</u>
<u>Breeds silty clay loam</u>	<u>15-24</u>
<u>Brenton silt loam</u>	<u>15-24</u>
<u>Broadwell silt loam</u>	<u>15-24</u>
<u>Brooklyn silt loam</u>	<u>15-24</u>
<u>Brookside stony silty clay loam</u>	<u>15-24</u>
<u>Brouillett silt loam</u>	<u>15-24</u>
<u>Bryce silty clay</u>	<u>&gt;24</u>
<u>Bryce-Calamine variant complex</u>	<u>15-24</u>
<u>Bunkum silty clay loam</u>	<u>15-24</u>
<u>Bunkum-Atlas silty clay loams</u>	<u>8-15</u>
<u>Bunkum-Coulterville silty clay loams</u>	<u>8-15</u>
<u>Burkhardt-Saude complex</u>	<u>8-15</u>
<u>Burksville silt loam</u>	<u>8-15</u>
<u>Burnside silt loam</u>	<u>8-15</u>
<u>Cairo silty clay</u>	<u>&gt;24</u>
<u>Calamine silt loam</u>	<u>15-24</u>
<u>Calco silty clay loam</u>	<u>&gt;24</u>
<u>Camden silt loam</u>	<u>8-15</u>
<u>Camden silt loam, sandy substratum</u>	<u>8-15</u>
<u>Canisteo silt loam</u>	<u>&gt;24</u>
<u>Canisteo silt loam, sandy substratum</u>	<u>&gt;24</u>
<u>Cape silty clay loam</u>	<u>15-24</u>
<u>Caprell silt loam</u>	<u>8-15</u>
<u>Carmi sandy loam</u>	<u>8-15</u>
<u>Casco silt loam</u>	<u>8-15</u>

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<u>Casco-Fox complex</u>	<u>8-15</u>
<u>Caseyville silt loam</u>	<u>8-15</u>
<u>Catlin silt loam</u>	<u>15-24</u>
<u>Catlin-Saybrook complex</u>	<u>15-24</u>
<u>Ceresco loam</u>	<u>15-24</u>
<u>Channahon silt loam</u>	<u>15-24</u>
<u>Chaseburg silt loam</u>	<u>15-24</u>
<u>Chatsworth silt loam</u>	<u>8-15</u>
<u>Chauncey silt loam</u>	<u>8-15</u>
<u>Chautauqua silty clay loam</u>	<u>15-24</u>
<u>Chelsea loamy fine sand</u>	<u>&lt;8</u>
<u>Chenoa silt loam</u>	<u>&gt;24</u>
<u>Chute fine sand</u>	<u>&lt;8</u>
<u>Cisne silt loam</u>	<u>8-15</u>
<u>Cisne silt loam, bench</u>	<u>8-15</u>
<u>Cisne-Huey complex</u>	<u>8-15</u>
<u>Cisne-Piasa complex</u>	<u>8-15</u>
<u>Clare silt loam</u>	<u>15-24</u>
<u>Clarence silty clay loam</u>	<u>&gt;24</u>
<u>Clarksdale silt loam</u>	<u>8-15</u>
<u>Clarksville cherty silt loam</u>	<u>8-15</u>
<u>Clinton silt loam</u>	<u>8-15</u>
<u>Clinton-El Dara complex</u>	<u>&lt;8</u>
<u>Clyde clay loam</u>	<u>&gt;24</u>
<u>Coatsburg silt loam</u>	<u>15-24</u>
<u>Coffeen silt loam</u>	<u>15-24</u>
<u>Cohoctah loam</u>	<u>15-24</u>
<u>Colo silty clay loam</u>	<u>&gt;24</u>
<u>Coloma silt loam</u>	<u>&lt;8</u>
<u>Colp silt loam</u>	<u>8-15</u>

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

<u>Comfrey clay loam</u>	<u>&gt;24</u>
<u>Coot loam</u>	<u>8-15</u>
<u>Copperas silty clay loam</u>	<u>15-24</u>
<u>Corwin silt loam</u>	<u>15-24</u>
<u>Coulterville silt loam</u>	<u>&lt;8</u>
<u>Coulterville-Darmstadt complex</u>	<u>&lt;8</u>
<u>Coulterville-Grantfork silty clay loams</u>	<u>&lt;8</u>
<u>Coulterville-Hoyleton-Darmstadt complex</u>	<u>&lt;8</u>
<u>Coulterville-Oconee silt loams</u>	<u>&lt;8</u>
<u>Cowden silt loam</u>	<u>8-15</u>
<u>Cowden-Piasa complex</u>	<u>8-15</u>
<u>Coyne fine sandy loam</u>	<u>8-15</u>
<u>Craigmile sandy loam</u>	<u>&lt;8</u>
<u>Crane silt loam</u>	<u>15-24</u>
<u>Crawleyville fine sandy loam</u>	<u>&lt;8</u>
<u>Creal silt loam</u>	<u>8-15</u>
<u>Crider silt loam</u>	<u>8-15</u>
<u>Dakota silt loam</u>	<u>8-15</u>
<u>Dana silt loam</u>	<u>15-24</u>
<u>Danabrook silt loam</u>	<u>15-24</u>
<u>Darmstadt silt loam</u>	<u>8-15</u>
<u>Darmstadt-Grantfork complex</u>	<u>8-15</u>
<u>Darmstadt-Oconee silt loams</u>	<u>8-15</u>
<u>Darroch silt loam</u>	<u>15-24</u>
<u>Darwin silty clay</u>	<u>&gt;24</u>
<u>Del Rey silt loam</u>	<u>8-15</u>
<u>Denny silt loam</u>	<u>8-15</u>
<u>Denrock silt loam</u>	<u>15-24</u>
<u>Derinda silt loam</u>	<u>8-15</u>
<u>Dickinson sandy loam</u>	<u>8-15</u>

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

<u>Dickinson sandy loam, loamy substratum</u>	<u>8-15</u>
<u>Dickinson-Hamburg complex</u>	<u>8-15</u>
<u>Dickinson-Onarga complex</u>	<u>8-15</u>
<u>Disco sandy loam</u>	<u>8-15</u>
<u>Dockery silt loam</u>	<u>8-15</u>
<u>Dodge silt loam</u>	<u>8-15</u>
<u>Dodgeville silt loam</u>	<u>15-24</u>
<u>Dorchester silt loam</u>	<u>8-15</u>
<u>Dorchester silt loam, cobbly substratum</u>	<u>8-15</u>
<u>Douglas silt loam</u>	<u>15-24</u>
<u>Dowagiac silt loam</u>	<u>8-15</u>
<u>Downs silt loam</u>	<u>8-15</u>
<u>Downsouth silt loam</u>	<u>15-24</u>
<u>Dresden silt loam</u>	<u>15-24</u>
<u>Drummer silty clay loam</u>	<u>&gt;24</u>
<u>Drummer silty clay loam, gravelly substratum</u>	<u>&gt;24</u>
<u>Drummer silty clay loam, till substratum</u>	<u>&gt;24</u>
<u>Drury silt loam</u>	<u>8-15</u>
<u>Du Page silt loam</u>	<u>15-24</u>
<u>Dubuque silt loam</u>	<u>8-15</u>
<u>Dubuque and Dunbarton soils</u>	<u>8-15</u>
<u>Dubuque and Palsgrove soils</u>	<u>8-15</u>
<u>Dubuque-Orthents- Fayette Complex</u>	<u>8-15</u>
<u>Dunbarton silt loam</u>	<u>8-15</u>
<u>Dunbarton silt loam, cherty variant</u>	<u>8-15</u>
<u>Dunbarton-Dubuque complex</u>	<u>8-15</u>
<u>Dunham silty clay loam</u>	<u>&gt;24</u>
<u>Dupo silt loam</u>	<u>8-15</u>
<u>Durand silt loam</u>	<u>15-24</u>
<u>Ebbert silt loam</u>	<u>15-24</u>

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

<u>Eden silty clay loam</u>	<u>&gt;24</u>
<u>Edgington silt loam</u>	<u>15-24</u>
<u>Edinburg silty clay loam</u>	<u>&gt;24</u>
<u>Edmund silt loam</u>	<u>15-24</u>
<u>Edwards muck</u>	<u>&gt;100</u>
<u>Edwardsville silt loam</u>	<u>&gt;24</u>
<u>El Dara sandy loam</u>	<u>&lt;8</u>
<u>Elburn silt loam</u>	<u>15-24</u>
<u>Elburn silt loam, gravelly substratum</u>	<u>15-24</u>
<u>Elco silt loam</u>	<u>8-15</u>
<u>Elco-Atlas silt loams</u>	<u>8-15</u>
<u>Elco-Ursa silt loams</u>	<u>8-15</u>
<u>Eleroy silt loam</u>	<u>8-15</u>
<u>Eleroy and Derinda soils</u>	<u>8-15</u>
<u>Eleva sandy loam</u>	<u>&lt;8</u>
<u>Elizabeth silt loam</u>	<u>15-24</u>
<u>Elkhart silt loam</u>	<u>15-24</u>
<u>Elliott silt loam</u>	<u>15-24</u>
<u>Elpaso silty clay loam</u>	<u>&gt;24</u>
<u>Elsah cherty silt loam</u>	<u>8-15</u>
<u>Elvers silt loam</u>	<u>8-15</u>
<u>Emery silt loam</u>	<u>15-24</u>
<u>Emma silty clay loam</u>	<u>15-24</u>
<u>Evansville silt loam</u>	<u>8-15</u>
<u>Faxon clay loam</u>	<u>15-24</u>
<u>Faxon-Ripon complex</u>	<u>15-24</u>
<u>Fayette silt loam</u>	<u>8-15</u>
<u>Fayette silty clay loam, karst</u>	<u>&lt;8</u>
<u>Fayette silt loam, sandy substratum</u>	<u>15-24</u>
<u>Fayette silt loam, till substratum</u>	<u>8-15</u>

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

<u>Fayette-Clarksville complex</u>	<u>8-15</u>
<u>Fayette-Hickory complex</u>	<u>8-15</u>
<u>Fayette-Westville complex</u>	<u>8-15</u>
<u>Fella silty clay loam</u>	<u>&gt;24</u>
<u>Fieldon silt loam</u>	<u>15-24</u>
<u>Fincastle silt loam</u>	<u>8-15</u>
<u>Fishhook silt loam</u>	<u>8-15</u>
<u>Fishhook-Atlas complex</u>	<u>8-15</u>
<u>Flagg silt loam</u>	<u>8-15</u>
<u>Flagler sandy loam</u>	<u>8-15</u>
<u>Flanagan silt loam</u>	<u>15-24</u>
<u>Floraville silt loam</u>	<u>8-15</u>
<u>Fosterburg silt loam</u>	<u>&gt;24</u>
<u>Fox silt loam</u>	<u>8-15</u>
<u>Frankfort silt loam</u>	<u>8-15</u>
<u>Frankville silt loam</u>	<u>15-24</u>
<u>Friesland sandy loam</u>	<u>8-15</u>
<u>Frondorf loam</u>	<u>8-15</u>
<u>Fults silty clay</u>	<u>&gt;24</u>
<u>Gale silt loam</u>	<u>8-15</u>
<u>Geff silt loam</u>	<u>8-15</u>
<u>Genesee silt loam</u>	<u>8-15</u>
<u>Geryune silt loam</u>	<u>15-24</u>
<u>Gilford fine sandy loam</u>	<u>8-15</u>
<u>Ginat silt loam</u>	<u>8-15</u>
<u>Gorham silty clay loam</u>	<u>&gt;24</u>
<u>Gosport silt loam</u>	<u>8-15</u>
<u>Goss gravelly silt loam</u>	<u>8-15</u>
<u>Goss-Alford complex</u>	<u>8-15</u>
<u>Granby loamy sand</u>	<u>&lt;8</u>

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

<u>Grantfork silty clay loam</u>	<u>8-15</u>
<u>Grantsburg silt loam</u>	<u>8-15</u>
<u>Graymont silt loam</u>	<u>15-24</u>
<u>Grays silt loam</u>	<u>8-15</u>
<u>Grays and Markham silt loams</u>	<u>8-15</u>
<u>Greenbush silt loam</u>	<u>15-24</u>
<u>Grellton sandy loam</u>	<u>&lt;8</u>
<u>Griswold loam</u>	<u>8-15</u>
<u>Grundelein silt loam</u>	<u>&gt;24</u>
<u>Hamburg silt loam</u>	<u>8-15</u>
<u>Harco silt loam</u>	<u>15-24</u>
<u>Harpster silty clay loam</u>	<u>&gt;24</u>
<u>Harrison silt loam</u>	<u>15-24</u>
<u>Hartsburg silty clay loam</u>	<u>&gt;24</u>
<u>Harvard silt loam</u>	<u>8-15</u>
<u>Hayfield loam</u>	<u>8-15</u>
<u>Haymond silt loam</u>	<u>8-15</u>
<u>Haynie silt loam</u>	<u>8-15</u>
<u>Hennepin loam</u>	<u>&lt;8</u>
<u>Hennepin and Miami soils</u>	<u>&lt;8</u>
<u>Hennepin-Casco complex</u>	<u>&lt;8</u>
<u>Hennepin-Vanmeter complex</u>	<u>8-15</u>
<u>Henshaw silt loam</u>	<u>8-15</u>
<u>Herbert silt loam</u>	<u>8-15</u>
<u>Herrick silt loam</u>	<u>15-24</u>
<u>Herrick-Biddle-Piasa silt loams</u>	<u>15-24</u>
<u>Herrick-Piasa complex</u>	<u>15-24</u>
<u>Hesch fine sandy loam</u>	<u>8-15</u>
<u>Hesch fine sandy loam, gray subsoil variant</u>	<u>8-15</u>
<u>Hesch loamy sand, shallow variant</u>	<u>8-15</u>

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

<u>Hickory loam</u>	<u>8-15</u>
<u>Hickory and Hennepin soils</u>	<u>8-15</u>
<u>Hickory and Sylvan soils</u>	<u>8-15</u>
<u>Hickory-Atlas complex</u>	<u>8-15</u>
<u>Hickory-Clinton complex</u>	<u>8-15</u>
<u>Hickory-Gosport complex</u>	<u>8-15</u>
<u>Hickory-Hennepin complex</u>	<u>8-15</u>
<u>Hickory-High Gap silt loams</u>	<u>8-15</u>
<u>Hickory-Hosmer silt loams</u>	<u>8-15</u>
<u>Hickory-Kell silt loams</u>	<u>8-15</u>
<u>Hickory-Negley complex</u>	<u>8-15</u>
<u>Hickory-Sylvan complex</u>	<u>8-15</u>
<u>Hickory-Sylvan-Fayette silt loams</u>	<u>8-15</u>
<u>Hickory-Wellston silt loams</u>	<u>8-15</u>
<u>High Gap loam</u>	<u>8-15</u>
<u>Hitt silt loam</u>	<u>15-24</u>
<u>Holly silt loam</u>	<u>15-24</u>
<u>Holton silt loam</u>	<u>8-15</u>
<u>Homen silt loam</u>	<u>15-24</u>
<u>Homer silt loam</u>	<u>8-15</u>
<u>Hononegah loamy coarse sand</u>	<u>&lt;8</u>
<u>Hoopeston sandy loam</u>	<u>8-15</u>
<u>Hooppole loam</u>	<u>15-24</u>
<u>Hosmer silt loam</u>	<u>8-15</u>
<u>Hosmer-Lax silt loams</u>	<u>8-15</u>
<u>Hosmer-Ursa silt loams</u>	<u>8-15</u>
<u>Houghton muck</u>	<u>&gt;100</u>
<u>Houghton peat</u>	<u>&gt;100</u>
<u>Hoyleton silt loam</u>	<u>8-15</u>
<u>Hoyleton silt loam, bench</u>	<u>8-15</u>

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

<u>Hoyleton-Darmstadt complex</u>	<u>8-15</u>
<u>Hoyleton-Tamalco complex</u>	<u>8-15</u>
<u>Huey silt loam</u>	<u>8-15</u>
<u>Huntington silt loam</u>	<u>15-24</u>
<u>Huntsville silt loam</u>	<u>15-24</u>
<u>Hurst silt loam</u>	<u>8-15</u>
<u>Hurst silt loam, sandy substratum</u>	<u>8-15</u>
<u>Iona silt loam</u>	<u>8-15</u>
<u>Ipava silt loam</u>	<u>15-24</u>
<u>Ipava-Sable complex</u>	<u>15-24</u>
<u>Ipava-Tama complex</u>	<u>15-24</u>
<u>Iva silt loam</u>	<u>8-15</u>
<u>Jacob clay</u>	<u>15-24</u>
<u>Jasper silt loam</u>	<u>15-24</u>
<u>Jasper silt loam, sandy substratum</u>	<u>15-24</u>
<u>Joliet silty clay loam</u>	<u>&gt;24</u>
<u>Joslin silt loam</u>	<u>15-24</u>
<u>Joy silt loam</u>	<u>15-24</u>
<u>Joyce silt loam</u>	<u>15-24</u>
<u>Joy silt loam, sandy substratum</u>	<u>15-24</u>
<u>Jules silt loam</u>	<u>8-15</u>
<u>Juneau silt loam</u>	<u>8-15</u>
<u>Kane silt loam</u>	<u>15-24</u>
<u>Kaneville silt loam</u>	<u>15-24</u>
<u>Kankakee fine sandy loam</u>	<u>8-15</u>
<u>Karnak silty clay</u>	<u>15-24</u>
<u>Kell silt loam</u>	<u>8-15</u>
<u>Keller silt loam</u>	<u>15-24</u>
<u>Keller-Coatsburg complex</u>	<u>15-24</u>
<u>Keltner silt loam</u>	<u>15-24</u>

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

<u>Kendall silt loam</u>	<u>8-15</u>
<u>Kendall silt loam, sandy substratum</u>	<u>8-15</u>
<u>Keomah silt loam</u>	<u>8-15</u>
<u>Kernan silt loam</u>	<u>8-15</u>
<u>Keswick loam</u>	<u>&gt;24</u>
<u>Kidami silt loam</u>	<u>8-15</u>
<u>Kidder silt loam</u>	<u>&lt;8</u>
<u>Kish loam</u>	<u>&gt;24</u>
<u>Kishwaukee silt loam</u>	<u>15-24</u>
<u>Knight silt loam</u>	<u>15-24</u>
<u>La Hogue loam</u>	<u>8-15</u>
<u>La Rose silt loam</u>	<u>8-15</u>
<u>Lacrescent cobbly silty clay loam</u>	<u>15-24</u>
<u>Lahoguess loam</u>	<u>15-24</u>
<u>Lakaskia silt loam</u>	<u>15-24</u>
<u>Lamoille silt loam</u>	<u>15-24</u>
<u>Lamont fine sandy loam</u>	<u>&lt;8</u>
<u>Lamont, Tell, and Bloomfield soils</u>	<u>&lt;8</u>
<u>Landes fine sandy loam</u>	<u>8-15</u>
<u>Lanier fine sandy loam</u>	<u>8-15</u>
<u>Lawler loam</u>	<u>8-15</u>
<u>Lawndale silt loam</u>	<u>15-24</u>
<u>Lawson silt loam</u>	<u>15-24</u>
<u>Lax silt loam</u>	<u>8-15</u>
<u>Lena muck</u>	<u>&gt;100</u>
<u>Lenzburg silt loam</u>	<u>15-24</u>
<u>Lenzburg silt loam, acid substratum</u>	<u>15-24</u>
<u>Lenzlo silty clay loam</u>	<u>15-24</u>
<u>Lenzwheel silty clay loam</u>	<u>15-24</u>
<u>Lindley loam</u>	<u>8-15</u>

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

<u>Lisbon silt loam</u>	<u>15-24</u>
<u>Lismod silt loam</u>	<u>15-24</u>
<u>Littleton silt loam</u>	<u>15-24</u>
<u>Lomax loam</u>	<u>8-15</u>
<u>Loran silt loam</u>	<u>15-24</u>
<u>Lorenzo loam</u>	<u>8-15</u>
<u>Mannon silt loam</u>	<u>8-15</u>
<u>Marbletown silt loam</u>	<u>15-24</u>
<u>Marine silt loam</u>	<u>8-15</u>
<u>Marissa silt loam</u>	<u>8-15</u>
<u>Markham silt loam</u>	<u>8-15</u>
<u>Markland silt loam</u>	<u>8-15</u>
<u>Marseilles silt loam</u>	<u>8-15</u>
<u>Marseilles silt loam, gravelly substratum</u>	<u>8-15</u>
<u>Marseilles silt loam, moderately wet</u>	<u>15-24</u>
<u>Marseilles-Atlas complex</u>	<u>8-15</u>
<u>Marseilles-Hickory complex</u>	<u>8-15</u>
<u>Marshan loam</u>	<u>8-15</u>
<u>Marshan loam, sandy substratum</u>	<u>15-24</u>
<u>Martinsville silt loam</u>	<u>8-15</u>
<u>Martinton silt loam</u>	<u>15-24</u>
<u>Mascoutah silty clay loam</u>	<u>&gt;24</u>
<u>Massbach silt loam</u>	<u>8-15</u>
<u>Matherton silt loam</u>	<u>8-15</u>
<u>Maumee fine sandy loam</u>	<u>&lt;8</u>
<u>Mayville silt loam</u>	<u>15-24</u>
<u>McFain silty clay</u>	<u>&gt;24</u>
<u>McGary silt loam</u>	<u>8-15</u>
<u>McHenry silt loam</u>	<u>8-15</u>
<u>Meadowbank silt loam</u>	<u>15-24</u>

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

<u>Medary silty clay loam</u>	<u>8-15</u>
<u>Medway silty clay loam</u>	<u>&gt;24</u>
<u>Menfro silt loam</u>	<u>8-15</u>
<u>Metea silt loam</u>	<u>&lt;8</u>
<u>Miami fine sandy loam</u>	<u>&lt;8</u>
<u>Miami silt loam</u>	<u>8-15</u>
<u>Miami-Casco complex</u>	<u>8-15</u>
<u>Miami-Hennepin complex</u>	<u>8-15</u>
<u>Miami-Russell silt loams</u>	<u>8-15</u>
<u>Middletown silt loam</u>	<u>8-15</u>
<u>Milford silty clay loam</u>	<u>&gt;24</u>
<u>Millbrook silt loam</u>	<u>8-15</u>
<u>Millington loam</u>	<u>8-15</u>
<u>Millsdale silty clay loam</u>	<u>&gt;24</u>
<u>Millstadt silt loam</u>	<u>&gt;24</u>
<u>Millstream silt loam</u>	<u>15-24</u>
<u>Minneiska loam</u>	<u>15-24</u>
<u>Mokena silt loam</u>	<u>15-24</u>
<u>Mona silt loam</u>	<u>15-24</u>
<u>Monee silt loam</u>	<u>15-24</u>
<u>Monterey silty clay loam</u>	<u>&gt;24</u>
<u>Montgomery silty clay loam</u>	<u>&gt;24</u>
<u>Montmorenci silt loam</u>	<u>8-15</u>
<u>Morley silt loam</u>	<u>8-15</u>
<u>Morocco fine sand</u>	<u>&lt;8</u>
<u>Morristown silt loam</u>	<u>8-15</u>
<u>Moundprairie silty clay loam</u>	<u>15-24</u>
<u>Mt. Carroll silt loam</u>	<u>8-15</u>
<u>Mudhen clay loam</u>	<u>&gt;24</u>
<u>Mundelein silt loam</u>	<u>15-24</u>

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

<u>Mundelein and Elliott soils</u>	<u>15-24</u>
<u>Muren silt loam</u>	<u>8-15</u>
<u>Muscatine silt loam</u>	<u>15-24</u>
<u>Muscatune silt loam</u>	<u>15-24</u>
<u>Muskego muck</u>	<u>&gt;100</u>
<u>Muskego silty clay loam, overwash</u>	<u>&gt;24</u>
<u>Muskego and Houghton mucks</u>	<u>&gt;100</u>
<u>Muskego and Peotone soils, ponded</u>	<u>&gt;100</u>
<u>Muskingum stony silt loam</u>	<u>&lt;8</u>
<u>Muskingum and Berks soils</u>	<u>&lt;8</u>
<u>Myrtle silt loam</u>	<u>8-15</u>
<u>Nachusa silt loam</u>	<u>15-24</u>
<u>Nameoki silty clay</u>	<u>15-24</u>
<u>Nappanee silt loam</u>	<u>8-15</u>
<u>Nasset silt loam</u>	<u>15-24</u>
<u>Navlys silty clay loam</u>	<u>15-24</u>
<u>Negley loam</u>	<u>8-15</u>
<u>Neotoma-Wellston complex</u>	<u>8-15</u>
<u>Newark silty clay loam</u>	<u>15-24</u>
<u>Newberry silt loam</u>	<u>8-15</u>
<u>NewGlarus-Lamoille complex</u>	<u>8-15</u>
<u>NewGlarus-Palsgrove silt loams</u>	<u>8-15</u>
<u>Newhaven loam</u>	<u>8-15</u>
<u>Niota silt loam</u>	<u>8-15</u>
<u>Niota silty clay loam, clayey subsurface variant</u>	<u>15-24</u>
<u>Nolin silty clay loam</u>	<u>8-15</u>
<u>Normal silt loam</u>	<u>15-24</u>
<u>Normandy silt loam</u>	<u>15-24</u>
<u>Oakville fine sand</u>	<u>&lt;8</u>
<u>Oakville-Tell complex</u>	<u>&lt;8</u>

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<u>Ockley silt loam</u>	<u>8-15</u>
<u>Oconee silt loam</u>	<u>8-15</u>
<u>Oconee-Coulterville-Darmstadt silt loams</u>	<u>8-15</u>
<u>Oconee-Darmstadt-Coulterville silt loams</u>	<u>8-15</u>
<u>Oconee-Tamalco complex</u>	<u>8-15</u>
<u>Octagon silt loam</u>	<u>8-15</u>
<u>Odell silt loam</u>	<u>15-24</u>
<u>Ogle silt loam</u>	<u>15-24</u>
<u>Ogle silt loam, silt loam subsoil variant</u>	<u>15-24</u>
<u>Okaw silt loam</u>	<u>8-15</u>
<u>Okaw silty clay loam</u>	<u>15-24</u>
<u>Onarga sandy loam</u>	<u>8-15</u>
<u>Onarga fine sandy loam, till substratum</u>	<u>8-15</u>
<u>Oneco silt loam</u>	<u>8-15</u>
<u>Orio sandy loam</u>	<u>&lt;8</u>
<u>Orion silt loam</u>	<u>8-15</u>
<u>Osceola silt loam</u>	<u>15-24</u>
<u>Osco silt loam</u>	<u>15-24</u>
<u>Otter silt loam</u>	<u>&gt;24</u>
<u>Ozaukee silt loam</u>	<u>15-24</u>
<u>Palms muck</u>	<u>&gt;100</u>
<u>Palms silty clay loam, overwash</u>	<u>&gt;24</u>
<u>Palsgrove silt loam</u>	<u>8-15</u>
<u>Palsgrove and Woodbine soils</u>	<u>8-15</u>
<u>Pana silt loam</u>	<u>15-24</u>
<u>Papineau fine sandy loam</u>	<u>8-15</u>
<u>Parke silt loam</u>	<u>8-15</u>
<u>Parkville silty clay</u>	<u>8-15</u>
<u>Parmod silt loam</u>	<u>15-24</u>
<u>Parr fine sandy loam</u>	<u>8-15</u>

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<u>Parr silt loam</u>	<u>8-15</u>
<u>Passport silt loam</u>	<u>8-15</u>
<u>Passport-Grantfork complex</u>	<u>8-15</u>
<u>Patton silty clay loam</u>	<u>&gt;24</u>
<u>Paxico silt loam</u>	<u>8-15</u>
<u>Pecatonica silt loam</u>	<u>8-15</u>
<u>Pella silty clay loam</u>	<u>&gt;24</u>
<u>Peotone silty clay loam</u>	<u>&gt;24</u>
<u>Peotone mucky silty clay loam, marl substratum</u>	<u>&gt;100</u>
<u>Petrolia silty clay loam</u>	<u>15-24</u>
<u>Piasa silt loam</u>	<u>15-24</u>
<u>Pierron silt loam</u>	<u>8-15</u>
<u>Pike silt loam</u>	<u>8-15</u>
<u>Pilot silt loam</u>	<u>15-24</u>
<u>Piopolis silty clay loam</u>	<u>15-24</u>
<u>Piscasaw silt loam</u>	<u>15-24</u>
<u>Plainfield sand</u>	<u>&lt;8</u>
<u>Plano silt loam</u>	<u>15-24</u>
<u>Plattville silt loam</u>	<u>15-24</u>
<u>Plumfield silty clay loam</u>	<u>15-24</u>
<u>Port Byron silt loam</u>	<u>15-24</u>
<u>Port Byron silt loam, sandy substratum</u>	<u>15-24</u>
<u>Prairieville silt loam</u>	<u>15-24</u>
<u>Princeton fine sandy loam</u>	<u>8-15</u>
<u>Proctor silt loam</u>	<u>15-24</u>
<u>Proctor silt loam, sandy substratum</u>	<u>15-24</u>
<u>Prophetstown silt loam</u>	<u>15-24</u>
<u>Quiver silty clay loam</u>	<u>15-24</u>
<u>Racoon silt loam</u>	<u>8-15</u>
<u>Raddle silt loam</u>	<u>15-24</u>

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENTS

<u>Raddle-Sparta complex</u>	<u>8-15</u>
<u>Radford silt loam</u>	<u>15-24</u>
<u>Rantoul silty clay</u>	<u>&gt;24</u>
<u>Rapatee silty clay loam</u>	<u>&gt;24</u>
<u>Raub silt loam</u>	<u>15-24</u>
<u>Raveenwash silty clay loam</u>	<u>8-15</u>
<u>Redbud silt loam</u>	<u>8-15</u>
<u>Redbud-Colp silty clay loams</u>	<u>8-15</u>
<u>Redbud-Hurst silty clay loams</u>	<u>8-15</u>
<u>Reddick silty clay loam</u>	<u>&gt;24</u>
<u>Reesville silt loam</u>	<u>8-15</u>
<u>Rend silt loam</u>	<u>8-15</u>
<u>Richview silt loam</u>	<u>8-15</u>
<u>Richwood silt loam</u>	<u>15-24</u>
<u>Ridgeville fine sandy loam</u>	<u>8-15</u>
<u>Ridgway silt loam</u>	<u>8-15</u>
<u>Ridott silt loam</u>	<u>8-15</u>
<u>Riley silty clay loam</u>	<u>&gt;24</u>
<u>Ringwood silt loam</u>	<u>15-24</u>
<u>Ripon silt loam</u>	<u>8-15</u>
<u>Ritchey silt loam</u>	<u>8-15</u>
<u>Robbs silt loam</u>	<u>8-15</u>
<u>Roby fine sandy loam</u>	<u>&lt;8</u>
<u>Rocher loam</u>	<u>8-15</u>
<u>Rockton loam</u>	<u>8-15</u>
<u>Rockton and Dodgeville soils</u>	<u>8-15</u>
<u>Rodman loam</u>	<u>8-15</u>
<u>Rodman gravelly loam</u>	<u>&lt;8</u>
<u>Rodman-Casco complex</u>	<u>8-15</u>
<u>Rodman-Fox complex</u>	<u>8-15</u>

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## NOTICE OF ADOPTED AMENDMENTS

<u>Rodman-Warsaw complex</u>	<u>8-15</u>
<u>Romeo silt loam</u>	<u>15-24</u>
<u>Rooks silt loam</u>	<u>&gt;24</u>
<u>Ross loam</u>	<u>8-15</u>
<u>Rosburg loam</u>	<u>&gt;24</u>
<u>Rowe silty clay</u>	<u>&gt;24</u>
<u>Rozetta silt loam</u>	<u>8-15</u>
<u>Ruark fine sandy loam</u>	<u>&lt;8</u>
<u>Rubio silt loam</u>	<u>15-24</u>
<u>Ruma silt loam</u>	<u>15-24</u>
<u>Ruma-Ursa silty clay loams</u>	<u>8-15</u>
<u>Rush silt loam</u>	<u>8-15</u>
<u>Rushville silt loam</u>	<u>8-15</u>
<u>Rushville-Huey silt loams</u>	<u>8-15</u>
<u>Russell silt loam</u>	<u>8-15</u>
<u>Rutland silt loam</u>	<u>15-24</u>
<u>Sabina silt loam</u>	<u>15-24</u>
<u>Sable silty clay loam</u>	<u>&gt;24</u>
<u>Saffell gravelly sandy loam</u>	<u>8-15</u>
<u>Sarpy sand</u>	<u>&lt;8</u>
<u>Saude loam</u>	<u>15-24</u>
<u>Sawmill silty clay loam</u>	<u>&gt;24</u>
<u>Sawmill-Lawson complex</u>	<u>&gt;24</u>
<u>Saybrook silt loam</u>	<u>15-24</u>
<u>Saylesville silt loam</u>	<u>8-15</u>
<u>Schapville silt loam</u>	<u>15-24</u>
<u>Schuline silt loam</u>	<u>8-15</u>
<u>Sciotoville silt loam</u>	<u>8-15</u>
<u>Seaton silt loam</u>	<u>8-15</u>
<u>Seaton silt loam, sandy substratum</u>	<u>8-15</u>

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<u>Seaton-Goss complex</u>	<u>8-15</u>
<u>Seaton-Hickory complex</u>	<u>8-15</u>
<u>Seaton-Oakville complex</u>	<u>8-15</u>
<u>Seaton-Timula silt loams</u>	<u>8-15</u>
<u>Selma loam</u>	<u>15-24</u>
<u>Selmass loam</u>	<u>15-24</u>
<u>Selma loam, bedrock substratum</u>	<u>15-24</u>
<u>Senachwine silt loam</u>	<u>8-15</u>
<u>Sepo silty clay loam</u>	<u>15-24</u>
<u>Sexton silt loam</u>	<u>8-15</u>
<u>Shadeland silt loam</u>	<u>8-15</u>
<u>Shaffton loam</u>	<u>15-24</u>
<u>Sharon silt loam</u>	<u>8-15</u>
<u>Shiloh silty clay loam</u>	<u>&gt;24</u>
<u>Shoals silt loam</u>	<u>8-15</u>
<u>Shullsburg silt loam</u>	<u>15-24</u>
<u>Sidell silt loam</u>	<u>8-15</u>
<u>Skelton fine sandy loam</u>	<u>8-15</u>
<u>Slacwater silt loam</u>	<u>8-15</u>
<u>Sogn silt loam</u>	<u>15-24</u>
<u>Somonauk silt loam</u>	<u>8-15</u>
<u>Sonsac very cobbly silt loam</u>	<u>8-15</u>
<u>Sparta loamy sand</u>	<u>&lt;8</u>
<u>Sparta loamy sand, loamy substratum</u>	<u>&lt;8</u>
<u>Springerton loam</u>	<u>15-24</u>
<u>Starks silt loam</u>	<u>8-15</u>
<u>Stockland loam</u>	<u>8-15</u>
<u>Stonelick fine sandy loam</u>	<u>&lt;8</u>
<u>Stookey silt loam</u>	<u>15-24</u>
<u>Stookey and Timula soils</u>	<u>8-15</u>

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## NOTICE OF ADOPTED AMENDMENTS

<u>Stookey-Bodine complex</u>	<u>15-24</u>
<u>Stoy silt loam</u>	<u>8-15</u>
<u>Strawn silt loam</u>	<u>8-15</u>
<u>Strawn-Chute complex</u>	<u>8-15</u>
<u>Strawn-Hennepin loams</u>	<u>8-15</u>
<u>Streator silty clay loam</u>	<u>&gt;24</u>
<u>Stronghurst silt loam</u>	<u>8-15</u>
<u>St. Charles silt loam</u>	<u>8-15</u>
<u>St. Charles silt loam, sandy substratum</u>	<u>15-24</u>
<u>St. Clair silt loam</u>	<u>8-15</u>
<u>Sunbury silt loam</u>	<u>15-24</u>
<u>Swanwick silt loam</u>	<u>8-15</u>
<u>Swygert silty clay loam</u>	<u>&gt;24</u>
<u>Sylvan silt loam</u>	<u>8-15</u>
<u>Sylvan-Bold complex</u>	<u>8-15</u>
<u>Symerton loam</u>	<u>15-24</u>
<u>Symerton silt loam</u>	<u>15-24</u>
<u>Tallula silt loam</u>	<u>15-24</u>
<u>Tallulabold silt loams</u>	<u>15-24</u>
<u>Tama silt loam</u>	<u>15-24</u>
<u>Tamalco silt loam</u>	<u>8-15</u>
<u>Tama silt loam, sandy substratum</u>	<u>15-24</u>
<u>Tell silt loam</u>	<u>8-15</u>
<u>Tell-Lamont complex</u>	<u>8-15</u>
<u>Terril loam</u>	<u>15-24</u>
<u>Thebes silt loam</u>	<u>8-15</u>
<u>Thorp silt loam</u>	<u>15-24</u>
<u>Tice silty clay loam</u>	<u>&gt;24</u>
<u>Timewell silt loam</u>	<u>15-24</u>
<u>Timewell and Ipava soils</u>	<u>15-24</u>

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<u>Timula silt loam</u>	<u>8-15</u>
<u>Timula-Hickory complex</u>	<u>8-15</u>
<u>Timula-Miami complex</u>	<u>8-15</u>
<u>Titus silty clay loam</u>	<u>&gt;24</u>
<u>Toronto silt loam</u>	<u>15-24</u>
<u>Torox silt loam</u>	<u>15-24</u>
<u>Traer silt loam</u>	<u>8-15</u>
<u>Trempealeau silt loam</u>	<u>15-24</u>
<u>Troxel silt loam</u>	<u>15-24</u>
<u>Tuscola loam</u>	<u>8-15</u>
<u>Twomile silt loam</u>	<u>8-15</u>
<u>Udolpho loam</u>	<u>15-24</u>
<u>Udolpho loam, sandy substratum</u>	<u>15-24</u>
<u>Uniontown silt loam</u>	<u>8-15</u>
<u>Ursa silt loam</u>	<u>8-15</u>
<u>Ursa-Atlas complex</u>	<u>8-15</u>
<u>Ursa-Hickory complex</u>	<u>8-15</u>
<u>Vanmeter silty clay loam</u>	<u>15-24</u>
<u>Vanpetten loam</u>	<u>15-24</u>
<u>Varna silt loam</u>	<u>15-24</u>
<u>Velma loam</u>	<u>8-15</u>
<u>Velma-Coatsburg silt loams</u>	<u>15-24</u>
<u>Velma-Walshville complex</u>	<u>8-15</u>
<u>Vesser silt loam</u>	<u>15-24</u>
<u>Virden silty clay loam</u>	<u>&gt;24</u>
<u>Virden-Fosterburg silt loams</u>	<u>&gt;24</u>
<u>Virden-Piasa silt loams</u>	<u>&gt;24</u>
<u>Virgil silt loam</u>	<u>8-15</u>
<u>Wabash silty clay</u>	<u>&gt;24</u>
<u>Wagner silt loam</u>	<u>8-15</u>

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<u>Wakeland silt loam</u>	<u>8-15</u>
<u>Wakenda silt loam</u>	<u>15-24</u>
<u>Wallkill silty clay loam</u>	<u>&gt;24</u>
<u>Wallkill silt loam</u>	<u>15-24</u>
<u>Ware silt loam</u>	<u>15-24</u>
<u>Warsaw silt loam</u>	<u>15-24</u>
<u>Washtenaw silt loam</u>	<u>15-24</u>
<u>Watseka loamy fine sand</u>	<u>&lt;8</u>
<u>Wauconda silt loam</u>	<u>8-15</u>
<u>Wauconda and Beecher silt loams</u>	<u>8-15</u>
<u>Wauconda and Frankfort silt loams</u>	<u>8-15</u>
<u>Waukee loam</u>	<u>8-15</u>
<u>Waukegan silt loam</u>	<u>15-24</u>
<u>Waupecan silt loam</u>	<u>15-24</u>
<u>Wea silt loam</u>	<u>15-24</u>
<u>Weinbach silt loam</u>	<u>8-15</u>
<u>Weir silt loam</u>	<u>8-15</u>
<u>Wellston silt loam</u>	<u>8-15</u>
<u>Wellston-Berks complex</u>	<u>8-15</u>
<u>Wenona silt loam</u>	<u>15-24</u>
<u>Wenona silt loam, loamy substratum</u>	<u>15-24</u>
<u>Wesley fine sandy loam</u>	<u>8-15</u>
<u>Westland clay loam</u>	<u>15-24</u>
<u>Westmore silt loam</u>	<u>8-15</u>
<u>Westmore-Neotoma complex</u>	<u>8-15</u>
<u>Westville silt loam</u>	<u>8-15</u>
<u>Whalan loam</u>	<u>8-15</u>
<u>Whalan and NewGlarus silt loams</u>	<u>8-15</u>
<u>Wheeling silt loam</u>	<u>8-15</u>
<u>Whitaker silt loam</u>	<u>8-15</u>

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<u>Whitaker variant loam</u>	<u>8-15</u>
<u>Whitson silt loam</u>	<u>8-15</u>
<u>Wilbur silt loam</u>	<u>8-15</u>
<u>Will silty clay loam</u>	<u>&gt;24</u>
<u>Windere silt loam</u>	<u>15-24</u>
<u>Winfield silt loam</u>	<u>8-15</u>
<u>Wingate silt loam</u>	<u>8-15</u>
<u>Winnebago silt loam</u>	<u>15-24</u>
<u>Wirt silt loam</u>	<u>8-15</u>
<u>Woodbine silt loam</u>	<u>8-15</u>
<u>Worthen silt loam</u>	<u>15-24</u>
<u>Wyanet silt loam</u>	<u>8-15</u>
<u>Wynoose silt loam</u>	<u>8-15</u>
<u>Wynoose silt loam, bench</u>	<u>8-15</u>
<u>Wynoose-Huey complex</u>	<u>8-15</u>
<u>Xenia silt loam</u>	<u>8-15</u>
<u>Zanesville silt loam</u>	<u>8-15</u>
<u>Zanesville-Westmore silt loams</u>	<u>8-15</u>
<u>Zipp silty clay loam</u>	<u>15-24</u>
<u>Zook silty clay</u>	<u>&gt;24</u>
<u>Zumbro sandy loam</u>	<u>8-15</u>
<u>Zurich silt loam</u>	<u>15-24</u>
<u>Zurich and Morley silt loams</u>	<u>15-24</u>
<u>Zurich and Nappanee silt loams</u>	<u>15-24</u>
<u>Zwingle silt loam</u>	<u>8-15</u>

(Source: Added at 32 Ill. Reg. 1308, effective January 21, 2008)

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Illinois Credit Union Act
- 2) Code Citation: 38 Ill. Adm. Code 190
- 3) Section Number: 190.140      Adopted Action: Amendment
- 4) Statutory Authority: Illinois Credit Union Act [205 ILCS 305]
- 5) Effective Date of Amendment: January 16, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: March 16, 2007; 31 Ill. Reg. 4298
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? No agreements were necessary.
- 13) Will this amendment replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This clarifies that a home equity loan borrower whose first mortgage loan has been paid off will be classified in accordance with Section 190.140(h)(1)(B). This type of loan (stated here as a non-purchase money first mortgage transaction) would only require a title search prepared by a service provider which is currently the same documentation required in second mortgages and home equity lines of credit.
- 16) Information and questions regarding this Adopted Amendment shall be directed to:

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DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

Department of Financial and Professional Regulation  
Attention: Craig Cellini  
320 West Washington, 3<sup>rd</sup> Floor  
Springfield, Illinois 62786

217/785-0813 Fax: 217/557-4451

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

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT

## TITLE 38: FINANCIAL INSTITUTIONS

## CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## PART 190

## ILLINOIS CREDIT UNION ACT

## SUBPART A: GENERAL PROVISIONS

Section	
190.2	Definitions
190.5	Credit Union Service Organizations
190.10	Field of Membership Procedures
190.20	Hearings
190.30	Cease and Desist Procedures
190.40	Removal or Suspension Procedures
190.50	Fees
190.60	General Accounting Procedures
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190.120	Bond and Insurance Requirements
190.130	Verification of Share and Loan Accounts
190.140	Real Estate Lending
190.150	Reverse Mortgage
190.160	Lending Limits – Consumer Loans
190.165	Business Loans
190.170	Group Purchasing
190.180	Investments
190.190	Liquidation
190.200	Conversion of Charter
190.210	Reimbursement for Financial Records
190.220	Registration of Out of State Credit Unions

## SUBPART B: HIGH RISK HOME LOANS

Section	
190.500	Definitions

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190.505	Applicability of Rule
190.510	Good Faith Requirements
190.515	Fraudulent or Deceptive Practices
190.520	Prohibited Refinances
190.525	Negative Amortization
190.530	Negative Equity
190.535	Balloon Payments
190.540	Financing of Certain Points and Fees
190.545	Financing of Single Premium Insurance Products
190.550	Lending Without Due Regard to Ability to Repay
190.555	Verification of Ability to Repay
190.560	Payments to Contractors
190.565	Counseling Prior to Perfecting Foreclosure
190.570	Mortgage Awareness Program
190.575	Offer of Mortgage Awareness Program
190.580	Third Party Review

## SUBPART C: PAYDAY LOANS

Section	
190.600	Definitions
190.601	Purpose and Scope
190.605	Applicability of Rule
190.610	Issuance of Payday Loans by Credit Unions
190.APPENDIX A	Estimated Monthly Income and Expenses Worksheet
190.APPENDIX B	Mortgage Ratio Worksheet

AUTHORITY: Implementing and authorized by the Illinois Credit Union Act [205 ILCS 305].

SOURCE: Adopted at 4 Ill. Reg. 20, p. 17, effective May 7, 1980; amended at 6 Ill. Reg. 11154, effective September 7, 1982; amended and codified at 7 Ill. Reg. 14973, effective October 26, 1983; emergency amendment at 9 Ill. Reg. 14378, effective September 11, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 16231, effective October 10, 1985; amended at 10 Ill. Reg. 14667, effective August 27, 1986; amended at 12 Ill. Reg. 10464, effective June 7, 1988; amended at 12 Ill. Reg. 17383, effective October 24, 1988; amended at 13 Ill. Reg. 3793, effective March 10, 1989; amended at 13 Ill. Reg. 15998, effective October 2, 1989; emergency amendment at 16 Ill. Reg. 12781, effective July 29, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17073, effective October 26, 1992; amended at 19 Ill. Reg. 2826, effective

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February 24, 1995; amended at 20 Ill. Reg. 5803, effective April 8, 1996; emergency amendment at 20 Ill. Reg. 13093, effective September 27, 1996, for a maximum of 150 days; emergency expired February 17, 1997; amended at 22 Ill. Reg. 17317, effective September 15, 1998; emergency amendment at 23 Ill. Reg. 3086, effective February 23, 1999, for a maximum of 150 days; emergency expired July 22, 1999; amended at 23 Ill. Reg. 12614, effective October 4, 1999; amended at 23 Ill. Reg. 14031, effective November 12, 1999; amended at 25 Ill. Reg. 6244, effective May 17, 2001; amended at 25 Ill. Reg. 13278, effective October 19, 2001; amended at 26 Ill. Reg. 17999, effective December 9, 2002; amended at 28 Ill. Reg. 11699, effective July 29, 2004; amended at 29 Ill. Reg. 10579, effective July 8, 2005; amended at 30 Ill. Reg. 18919, effective December 4, 2006; amended at 32 Ill. Reg. 1377, effective January 16, 2008.

## SUBPART A: GENERAL PROVISIONS

**Section 190.140 Real Estate Lending**

- a) A Credit Union with total assets greater than \$1 million may, following a resolution of its Board, make loans secured by a lien on real estate, including an assignment of a beneficial interest in a land trust, subject to the following procedures:

Total Assets of a Credit Union	Maximum Amount of Loans Secured by Real Estate	Aggregate of All First Mortgage Loans Secured by Real Estate
Under \$1 million	Lending Limits for Consumer Loans	0% of total assets
\$1 - 2.5 million	\$165,000*	25% of total assets
\$2.5 - 5 million	\$250,000*	30% of total assets
\$5 - 10 million	\$330,000	35% of total assets
\$10 - 30 million	\$580,000	40% of total assets
\$30 - 100 million	\$825,000	45% of total assets
Over \$100 million	\$1,000,000	50% of total assets

\* The aggregate loans to one member may not exceed the aggregate limit referenced in subsection (e).

- b) Credit unions with assets under \$1 million may make home equity and second mortgage loans subject to the lending limits for consumer loans set forth in Section 190.160. Credit Unions with assets under \$1 million shall not make first

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mortgage real estate loans.

- c) Credit unions shall not make first mortgage real estate loans for more than the estimated market value or appraised value of the real estate securing the loans. Real estate loans, other than first mortgage loans, shall be limited to the value of the member-borrower's equity in the real estate securing the loan, provided a credit union may consider as equity any outstanding loan amount secured by the real estate if the outstanding loan will be repaid with the proceeds of the credit union's loan.
- d) The maximum individual lending limit and the maximum ratio of first mortgage real estate loans may be increased by obtaining written approval from the Director. Such approval is to be based upon the need of the members and the credit union's real estate lending record.
- e) The maximum limit on an individual loan by credit unions with assets greater than \$1 million is in addition to the secured and unsecured lending limits of Section 190.160 of this Part; provided, however, in no event shall all loans to any member exceed in the aggregate 10% of the credit union's unimpaired capital and surplus as defined in Section 190.2 of this Part. Loans subject to the requirements for business loans set forth in Section 190.165 of this Part shall be subject to the appraisal requirements of subsection (h), but shall not be subject to the other provisions of this Section.
- f) The maximum maturity of a loan secured by a first mortgage shall not exceed 40 years.
- g) Procedures
  - 1) All loans secured by a lien on real estate shall be made based upon prudent written lending policies and sound lending practices as documented in each member's loan file. Unless waived by the Director, lending policies shall include, without limitation, acceptable debt-to-income and loan-to-value ratios that will be considered the types of real estate security that will be accepted and any other prudent data considered necessary to determine the appropriateness of a loan request. All applicable Illinois and Federal statutes shall be observed.
  - 2) All accounting for real estate loan transactions shall be in accordance with

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generally accepted accounting principles.

- h) Documentation
- 1) Any credit union granting loans secured by a lien in real estate must procure and retain the following documentation in its files:
    - A) A loan application that specifies the purpose of the loan (equity, purchase, construction, refinance, etc.). The application must contain sufficient information to support the approval of the loan. Such information shall include without limitation: the amount of the loan requested; the purchase price (if applicable); a listing of the borrower's assets and liabilities; a statement of the borrower's income; a specific identification of the property; and an explanation of the source of the borrower's down payment. If the loan proceeds will be used for the purchase of the property, a copy of the real estate sale contract shall be included as an attachment to the application.
    - B) A legal opinion from the credit union's attorney, or a title insurance policy that identifies the credit union's lien position on the property used to secure the loan. In the case of home equity lines of credit, ~~and~~ second mortgages, and non-purchase money first mortgage transactions, a title search prepared by a service provider capable of conducting such a search shall be acceptable.
    - C) For transactions of \$250,000 or less, a written estimate of market value of the property securing the loan, performed by an individual having no direct or indirect interest in the property and experienced to perform such estimations of value for the type and amount of credit being considered. For transactions over \$250,000, an appraisal by a state certified or licensed appraiser which estimates the market value of the property used as security for the loan.
    - D) A credit report prepared by the credit union or a credit reporting agency. The report, in conjunction with the information contained in subsection (h)(1)(A), must demonstrate the applicant's past history of repayment and ability to repay the loan in question.

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- E) A duly executed note and mortgage agreement that outline the borrower's agreement to repay the loan on the terms agreed, and the borrower's agreement to provide the credit union with a valid security interest in the subject property. The mortgage agreement must contain an accurate legal description of the subject property and be duly recorded in the office of the appropriate county recorder of deeds.
- F) A settlement statement reflecting all costs of closing and all disbursements of funds at closing for real estate loans that require the use of a settlement statement under the Real Estate Settlement Procedures Act.
- G) On any loan where the lesser of the loan-to-value ratio or loan-to-purchase price ratio exceeds 80%, the credit union may require the borrower to obtain private mortgage insurance insuring the excess of the loan above the 80% factor.
- H) In the event the subject loan is to be used for the construction of a residential dwelling that is or will be the principal residence of the member-borrower and the loan will be secured by a perfected first lien or first security interest in favor of the credit union, the credit union must obtain satisfactory evidence of the payment in full of the costs of furnishing labor and material in connection with such construction. Such evidence shall include receipt of an owner's statement, under oath, setting forth the names of all parties with whom the owner has contracted for the furnishing of labor and material; a general contractor's sworn statement from each of the parties named in the owner's statement; a subcontractor's sworn statement from each subcontractor named in the general contractor's statement; and partial and final unconditional lien waivers from the general contractor and all subcontractors and materialmen indicating that they have completed their respective portion of the work and been paid in full. The credit union must inspect, or cause to be inspected by a third party, the completion of each phase of the work for which an advance of any portion of the loan proceeds is sought. Any such inspections must be clearly documented in the file as to the date of the inspection and a brief explanation of the work progression. Additionally, the credit

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union must obtain a borrower payment authorization, in connection with each payment to the general contractor. This subsection (h)(1)(H) shall not apply to a loan to finance the repair, alteration or improvement of a residential dwelling which is the residence of the member-borrower.

- 2) A loan secured by a lien on real estate is exempt from the requirements of subsections (h)(1)(B), (C) and (G) of this Section if the loan complies with the following criteria:
  - A) The loan is not used for the purchase or refinancing of the real estate securing the loan.
  - B) The lien on real estate is taken as collateral solely through an abundance of caution.
  - C) The terms of the transaction are not more favorable than they would have been in the absence of the lien on real estate.
  - D) The transaction complies with the lending limits and other requirements for consumer loans set forth in Section 190.160 of this Part.
- i) Sale of Real Estate Loans
  - 1) A credit union may sell, in whole or in part, any loan secured by real estate to:
    - A) Federal National Mortgage Association
    - B) Government National Mortgage Association
    - C) Federal Home Loan Mortgage Corporation
    - D) Federal, Illinois and Local Housing Authorities
    - E) Federal or Illinois Chartered Credit Unions, Banks, and Savings and Loan Associations

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- F) Residential mortgage licensees properly registered with and licensed by the Illinois Director of Banks and Real Estate
  - G) Such other institutions as approved by the Director
- 2) All such sales shall not be subject to recourse or repurchase that enables the credit union to retain control over the transferred assets. The credit union shall have surrendered control over the transferred assets if:
- A) The transferred assets have been put presumptively beyond the reach of the credit union transferring the assets and its creditors;
  - B) The purchaser has the right to pledge or exchange the assets; and
  - C) The credit union does not maintain effective control over the transferred assets through an agreement that both entitles and obligates the credit union to repurchase the assets before their maturity.
- 3) A limited recourse provision in a sale agreement that obligates the credit union transferring assets to purchase the assets because of breach of warranty or misrepresentation shall be considered a sale.

(Source: Amended at 32 Ill. Reg. 1377, effective January 16, 2008)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Definitions and General Provisions
- 2) Code citation: 35 Ill. Adm. Code 211
- 3) Section Number: 211.7150      Adopted Action: Amend
- 4) Statutory Authority: 415 ILCS 5/7.2, 9.1(e), and 27
- 5) Effective Date of amendments: January 16, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No. Although the text of 35 Ill. Adm. Code 211 includes incorporations by reference, the provision involved in this proceeding does not include any.
- 8) Statement of availability: The adopted amendments, a copy of the Board's opinion and order adopted January 10, 2008 in docket R08-6, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of Proposed Amendments published in the Illinois Register: November 2, 2007; 31 Ill. Reg. 14679
- 10) Has JCAR Issued a Statement of Objection to these amendments? No. Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).
- 11) Differences between the proposal and the final version: A table that appears in the Board's opinion and order of January 10, 2008 in docket R08-6 summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated October 18, 2007, in docket R08-6. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments.

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The differences are limited to corrections to the text suggested by JCAR to accommodate the amendments to Part 211 adopted in docket R07-18, effective September 25, 2007. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the board and JCAR been made as indicated in the agreements issued by JCAR? Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the November 2, 2007 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of January 10, 2008 in docket R08-6, as indicated in item 11 above. See the January 10, 2008 opinion and order in docket R08-6 for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will these amendments replace any emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The following briefly describes the subjects and issues involved in this rulemaking. A comprehensive description is contained in the Board's opinion and order of January 10, 2008, adopting amendments in docket R08-6, which opinion and order is available from the address below.

The R08-6 proceeding relates to the listings of compounds exempted from the State definition of "volatile organic material" (VOM) or "volatile organic compound" (VOC) in 35 Ill. Adm. Code 211.7150 of the Illinois air pollution control rules. These amendments update the definition of to correspond with amendments to the corresponding definition of VOC in the federal regulations at 40 C.F.R. 51.100(s) that the United States Environmental Protection Agency (USEPA) adopted during the period January 1, 2007

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through June 30, 2007. During this period, USEPA amended its definition of VOC as follows:

January 18, 2007 (72 Fed. Reg. 2193)	USEPA added a single compound to the list of chemical species that are exempt from the federal definition of VOC and, accordingly, are exempt from regulation for control of ozone precursors. That compound is 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane, also known as HFE-7300 or L-14787, having the empirical formula $C_2F_5CF(OCH_3)CF(CF_3)_2$ .
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Tables appear in the Board's opinion and order of January 10, 2008 in docket R08-6 that list a limited number of corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Principal among the amendments not directly derived from the above-cited USEPA action are corrections to an earlier exemption of tert-butyl acetate from the definition of VOM to accommodate USEPA comments on that exemption. See 72 Fed. Reg. 74250 (Dec. 31, 2007). Persons interested in the details of those corrections and amendments should refer to the January 10, 2008 opinion and order in docket R08-6.

- 16) Information and questions regarding these adopted amendments shall be directed to:  
Please reference consolidated docket R08-6 and direct inquiries to the following person:

Michael J. McCambridge  
Staff Attorney  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago, IL 60601  
312-814-6924

Request copies of the Board's opinion and order of January 10, 2008 at 312-814-3620. Alternatively, you may obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

The full text of the Adopted Amendment 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 SOURCESPART 211  
DEFINITIONS AND GENERAL PROVISIONS

## SUBPART A: GENERAL PROVISIONS

Section	
211.101	Incorporations by Reference
211.102	Abbreviations and Conversion Factors

## SUBPART B: DEFINITIONS

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

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

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211.960	Cement Kiln
211.970	Certified Investigation
211.980	Chemical Manufacturing Process Unit
211.990	Choke Loading
211.1010	Clean Air Act
211.1050	Cleaning and Separating Operation
211.1070	Cleaning Materials
211.1090	Clear Coating
211.1110	Clear Topcoat
211.1120	Clinker
211.1130	Closed Purge System
211.1150	Closed Vent System
211.1170	Coal Refuse
211.1190	Coating
211.1210	Coating Applicator
211.1230	Coating Line
211.1250	Coating Plant
211.1270	Coil Coating
211.1290	Coil Coating Line
211.1310	Cold Cleaning
211.1312	Combined Cycle System
211.1316	Combustion Turbine
211.1320	Commence Commercial Operation
211.1324	Commence Operation
211.1328	Common Stack
211.1330	Complete Combustion
211.1350	Component
211.1370	Concrete Curing Compounds
211.1390	Concentrated Nitric Acid Manufacturing Process
211.1410	Condensate
211.1430	Condensable PM-10
211.1465	Continuous Automatic Stoking
211.1467	Continuous Coater
211.1470	Continuous Process
211.1490	Control Device
211.1510	Control Device Efficiency
211.1515	Control Period
211.1520	Conventional Air Spray
211.1530	Conventional Soybean Crushing Source

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211.1550	Conveyorized Degreasing
211.1570	Crude Oil
211.1590	Crude Oil Gathering
211.1610	Crushing
211.1630	Custody Transfer
211.1650	Cutback Asphalt
211.1670	Daily-Weighted Average VOM Content
211.1690	Day
211.1710	Degreaser
211.1730	Delivery Vessel
211.1740	Diesel Engine
211.1750	Dip Coating
211.1770	Distillate Fuel Oil
211.1780	Distillation Unit
211.1790	Drum
211.1810	Dry Cleaning Operation or Dry Cleaning Facility
211.1830	Dump-Pit Area
211.1850	Effective Grate Area
211.1870	Effluent Water Separator
211.1875	Elastomeric Materials
211.1880	Electromagnetic Interference/Radio Frequency Interference (EMI/RFI) Shielding
	Coatings
211.1885	Electronic Component
211.1890	Electrostatic Bell or Disc Spray
211.1900	Electrostatic Prep Coat
211.1910	Electrostatic Spray
211.1920	Emergency or Standby Unit
211.1930	Emission Rate
211.1950	Emission Unit
211.1970	Enamel
211.1990	Enclose
211.2010	End Sealing Compound Coat
211.2030	Enhanced Under-the-Cup Fill
211.2050	Ethanol Blend Gasoline
211.2070	Excess Air
211.2080	Excess Emissions
211.2090	Excessive Release
211.2110	Existing Grain-Drying Operation (Repealed)
211.2130	Existing Grain-Handling Operation (Repealed)

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211.2150	Exterior Base Coat
211.2170	Exterior End Coat
211.2190	External Floating Roof
211.2210	Extreme Performance Coating
211.2230	Fabric Coating
211.2250	Fabric Coating Line
211.2270	Federally Enforceable Limitations and Conditions
211.2285	Feed Mill
211.2290	Fermentation Time
211.2300	Fill
211.2310	Final Repair Coat
211.2330	Firebox
211.2350	Fixed-Roof Tank
211.2360	Flexible Coating
211.2365	Flexible Operation Unit
211.2370	Flexographic Printing
211.2390	Flexographic Printing Line
211.2410	Floating Roof
211.2420	Fossil Fuel
211.2425	Fossil Fuel-Fired
211.2430	Fountain Solution
211.2450	Freeboard Height
211.2470	Fuel Combustion Emission Unit or Fuel Combustion Emission Source
211.2490	Fugitive Particulate Matter
211.2510	Full Operating Flowrate
211.2530	Gas Service
211.2550	Gas/Gas Method
211.2570	Gasoline
211.2590	Gasoline Dispensing Operation or Gasoline Dispensing Facility
211.2610	Gel Coat
211.2620	Generator
211.2630	Gloss Reducers
211.2650	Grain
211.2670	Grain-Drying Operation
211.2690	Grain-Handling and Conditioning Operation
211.2710	Grain-Handling Operation
211.2730	Green-Tire Spraying
211.2750	Green Tires
211.2770	Gross Heating Value

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211.2790	Gross Vehicle Weight Rating
211.2810	Heated Airless Spray
211.2815	Heat Input
211.2820	Heat Input Rate
211.2830	Heatset
211.2850	Heatset Web Offset Lithographic Printing Line
211.2870	Heavy Liquid
211.2890	Heavy Metals
211.2910	Heavy Off-Highway Vehicle Products
211.2930	Heavy Off-Highway Vehicle Products Coating
211.2950	Heavy Off-Highway Vehicle Products Coating Line
211.2970	High Temperature Aluminum Coating
211.2990	High Volume Low Pressure (HVLP) Spray
211.3010	Hood
211.3030	Hot Well
211.3050	Housekeeping Practices
211.3070	Incinerator
211.3090	Indirect Heat Transfer
211.3110	Ink
211.3130	In-Process Tank
211.3150	In-Situ Sampling Systems
211.3170	Interior Body Spray Coat
211.3190	Internal-Floating Roof
211.3210	Internal Transferring Area
211.3230	Lacquers
211.3250	Large Appliance
211.3270	Large Appliance Coating
211.3290	Large Appliance Coating Line
211.3300	Lean-Burn Engine
211.3310	Light Liquid
211.3330	Light-Duty Truck
211.3350	Light Oil
211.3370	Liquid/Gas Method
211.3390	Liquid-Mounted Seal
211.3410	Liquid Service
211.3430	Liquids Dripping
211.3450	Lithographic Printing Line
211.3470	Load-Out Area
211.3480	Loading Event

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211.3483	Long Dry Kiln
211.3485	Long Wet Kiln
211.3487	Low-NO <sub>x</sub> Burner
211.3490	Low Solvent Coating
211.3500	Lubricating Oil
211.3510	Magnet Wire
211.3530	Magnet Wire Coating
211.3550	Magnet Wire Coating Line
211.3570	Major Dump Pit
211.3590	Major Metropolitan Area (MMA)
211.3610	Major Population Area (MPA)
211.3620	Manually Operated Equipment
211.3630	Manufacturing Process
211.3650	Marine Terminal
211.3660	Marine Vessel
211.3670	Material Recovery Section
211.3690	Maximum Theoretical Emissions
211.3695	Maximum True Vapor Pressure
211.3710	Metal Furniture
211.3730	Metal Furniture Coating
211.3750	Metal Furniture Coating Line
211.3770	Metallic Shoe-Type Seal
211.3780	Mid-Kiln Firing
211.3790	Miscellaneous Fabricated Product Manufacturing Process
211.3810	Miscellaneous Formulation Manufacturing Process
211.3830	Miscellaneous Metal Parts and Products
211.3850	Miscellaneous Metal Parts and Products Coating
211.3870	Miscellaneous Metal Parts or Products Coating Line
211.3890	Miscellaneous Organic Chemical Manufacturing Process
211.3910	Mixing Operation
211.3915	Mobile Equipment
211.3930	Monitor
211.3950	Monomer
211.3960	Motor Vehicles
211.3965	Motor Vehicle Refinishing
211.3970	Multiple Package Coating
211.3980	Nameplate Capacity
211.3990	New Grain-Drying Operation (Repealed)
211.4010	New Grain-Handling Operation (Repealed)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENT

211.4030	No Detectable Volatile Organic Material Emissions
211.4050	Non-Contact Process Water Cooling Tower
211.4055	Non-Flexible Coating
211.4065	Non-Heatset
211.4067	NO <sub>x</sub> Trading Program
211.4070	Offset
211.4090	One Hundred Percent Acid
211.4110	One-Turn Storage Space
211.4130	Opacity
211.4150	Opaque Stains
211.4170	Open Top Vapor Degreasing
211.4190	Open-Ended Valve
211.4210	Operator of a Gasoline Dispensing Operation or Operator of a Gasoline Dispensing Facility
211.4230	Organic Compound
211.4250	Organic Material and Organic Materials
211.4260	Organic Solvent
211.4270	Organic Vapor
211.4290	Oven
211.4310	Overall Control
211.4330	Overvarnish
211.4350	Owner of a Gasoline Dispensing Operation or Owner of a Gasoline Dispensing Facility
211.4370	Owner or Operator
211.4390	Packaging Rotogravure Printing
211.4410	Packaging Rotogravure Printing Line
211.4430	Pail
211.4450	Paint Manufacturing Source or Paint Manufacturing Plant
211.4470	Paper Coating
211.4490	Paper Coating Line
211.4510	Particulate Matter
211.4530	Parts Per Million (Volume) or PPM (Vol)
211.4550	Person
211.4590	Petroleum
211.4610	Petroleum Liquid
211.4630	Petroleum Refinery
211.4650	Pharmaceutical
211.4670	Pharmaceutical Coating Operation
211.4690	Photochemically Reactive Material

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENT

211.4710	Pigmented Coatings
211.4730	Plant
211.4740	Plastic Part
211.4750	Plasticizers
211.4770	PM-10
211.4790	Pneumatic Rubber Tire Manufacture
211.4810	Polybasic Organic Acid Partial Oxidation Manufacturing Process
211.4830	Polyester Resin Material(s)
211.4850	Polyester Resin Products Manufacturing Process
211.4870	Polystyrene Plant
211.4890	Polystyrene Resin
211.4910	Portable Grain- Handling Equipment
211.4930	Portland Cement Manufacturing Process Emission Source
211.4950	Portland Cement Process or Portland Cement Manufacturing Plant
211.4960	Potential Electrical Output Capacity
211.4970	Potential to Emit
211.4990	Power Driven Fastener Coating
211.5010	Precoat
211.5015	Preheater Kiln
211.5020	Preheater/Precalciner Kiln
211.5030	Pressure Release
211.5050	Pressure Tank
211.5060	Pressure/Vacuum Relief Valve
211.5061	Pretreatment Wash Primer
211.5065	Primary Product
211.5070	Prime Coat
211.5080	Primer Sealer
211.5090	Primer Surfacer Coat
211.5110	Primer Surfacer Operation
211.5130	Primers
211.5150	Printing
211.5170	Printing Line
211.5185	Process Emission Source
211.5190	Process Emission Unit
211.5210	Process Unit
211.5230	Process Unit Shutdown
211.5245	Process Vent
211.5250	Process Weight Rate
211.5270	Production Equipment Exhaust System

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENT

211.5310	Publication Rotogravure Printing Line
211.5330	Purged Process Fluid
211.5340	Rated Heat Input Capacity
211.5350	Reactor
211.5370	Reasonably Available Control Technology (RACT)
211.5390	Reclamation System
211.5410	Refiner
211.5430	Refinery Fuel Gas
211.5450	Refinery Fuel Gas System
211.5470	Refinery Unit or Refinery Process Unit
211.5480	Reflective Argent Coating
211.5490	Refrigerated Condenser
211.5500	Regulated Air Pollutant
211.5510	Reid Vapor Pressure
211.5530	Repair
211.5550	Repair Coat
211.5570	Repaired
211.5580	Repowering
211.5590	Residual Fuel Oil
211.5600	Resist Coat
211.5610	Restricted Area
211.5630	Retail Outlet
211.5640	Rich-Burn Engine
211.5650	Ringelmann Chart
211.5670	Roadway
211.5690	Roll Coater
211.5710	Roll Coating
211.5730	Roll Printer
211.5750	Roll Printing
211.5770	Rotogravure Printing
211.5790	Rotogravure Printing Line
211.5810	Safety Relief Valve
211.5830	Sandblasting
211.5850	Sanding Sealers
211.5870	Screening
211.5880	Screen Printing on Paper
211.5890	Sealer
211.5910	Semi-Transparent Stains
211.5930	Sensor

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENT

211.5950	Set of Safety Relief Valves
211.5970	Sheet Basecoat
211.5980	Sheet-Fed
211.5990	Shotblasting
211.6010	Side-Seam Spray Coat
211.6025	Single Unit Operation
211.6030	Smoke
211.6050	Smokeless Flare
211.6060	Soft Coat
211.6070	Solvent
211.6090	Solvent Cleaning
211.6110	Solvent Recovery System
211.6130	Source
211.6140	Specialty Coatings
211.6145	Specialty Coatings for Motor Vehicles
211.6150	Specialty High Gloss Catalyzed Coating
211.6170	Specialty Leather
211.6190	Specialty Soybean Crushing Source
211.6210	Splash Loading
211.6230	Stack
211.6250	Stain Coating
211.6270	Standard Conditions
211.6290	Standard Cubic Foot (scf)
211.6310	Start-Up
211.6330	Stationary Emission Source
211.6350	Stationary Emission Unit
211.6355	Stationary Gas Turbine
211.6360	Stationary Reciprocating Internal Combustion Engine
211.6370	Stationary Source
211.6390	Stationary Storage Tank
211.6400	Stencil Coat
211.6410	Storage Tank or Storage Vessel
211.6420	Strippable Spray Booth Coating
211.6430	Styrene Devolatilizer Unit
211.6450	Styrene Recovery Unit
211.6470	Submerged Loading Pipe
211.6490	Substrate
211.6510	Sulfuric Acid Mist
211.6530	Surface Condenser

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENT

211.6540	Surface Preparation Materials
211.6550	Synthetic Organic Chemical or Polymer Manufacturing Plant
211.6570	Tablet Coating Operation
211.6580	Texture Coat
211.6590	Thirty-Day Rolling Average
211.6610	Three-Piece Can
211.6620	Three or Four Stage Coating System
211.6630	Through-the-Valve Fill
211.6650	Tooling Resin
211.6670	Topcoat
211.6690	Topcoat Operation
211.6695	Topcoat System
211.6710	Touch-Up
211.6720	Touch-Up Coating
211.6730	Transfer Efficiency
211.6750	Tread End Cementing
211.6770	True Vapor Pressure
211.6790	Turnaround
211.6810	Two-Piece Can
211.6830	Under-the-Cup Fill
211.6850	Undertread Cementing
211.6860	Uniform Finish Blender
211.6870	Unregulated Safety Relief Valve
211.6880	Vacuum Metallizing
211.6890	Vacuum Producing System
211.6910	Vacuum Service
211.6930	Valves Not Externally Regulated
211.6950	Vapor Balance System
211.6970	Vapor Collection System
211.6990	Vapor Control System
211.7010	Vapor-Mounted Primary Seal
211.7030	Vapor Recovery System
211.7050	Vapor-Suppressed Polyester Resin
211.7070	Vinyl Coating
211.7090	Vinyl Coating Line
211.7110	Volatile Organic Liquid (VOL)
211.7130	Volatile Organic Material Content (VOMC)
211.7150	Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)
211.7170	Volatile Petroleum Liquid

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENT

211.7190	Wash Coat
211.7200	Washoff Operations
211.7210	Wastewater (Oil/Water) Separator
211.7230	Weak Nitric Acid Manufacturing Process
211.7250	Web
211.7270	Wholesale Purchase - Consumer
211.7290	Wood Furniture
211.7310	Wood Furniture Coating
211.7330	Wood Furniture Coating Line
211.7350	Woodworking
211.7400	Yeast Percentage

211.APPENDIX A Rule into Section Table

211.APPENDIX B Section into Rule Table

**AUTHORITY:** Implementing Sections 9, 9.1, 9.9 and 10 and authorized by Sections 27 and 28.5 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.

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENT

16929, effective November 15, 1994; amended in R94-21, R94-31 and R94-32 at 19 Ill. Reg. 6823, effective May 9, 1995; amended in R94-33 at 19 Ill. Reg. 7344, effective May 22, 1995; amended in R95-2 at 19 Ill. Reg. 11066, effective July 12, 1995; amended in R95-16 at 19 Ill. Reg. 15176, effective October 19, 1995; amended in R96-5 at 20 Ill. Reg. 7590, effective May 22, 1996; amended in R96-16 at 21 Ill. Reg. 2641, effective February 7, 1997; amended in R97-17 at 21 Ill. Reg. 6489, effective May 16, 1997; amended in R97-24 at 21 Ill. Reg. 7695, effective June 9, 1997; amended in R96-17 at 21 Ill. Reg. 7856, effective June 17, 1997; amended in R97-31 at 22 Ill. Reg. 3497, effective February 2, 1998; amended in R98-17 at 22 Ill. Reg. 11405, effective June 22, 1998; amended in R01-9 at 25 Ill. Reg. 108, effective December 26, 2000; amended in R01-11 at 25 Ill. Reg. 4582, effective March 15, 2001; amended in R01-17 at 25 Ill. Reg. 5900, effective April 17, 2001; amended in R05-16 at 29 Ill. Reg. 8181, effective May 23, 2005; amended in R05-11 at 29 Ill. Reg. 8892, effective June 13, 2005; amended in R04-12/20 at 30 Ill. Reg. 9654, effective May 15, 2006; amended in R07-18 at 31 Ill. Reg. 14254, effective September 25, 2007; amended in R08-6 at 32 Ill. Reg. 1387, effective January 16, 2008.

## SUBPART B: DEFINITIONS

**Section 211.7150 Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)**

"Volatile organic material" (also "VOM") or "volatile organic compound" (also "VOC") means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, that participates in atmospheric photochemical reactions.

- a) This definition of VOM includes any ~~such~~ organic compound that participates in atmospheric photochemical reactions, other than the compounds listed in this subsection (a). USEPA has determined that the compounds listed in this subsection (a) have negligible photochemical reactivity. USEPA has excluded the listed negligibly-reactive compounds from the definition of VOM for purposes of VOM limitations or VOM content requirements. However, USEPA has required that certain of these compounds be considered VOM for purposes of recordkeeping, emissions reporting, and inventory requirements, as described in subsection (e) of this Section. ~~following, which have been determined by USEPA to have negligible photochemical reactivity:~~

Acetone (2-propanone or dimethylketone)  
tertiary-Butyl acetate  
1-Chloro-1,1-difluoroethane (HCFC-142b)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENT

Chlorodifluoromethane (CFC-22)  
1-Chloro-1-fluoroethane (HCFC-151a)  
2-Chloro-1,1,1,2-tetrafluoroethane (HCFC-124)  
Chlorofluoromethane (HCFC-31)  
Chloropentafluoroethane (CFC-115)  
1,1,1,2,2,3,4,5,5,5-Decafluoro-3-methoxy-4-trifluoromethyl-pentane  
(HFE-7300, L-14787, or C<sub>2</sub>F<sub>5</sub>CF(OCH<sub>3</sub>)CF(CF<sub>3</sub>)<sub>2</sub>)  
1,1,1,2,3,4,4,5,5,5-Decafluoropentane (HFC 43-10mee)  
Dichlorodifluoromethane (CFC-12)  
1,1-Dichloro-1-fluoroethane (HCFC-141b)  
3,3-Dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca)  
1,3-Dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb)  
1,2-Dichloro-1,1,2,2-tetrafluoroethane (CFC-114)  
1,2-Dichloro-1,1,2-trifluoroethane (HCFC-123a)  
1,1-Difluoroethane (HFC-152a)  
Difluoromethane (HFC-32)  
2-(Difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane  
(CF<sub>3</sub>)<sub>2</sub>CFCF<sub>2</sub>OCH<sub>3</sub>)  
Ethane  
2-(Ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane  
(CF<sub>3</sub>)<sub>2</sub>CFCF<sub>2</sub>OC<sub>2</sub>H<sub>5</sub>)  
Ethylfluoride (HFC-161)  
1-Ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C<sub>4</sub>F<sub>9</sub>OC<sub>2</sub>H<sub>5</sub> or HFE-7200)  
3-Ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl)hexane  
(HFE-7500)  
1,1,1,2,2,3,3-Heptafluoro-3-methoxypropane (n-C<sub>3</sub>F<sub>7</sub>OCH<sub>3</sub> or HFE-7000)  
1,1,1,2,3,3,3-Heptafluoropropane (HFC-227ea)  
1,1,1,2,3,3-Hexafluoropropane (HFC-236ea)  
1,1,1,3,3,3-Hexafluoropropane (HFC-236fa)  
Methane  
Methyl acetate  
Methylene chloride (dichloromethane)  
Methyl formate (HCOOCH<sub>3</sub>)  
1,1,1,2,2,3,3,4,4-Nonafluoro-4-methoxybutane (C<sub>4</sub>F<sub>9</sub>OCH<sub>3</sub> or HFE-7100)  
Parachlorobenzotrifluoride (PCBTF)  
1,1,1,3,3-Pentafluorobutane (HFC-365mfc)  
Pentafluoroethane (HFC-125)  
1,1,2,2,3-Pentafluoropropane (HFC-245ca)  
1,1,2,3,3-Pentafluoropropane (HFC-245ea)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENT

1,1,1,2,3-Pentafluoropropane (HFC-245eb)

1,1,1,3,3-Pentafluoropropane (HFC-245fa)

Perchloroethylene (tetrachloroethylene)

Perfluorocarbon compounds that fall into the following classes:

Cyclic, branched, or linear, completely fluorinated alkanes

Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations

Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations

Sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine

Siloxanes: cyclic, branched, or linear completely-methylated

1,1,2,2-Tetrafluoroethane (HFC-134)

1,1,1,2-Tetrafluoroethane (HFC-134a)

1,1,1-Trichloroethane (methyl chloroform)

Trichlorofluoromethane (CFC-11)

1,1,2-Trichloro-1,2,2-trifluoroethane (CFC-113)

1,1,1-Trifluoro-2,2-dichloroethane (HCFC-123)

1,1,1-Trifluoroethane (HFC-143a)

Trifluoromethane (HFC-23)

- b) For purposes of determining VOM emissions and compliance with emissions limits, VOM will be measured by the test methods in the approved implementation plan or 40 CFR 60, Appendix A, incorporated by reference at 35 Ill. Adm. Code 215.105, 218.112, and 219.112, as applicable, or by source-specific test methods that have been established pursuant to a permit issued under a program approved or promulgated under Title V of the Clean Air Act; under 40 CFR 51, Subpart I or Appendix S, incorporated by reference at 35 Ill. Adm. Code 218.112 and 219.112; or under 40 CFR 52.21, incorporated by reference at 35 Ill. Adm. Code 218.112 and 219.112, as applicable. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOM if the amount of such compounds is accurately quantified and the exclusion is approved by the Agency.
- c) As a precondition to excluding these negligibly-reactive compounds as VOM, or at any time thereafter, the Agency may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of the Agency, the amount of negligibly-reactive compounds in the source's emissions.

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENT

- d) The USEPA will not be bound by any State determination as to appropriate methods for testing or monitoring negligibly-reactive compounds if such determination is not reflected in any of the test methods in subsection (b) above.
- e) The following compound is VOM for the purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements that apply to VOM, and it must be uniquely identified in emission reports, but it is not VOM for the purposes of VOM emissions limitations or VOM content requirements: t-butyl acetate.

(Source: Amended at 32 Ill. Reg. 1387, effective January 16, 2008)

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Number: 100.2197      Adopted Action: Amendment
- 4) Statutory Authority: 35 ILCS 5/601(b)(3) and 5/1401
- 5) Effective Date of Amendment: January 18, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 31 Ill. Reg. 14217; October 12, 2007
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were made.
- 13) Will this amendment replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
100.2406	New Section	31 Ill. Reg. 15240; November 16, 2007
100.2450	New Section	31 Ill. Reg. 15744; November 26, 2007
100.3420	New Section	31 Ill. Reg. 16428; December 14, 2007
100.2405	New Section	31 Ill. Reg. 16695; December 21, 2007
100.3010	Amendment	32 Ill. Reg. 97; January 4, 2008
100.3380	Amendment	32 Ill. Reg. 798; January 18, 2008
100.9700	Amendment	32 Ill. Reg. 798; January 18, 2008

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENT

- 15) Summary and Purpose of Amendment: This rulemaking updates the guidance for resident taxpayers claiming a credit for taxes paid to other states on income that is also taxed by Illinois to reflect the amendment to the Illinois Income Tax Act in Public Act 94-247 and to provide guidance for the treatment of transferred credits against other states' taxes in computing the Illinois credit.
- 16) Information and questions regarding this adopted amendment shall be directed to:

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

217/782-7055

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

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENT

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

## SUBPART A: TAX IMPOSED

## Section

- 100.2000 Introduction  
100.2050 Net Income (IITA Section 202)

## SUBPART B: CREDITS

## Section

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

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

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENT

## Section

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

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

## Section

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

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENT

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

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

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

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SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a

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maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 18, 2008.

## SUBPART B: CREDITS

**Section 100.2197 Foreign Tax Credit (IITA Section 601(b)(3))**

- a) IITA Section 601(b)(3) provides that *the aggregate amount of tax which is imposed upon or measured by income and which is paid by a resident for a taxable year to another state or states on income which is also subject to the tax imposed by Section 201(a) and (b) of the Illinois Income Tax Act shall be credited against the tax imposed by Section 201(a) and (b) otherwise due under the Illinois Income Tax Act for such taxable year.*
- b) Definitions applicable to this Section.
  - 1) Tax qualifying for the credit. A tax qualifies for the credit only if it is *imposed upon or measured by income and is paid by an Illinois resident to*

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another state *on income which is also subject to Illinois income tax.*

- A) A tax "imposed upon or measured by income" shall mean an income tax or tax on profits imposed by a state and deductible under IRC section 164(a)(3). Such term shall not include penalties or interest imposed with respect to the tax.
- B) A tax is "paid by an Illinois resident" to another state "on income which is also subject to Illinois income tax" only to the extent the income included in the tax base of the other state is also included in base income computed under IITA Section 203 during a period in which the taxpayer is an Illinois resident. Thus, for example, income tax paid to another state on retirement income excluded from base income under IITA Section 203(a)(2)(F) does not qualify for the credit, nor would income derived from a partnership or Subchapter S corporation whose tax year ends during a period in which the taxpayer is not an Illinois resident. See IRC section 706(a) and IRC section 1366(a)(1). If tax is paid to another state on income that is not included in base income or on income attributable to a period when the taxpayer was not a resident of Illinois, as well as on income that is included in base income and attributable to a period in which the taxpayer was a resident of Illinois, the amount of tax qualifying for the credit shall be determined by multiplying the tax paid by a fraction equal to the income taxed by the other state that is included in base income and attributable to a period in which the taxpayer was a resident of Illinois divided by the total tax base on which the other state's tax was computed.
- 2) For purposes of IITA Section 601(b)(3), "state" *means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any political subdivision of any of the foregoing.* (IITA Section 1501(a)(22)) This definition is effective for tax years ending on or after December 31, 1989. The term "state" does not include foreign countries or any political subdivision of a foreign country.
- 3) "Resident" is defined at IITA Section 1501(a)(20) and in Section 100.3020 of this Part.

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- 4) *Base income subject to tax both by another state and by this State or "double-taxed income" means items of income minus items deducted or excluded in computing the tax for which credit is claimed, to the extent such items of income, deduction or exclusion are taken into account in the computation of base income under IITA Section 203 for the person claiming the credit. However, under IITA Section 601(b)(3), as in effect prior to January 1, 2006 (the effective date of Public Act 94-247), no compensation received by a resident which qualifies as compensation paid in this State as determined under IITA Section 304(a)(2)(B) shall be considered income subject to tax by another state or states.*
- A) Under IITA Section 203(a), base income of an individual is computed without allowing the standard deduction allowed in computing federal taxable income, and without allowing the exemptions provided in IITA Section 204. Double-taxed income is therefore computed without reduction for any standard deductions or exemptions allowed by the state.
- B) An item of income is not included in double-taxed income to the extent it is excluded or deducted in computing the tax for which the credit is claimed. For example, State X allows a deduction or exclusion equal to 60% of long-term capital gains and for 100% of winnings from the State X lottery. Only 40% of long-term capital gains is subject to tax in that state. Similarly, an individual subject to the Washington, D.C. unincorporated business tax is allowed to deduct from taxable income a reasonable allowance for compensation for personal services rendered. This deduction is in fact an exclusion for the "personal income" of the individual, which Congress has forbidden Washington, D.C. to tax except in the case of residents. Accordingly, double-taxed income is net of this deduction.
- C) An item of income that is excluded, subtracted or deducted in the computation of base income under IITA Section 203 cannot be included in double-taxed income. For example, IITA Section 203(a)(2)(L) allows a subtraction for federally-taxed Social Security and Railroad Retirement benefits, while dividends received from a Subchapter S corporation are excluded from

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federal gross income and therefore from base income.

Accordingly, even if another state taxes such benefits or dividends, these amounts are not included in double-taxed income.

- D) An item of expense is deducted or subtracted in computing double-taxed income only to the extent that item is deducted or subtracted in computing the tax base in the other state and in computing base income under IITA Section 203. For example, State Y allows deductions for federal itemized deductions and for individual federal income taxes paid. No deduction for federal income taxes is allowed in computing base income under IITA Section 203, and so that deduction is not taken into account in computing base income subject to tax in State Y. Also, IITA Section 203(a) generally does not allow a deduction for federal itemized deductions, and so federal itemized deductions are generally not taken into account in computing base income subject to tax in State Y. However, IITA Section 203(a)(2)(V) allows self-employed individuals a subtraction modification for health insurance premiums, which can be taken as an itemized deduction in computing federal taxable income. Accordingly, in the case of a self-employed individual eligible for the Illinois subtraction, any itemized deduction for health insurance premiums taken into account in computing the State Y tax base is also taken into account in computing double-taxed income.
- E) For taxable years beginning prior to January 1, 2006, compensation~~Compensation~~ paid in Illinois under IITA Section 304(a)(2)(B), as further explained in Section 100.3120 of this Part, is not included in double-taxed income, even if another state taxes such compensation. For example, an Illinois resident whose base of operations is in Illinois, but whose employment requires him or her to work in Illinois and for a substantial period of time in State Z, must treat all compensation from such employment as paid in Illinois under IITA Section 304(a)(2)(B)(iii). None of that compensation may be included in double-taxed income, even if State Z actually taxes the compensation earned for periods during which the resident was working in State Z. Public Act 94-247 (effective January 1, 2006) repealed the provision in IITA Section 601(b)(3) that stated compensation paid in Illinois may not be

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included in double-taxed income, and so compensation paid in Illinois may be included in double-taxed income in taxable years beginning on or after January 1, 2006.

- F) Some states impose an alternative minimum tax similar to the tax imposed by IRC section 55, under which a taxpayer computes a regular taxable income and also computes an alternative minimum taxable income by reducing some exclusions or deductions, and eliminating other exclusions and deductions entirely. The taxpayer applies different rate structures to regular taxable income and to alternative minimum taxable income, and is liable for the higher of the two taxes so computed. An item of income included in a state's alternative minimum taxable income but not in the regular taxable income of that state is not included in base income subject to tax in that state unless the taxpayer is actually liable for alternative minimum tax in that state. For example, a state allows a 60% capital gains exclusion for regular tax purposes, but includes 100% of the capital gains in its alternative minimum taxable income. If a taxpayer incurs alternative minimum tax liability in that state, 100% of the capital gains is included in double-taxed income. If only regular tax liability is incurred, only 40% of capital gains is included in double-taxed income.
- G) Some states compute the tax liability of a nonresident by first computing the tax on all income of the nonresident from whatever source derived, and then multiplying the resulting amount by a percentage equal to in-state sources of income divided by total sources of income or by allowing a credit based on the percentage of total income from sources outside the state. Other states determine the tax base of a nonresident by computing the tax base as if the person were a resident and multiplying the result by the percentage equal to in-state sources of income divided by total sources of income. The use of either of these methods of computing tax does not mean that income from all sources is included in double-taxed income. See *Comptroller of the Treasury v. Hickey*, 114 Md. App. 388, 689 A.2d 1316 (1997); *Chin v. Director, Division of Taxation*, 14 N.J. Tax 304 (T.C. N.J. 1994). When a state uses either of these methods of computation, double-taxed income shall be the base income of the taxpayer from all

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sources subject to tax in that state, as computed in accordance with the rest of this subsection (b)(4), multiplied by the percentage of income from sources in that state, as computed under that state's law; provided, however, that no compensation paid in Illinois under IITA Section 304(a)(2)(B) shall be treated as income from sources in that state in computing such percentage in any taxable year beginning prior to January 1, 2006.

EXAMPLE 1: Individual, an Illinois resident, has federal adjusted gross income of \$80,000 in Year 1, comprised of \$75,000 in wages, \$1,000 in taxable interest and \$4,000 in net rental income. Taxable interest includes \$200 in interest on federal government obligations and excludes \$500 in municipal bond interest. The rental income is from property in State X. Individual is subject to \$6,000 in federal income tax in Year 1. Individual's Illinois base income is \$80,300: his \$80,000 in adjusted gross income, plus \$500 in municipal bond interest, minus \$200 in federal government obligation interest.

State X computes Individual's income subject to its tax by starting with the \$4,000 in net rental income included in his federal adjusted gross income, and requiring him to add back \$3,000 in depreciation allowed on his rental property under IRC Section 168 in excess of straight-line depreciation, and subtracting the portion of his federal income tax liability allocable to his State X income. State X also allows Individual an exemption of \$1,000.

Double-taxed income in this case is \$7,000: the \$4,000 in net rental income plus the \$3,000 addition modification for excess depreciation. The \$3,000 addition modification for excess depreciation is a deduction allowed by Illinois but not by State X, and only the amount of depreciation deductible in both states is taken into account. The subtraction for federal income tax and the exemption are not taken into account in computing base income under IITA Section 203(a), and therefore are not taken into account in computing double-taxed income.

EXAMPLE 2. Assume the same facts as in Example 1, except that State X requires Individual to compute income tax as if he were a resident of State X, and then multiply the result by a fraction equal to his federal adjusted gross income from State X sources divided by total federal

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adjusted gross income. Under this method, Individual has State X taxable income of \$76,300 (\$80,000 in federal adjusted gross income, plus \$500 in municipal bond interest and \$3,000 in excess depreciation, minus \$200 in federal government obligation interest, \$6,000 in federal income taxes, and the \$1,000 exemption). The fraction actually taxed by State X is 5% (the \$4,000 in rental income divided by \$80,000 in federal adjusted gross income).

Under subsection (b)(4)(G), double-taxed income is \$4,165, computed as follows. First, State X taxable income is computed using only those items of income and deduction taken into account by both State X and Illinois. Accordingly, the \$6,000 in federal income taxes and the \$1,000 exemption are not taken into account. The State X taxable income so computed is \$83,300 (\$80,000 federal adjusted gross income plus \$3,000 in excess depreciation and \$500 in municipal bond interest minus \$200 in federal government obligation interest). Multiplying that amount by the 5% fraction used by State X yields double-taxed income of \$4,165.

EXAMPLE 3: Assume the same facts as in Example 2, except that State X deems \$10,000 of Individual's wages to be earned in State X. Under IITA Section 304(a)(2)(B)(iii), all of Individual's wages are considered "compensation paid in this State", even though Individual performs services in State X, because Individual's base of operations is in Illinois. Accordingly, Individual's State X taxable income is \$76,300, just as in Example 2, but his fraction allocated to State X is 17.5% (\$10,000 in wages plus \$4,000 in net rental income, the total divided by \$80,000 in federal adjusted gross income).

For taxable years beginning prior to January 1, 2006, Individual's double-taxed income is \$4,165, the same as in Example 2. Because compensation deemed "paid in this State" cannot be treated as double-taxed income, the State X fraction must be computed under subsection (b)(4)(G) without treating the \$10,000 in wages as allocable to State X. Accordingly, double-taxed income is the \$83,300 total of all items taxed by both states minus deductions allowed by both states, times 5% (the \$4,000 in net rental income divided by the \$80,000 in federal adjusted gross income).

For taxable years beginning on or after January 1, 2006, Individual's double-taxed income is \$14,578, which is the \$83,300 total of all items

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taxed by both states minus deductions allowed by both states, times 175% (the \$10,000 in wages taxed by both states plus the \$4,000 in net rental income, divided by the \$80,000 in federal adjusted gross income).

- c) Amount of the credit. Subject to limitations described in subsection (d) of this Section, the amount of the credit for a taxable year is the *aggregate amount of tax paid by a resident for the taxable year*. (IITA Section 601(b)(3)) Because the credit is allowed for taxes paid for the taxable year, rather than for taxes paid in or during the taxable year:
- 1) The amount of tax withheld for another state, estimated payments made to that state and overpayments from prior years applied against the current liability to that state are not relevant to the computation of the credit.
  - 2) Any credit (including a credit for taxes paid to Illinois or another state, but not including a credit that is allowed for an actual payment of tax, such as a credit for income taxes withheld, for estimated taxes paid or for an overpayment of income tax in another taxable year) that is taken into account in determining the amount of tax actually paid or payable to another state shall reduce the amount of credit to which the taxpayer is entitled under this Section. In a case in which the taxpayer claims a transferable credit on the other state's return, the credit shall be treated as an actual payment of tax up to the amount the taxpayer paid for the credit, and only the amount of credit in excess of the amount paid shall reduce the amount of credit to which the taxpayer is entitled under this Section.
  - 3) Any increase or decrease in the amount of tax paid to another state for a taxable year, as the result of an audit, claim for refund, or other change, shall increase or decrease the amount of credit for that taxable year, not for the taxable year in which the increase or decrease is paid or credited.
- d) Limitations on the amount of credit allowed. *The aggregate credit allowed under IITA Section 601(b)(3) shall not exceed that amount which bears the same ratio to the tax imposed by IITA Section 201(a) and (b) otherwise due as the amount the taxpayer's base income subject to tax both by such other state or states and by this State bears to his total base income subject to tax by this State for the taxable year.* (IITA Section 601(b)(3)) The credit allowed under this Section is therefore the smaller of either the total amount of taxes paid to other states for the year or the product of Illinois income tax otherwise due (before taking into account any

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Article 2 credit or the foreign tax credit allowed under IITA Section 601(b)(3)) multiplied by a fraction equal to the aggregate amount of the taxpayer's double-taxed income, divided by the taxpayer's Illinois base income.

- 1) In computing the aggregate amount of the taxpayer's double-taxed income, any item of income or deduction taken into account in more than one state shall be taken into account only once. For example, an individual subject to tax on his or her compensation by both State X and by a city in State X shall include the amount of such compensation only once in computing the aggregate amount of double-taxed income.
  - 2) Because base income subject to tax both in another state and in Illinois cannot exceed 100% of base income, the credit cannot exceed 100% of the tax otherwise due under IITA Section 201(a) and (b).
  - 3) No carryover of any amount in excess of this limitation is allowed by the IITA.
- e) Disallowance of credit for taxes deducted in computing base income. *The credit provided by IITA Section 601(b)(3) shall not be allowed if any creditable tax was deducted in determining base income for the taxable year.* (IITA Section 601(b)(3)) A trust that has deducted the amount of a state tax imposed upon or measured by net income may include such tax in the computation of the credit allowed under this Section, but IITA Section 203(c)(2)(F) requires that trust to add back to its federal taxable income *an amount equal to the tax deducted pursuant to section 164 of the Internal Revenue Code if the trust or estate is claiming the same tax for purposes of the Illinois foreign tax credit.* The amount that must be added back for a taxable year shall be the amount of tax deducted for such year on the trust's federal income tax return. Because no similar provision is made for individuals, an individual who has deducted taxes paid to another state in computing his or her federal adjusted gross income may not claim a credit for such taxes on his or her Illinois tax return.
- f) Credit for taxes paid on behalf of the taxpayer. An Illinois resident individual who is a shareholder or partner claiming a foreign tax credit for the shareholder's or partner's share of personal income taxes paid to a foreign state on his or her behalf by a Subchapter S corporation or a partnership, respectively, must attach to his or her Illinois return a written statement from the Subchapter S corporation or partnership containing the name and federal employee identification number of

## DEPARTMENT OF REVENUE

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the Subchapter S corporation or partnership and clearly showing the paid amount of foreign tax attributable to the shareholder or partner, respectively.

Additionally, the statement must include the shareholder's or partner's share of the Subchapter S corporation's or partnership's items of income, deduction and exclusion in sufficient detail to allow computation of the amount of base income subject to tax under subsection (b)(4) of this Section. Taxes imposed directly on the Subchapter S corporation or the partnership are not eligible for the credit.

- g) Documentation required to support claims for credit. Any person claiming the credit under IITA Section 601(b)(3) *shall attach a statement in support thereof and shall notify the Director of any refund or reductions in the amount of tax claimed as a credit under IITA Section 601(b)(3) all in such manner and at such time as the Department shall by regulations prescribe.* No credit shall be allowed under this Section for any tax paid to another state nor shall any item of income be included in base income subject to tax in that state except to the extent the amount of such tax and income is evidenced by the following documentation attached to the taxpayer's return (or, in the case of an electronically-filed return, to the taxpayer's Form IL-8453, Illinois Individual Income Tax Electronic Filing Declaration), amended return or claim for refund:
- 1) Unless otherwise provided in this subsection (g), a taxpayer claiming the credit must attach a copy of the tax return filed for taxes paid to the other state or states to the taxpayer's Illinois income tax return, Form IL-8453, amended return or claim for refund.
  - 2) If the tax owed to the other state is satisfied by withholding of the tax from payments due to the taxpayer without the necessity of a return filing by the taxpayer, the taxpayer must attach a copy of the statement provided by the payor evidencing the amount of tax withheld and the amount of income subject to withholding.
  - 3) A taxpayer claiming a credit for taxes paid by a Subchapter S corporation or partnership on the taxpayer's behalf must attach a copy of the statement provided to the taxpayer by the Subchapter S corporation or partnership pursuant to subsection (f) of this Section, showing the taxpayer's share of the taxes paid and the income of the taxpayer on which the taxes were paid.

(Source: Amended at 32 Ill. Reg. 1407, effective January 18, 2008)

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## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances
- 2) Code Citation: 41 Ill. Adm. Code 170
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
170.400	Amendment
170.411	Amendment
170.420	Amendment
170.421	Amendment
170.425	Amendment
170.520	Amendment
170.530	Amendment
170.541	Amendment
- 4) Statutory Authority: Implementing the Gasoline Storage Act [430 ILCS 15] and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15/2].
- 5) Effective Date of Adopted Amendments: February 1, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, are on file in the principal office of the State Fire Marshal, 1035 Stevenson Drive, Springfield, Illinois, and are available for public inspection at that location.
- 9) Notice of Proposed Amendments published in the Illinois Register: September 28, 2007; 31 Ill. Reg. 13377
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Changes made between the proposed and adopted versions:
  1. In Sections 420(a) and 421(a), change "after the effective date of these rules" to "February 1, 2008 and after".
  2. In Section 420(d)(19)(c), strike "/or".

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3. In Section 425(h), replace "Where" with "Beginning February 1, 2008, on all new installations where".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending to this part? No
- 15) Summary and purpose of amendments: The purpose of this rulemaking is to implement a requirement under the federal Energy Policy Act of 2005 that states receiving federal funding for underground storage tank (UST) regulatory programs implement new requirements designed to prevent and minimize releases. Specifically, states must require either (i) secondary containment with interstitial monitoring for new and replaced tanks and piping, along with under-dispenser containments for new dispenser installations and replacements, or (ii) evidence of financial responsibility to cover the cost of corrective action for releases, combined with requirements that UST installers are certified or licensed and the installed tanks are certified as properly installed, meet manufacturer specifications, and meet appropriate nationally recognized codes of practice. Illinois has chosen the secondary containment option as the simplest and least costly method of compliance with these federal mandates, although Illinois does currently also require licensure of UST installers, certification of tank installations, double wall-product piping on new installations, and under-dispenser containment for new and replaced dispenser installations.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Shelly Bradley, Manager  
Division of Petroleum and Chemical Safety  
Office of the State Fire Marshal  
1035 Stevenson Dr.  
Springfield, IL 62703-4259

Telephone: 217/557-3131  
Facsimile: 217/524-9284

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

## OFFICE OF THE STATE FIRE MARSHAL

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 41: FIRE PROTECTION

## CHAPTER I: OFFICE OF THE STATE FIRE MARSHAL

## PART 170

STORAGE, TRANSPORTATION, SALE AND USE OF PETROLEUM  
AND OTHER REGULATED SUBSTANCES

## SUBPART A: MISCELLANEOUS

Section	
170.10	Definitions
170.11	Incorporation of National Standards
170.15	Bulk Sales Prohibited
170.20	Storage Underground and Limited (Repealed)
170.30	Setting of Tanks (Repealed)
170.40	Clearance Required for Underground Tanks (Repealed)
170.41	Location (Repealed)
170.50	Material and Construction of Tanks (Repealed)
170.60	Venting of Tanks (Repealed)
170.65	Underground Tank Installations (Repealed)
170.70	Fill Pipes (Repealed)
170.71	Registration of Underground Storage Tanks and Payment of Annual Fee (Repealed)
170.72	Late Registration Fee (Repealed)
170.75	Abandonment of Underground Storage Tanks (Renumbered)
170.76	Leaking Underground Tanks (Repealed)
170.80	Unloading Operations
170.90	Pumps (Repealed)
170.91	Labeling of Containers and Pumps
170.100	Piping (Repealed)
170.105	Approval of Plans (Repealed)
170.106	Installer, Repairer or Remover of Underground Storage Tanks (Repealed)
170.107	Tester of Underground Storage Tanks and Cathodic Protection (Repealed)
170.108	Pressure Testing (Repealed)
170.110	Building
170.115	Safe Heat Required
170.120	No Flammable or Combustible Liquids Within Building – Exception
170.130	Greasing Pits
170.140	Wash and Greasing Rooms

## OFFICE OF THE STATE FIRE MARSHAL

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- 170.145 Fire Extinguishers
- 170.150 Self-Service – No Self-Service Without Permit; Procedures and Regulations
- 170.160 Care and Attendance
- 170.170 Fire Extinguishers (Repealed)
- 170.180 Sale of Fireworks
- 170.190 Approval of Plans (Repealed)
- 170.200 Defective Equipment
- 170.210 Deliveries from Portable Tanks Restricted
- 170.211 Dispensing or Delivery of Flammable or Combustible Motor Fuels from Tank Vehicles
- 170.212 Requirements for Permit to Fuel Motor Vehicles from Portable Tank Trucks and Tank Wagons
- 170.310 Unattended Self-Service Other Than Fleet Operations

## SUBPART B: UNDERGROUND STORAGE TANKS – TECHNICAL REQUIREMENTS

## Section

- 170.400 Definitions
- 170.410 Incorporations by Reference
- 170.411 USTs Out of Service
- 170.412 Delegation of Authority to Enforce UST Rules and Regulations
- 170.420 Design, Construction, Installation, Upgrade Procedures and Notification of UST Systems
- 170.421 Piping
- 170.422 Clearance Required for Underground Storage Tanks
- 170.423 Pressure Testing of Existing Tanks or Lines
- 170.424 Venting of Tanks
- 170.425 Fill Pipes
- 170.426 Pumps
- 170.427 Defective or Non-Compliant Equipment
- 170.428 General Requirements for UST Fuel Dispensing Systems
- 170.429 Unloading Operations
- 170.430 Interior Lining and Lining Inspection of UST Systems
- 170.431 Limitation on Interior Lining of USTs (Repealed)
- 170.440 Notification Requirements for Purposes of UST Registration
- 170.441 Payment of 1988 Annual UST Fee
- 170.442 UST Registration Fees
- 170.450 Owner/Operator Spill and Overfill Release Control Responsibilities
- 170.460 Corrosion Protection

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- 170.470 UST Compatibility with Product Stored
- 170.480 Repairs Allowed
- 170.481 Emergency Repairs
- 170.490 Reporting and Recordkeeping
- 170.500 General Release Detection Requirements for All UST Systems
- 170.510 Release Detection Requirements for Petroleum UST Systems (Repealed)
- 170.520 Release Detection Requirements for Hazardous Substance UST Systems
- 170.530 Methods and Requirements of Release Detection for Tanks
- 170.540 Methods and Requirements of Release Detection for Piping
- 170.541 Installer, Repairer, Liner or Remover of USTs and Obtaining Permits
- 170.542 Site Plans
- 170.543 Notification and Establishment of Time Certain and Date Certain for Underground Storage Tank Activity
- 170.544 Tester of Underground Storage Tanks, Cathodic Protection and UST Equipment
- 170.545 USTs Inside or Under Buildings
- 170.546 UST Restrictions at Service Stations
- 170.550 Release Detection and Cathodic Protection Recordkeeping
- 170.560 Reporting of Suspected Releases
- 170.570 Investigation Due to Off-Site Impacts (Repealed)
- 170.580 Release Investigation Reporting, Site Assessment, Initial Response
- 170.590 Reporting and Cleanup of Spills and Overfills
- 170.600 Initial Response for UST Systems Containing Petroleum or Hazardous Substances (Repealed)
- 170.610 Initial Abatement Measures and Site Assessment
- 170.620 Temporary Out-of-Service Status for UST Systems (Repealed)
- 170.630 Change-in-Service of UST Systems
- 170.640 Assessing the Site at Removal of, Previously Removed, or Change-in-Service of, UST Systems
- 170.650 Applicability to Previously Removed UST Systems (Repealed)
- 170.660 Removal or Change-in-Service Records
- 170.670 Removal or Abandonment-in-Place of Underground Storage Tanks
- 170.672 Pre-'74 and Heating Oil USTs

SUBPART C: UNDERGROUND STORAGE TANKS –  
FINANCIAL RESPONSIBILITY REQUIREMENTS

- Section
- 170.700 Definitions
- 170.705 Incorporation by Reference

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170.710	Applicability
170.720	Amount
170.730	Mechanisms of Financial Responsibility
170.740	Proof of Financial Responsibility
170.750	Substitution of Financial Responsibility Mechanisms by an Owner or Operator
170.760	Cancellation or Non-Renewal by a Provider of Financial Assurance
170.770	Reporting by Owner or Operator
170.780	Recordkeeping
170.790	Release from the Requirements
170.795	Bankruptcy or Other Incapacity of Owner or Operator, or Provider of Financial Assurance

SUBPART D: UNDERGROUND STORAGE TANKS – ADMINISTRATIVE  
PROCEDURE RULES FOR ORDERS ISSUED BY THE  
DIVISION OF PETROLEUM AND CHEMICAL SAFETY

Section	
170.800	Definitions
170.810	Grounds and Time for Appeal
170.820	Notice of Hearing
170.830	Appearances
170.840	Official Notice
170.850	Authority of Hearing Officer
170.860	Evidence to be Presented by the Owner to Object to the Denial or Revocation of the Registration of an Underground Storage Tank (UST) (Repealed)
170.870	Briefs
170.880	Transcripts
170.890	Order of the State Fire Marshal
170.900	Authority to Enforce Administrative Orders and Assess Fines
170.910	Suspension or Revocation of the License of a Contractor and Assessment of Fines Against a Contractor or Employee of a Contractor for Violations of Subpart B or E
170.920	Assessment of Fines Against Non-Contractors for Violations of Subpart B
170.930	Assessment of Fines Against an Owner, Operator or Provider for Violations of Subpart C
170.940	Hearing Officer Guidelines for Suspension, Revocation or Assessment of Fines

## SUBPART E: LICENSING, CERTIFICATION AND IDENTIFICATION CARDS

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## Section

170.1000	Definitions
170.1100	Contractor Licensing
170.1200	Contractor and Employee Certification
170.1300	Possession of OSHA Identification Cards by Certified Individual Contractors and Certified Employees of Contractors
170.APPENDIX A	Checklist for Underground Storage Tank Installation (Repealed)
170.APPENDIX B	Checklist for Underground Storage Tank Reline (Repealed)
170.APPENDIX C	Checklist for Underground Storage Tank Removals (Repealed)
170.APPENDIX D	Checklist for Abandonment-in-Place of Underground Storage Tanks (Repealed)
170.APPENDIX E	Guidelines for Marinas
170.APPENDIX F	Required Job Schedule for Cathodic Protection Upgrade (Repealed)
170.APPENDIX G	Required Job Schedule for Underground Piping Upgrade (Repealed)
170.APPENDIX H	Required Job Schedule for Underground Storage Tank Installation (Repealed)
170.APPENDIX I	Required Checklist for Underground Storage Tank System Upgrade (Repealed)
170.TABLE A	Schedule for Phase-In of Release Detection
170.TABLE B	Manual Tank Gauging: Weekly and Monthly Standards

AUTHORITY: Implementing the Gasoline Storage Act [430 ILCS 15] and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15/2].

SOURCE: Rules and Regulations Relating to Service Stations filed July 10, 1958; amended March 6, 1963 and April 4, 1977; codified at 5 Ill. Reg. 10692; emergency amendment at 7 Ill. Reg. 1477, effective January 26, 1983, for a maximum of 150 days; emergency expired June 25, 1983; emergency amendment at 8 Ill. Reg. 10058, effective June 29, 1984, for a maximum of 150 days; emergency expired November 26, 1984; amended at 9 Ill. Reg. 9514, effective October 1, 1985; emergency amendment at 10 Ill. Reg. 345, effective January 1, 1986, for a maximum of 150 days; emergency expired June 1, 1986; emergency amendment at 10 Ill. Reg. 12324, effective July 2, 1986, for a maximum of 150 days; emergency expired November 29, 1986; amended at 10 Ill. Reg. 19976, effective January 5, 1987; amended at 12 Ill. Reg. 8023, effective April 26, 1988; emergency amendments at 13 Ill. Reg. 1886, effective January 27, 1989, for a maximum of 150 days; emergency expired June 26, 1989; amended at 13 Ill. Reg. 5669, effective April 21, 1989; amended at 13 Ill. Reg. 7744, effective May 9, 1989; amended at 13 Ill. Reg. 8515, effective May 23, 1989; amended at 13 Ill. Reg. 8875, effective May 24, 1989; amended at 13 Ill. Reg. 14992, effective September 11, 1989; amended at 14 Ill. Reg. 5781,

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effective April 10, 1990; amended at 15 Ill. Reg. 7042, effective April 29, 1991; amended at 16 Ill. Reg. 4845, effective March 12, 1992; emergency amendment at 17 Ill. Reg. 1186, effective January 12, 1993, for a maximum of 150 days; emergency expired June 11, 1993; amended at 19 Ill. Reg. 5467, effective April 1, 1995; amended at 20 Ill. Reg. 4698, effective March 11, 1996; amended at 21 Ill. Reg. 8945, effective July 15, 1997; amended at 22 Ill. Reg. 21339, effective December 1, 1998; amended at 24 Ill. Reg. 12462, effective August 1, 2000; amended at 25 Ill. Reg. 9015, effective July 5, 2001; amended at 27 Ill. Reg. 8164, effective May 1, 2003; emergency amendment at 27 Ill. Reg. 8311, effective May 2, 2003, for a maximum of 150 days; emergency expired September 28, 2003; amended at 32 Ill. Reg. 1428, effective February 1, 2008.

## SUBPART B: UNDERGROUND STORAGE TANKS – TECHNICAL REQUIREMENTS

**Section 170.400 Definitions**

"Abandonment-in-place" is the permanent placement of a UST in an inoperative condition by filling it with inert material in accordance with Section 170.670.

"American ~~suction~~Suction" is any suction system other than European, and requires a tightness test every 3 years.

"Bulk storage" means the containment in a UST or aboveground storage tank of a regulated substance for direct transference for purposes of distribution into a tank vessel, pipeline, tank car, tank vehicle, portable tank or container - except that the minimum size of the "container" is required to be greater than the maximum allowed for "dispensing".

"Cathodic protection" is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current.

"Cathodic protection tester" means a person who can demonstrate an understanding of the principles and measurement of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. This person shall have education and experience in soil resistivity, stray current, structure-to-soil potential and component electrical isolation measurements of buried metal piping and tank systems.

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"Compatible" means the ability of two or more substances to maintain their respective physical properties upon contact with one another for the design life of the tank system under conditions likely to be encountered in the UST.

"Containment sump" means manufactured containments resistant to petroleum and chemical products that contain piping, electrical conduits, pumps and leak sensors.

"Contractor" is a licensed person, excluding employees of the contractor, who performs any UST activity.

"Corrosion expert" is a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. This person shall be accredited as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered Professional Engineer with the State, who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.

"Days" means, when the reference is to 30 days, calendar days; any other reference to "days" will be considered working days unless otherwise stated.

"Dielectric material" is one that does not conduct direct electric current. Dielectric coatings are used to electrically isolate UST systems from the surrounding soil. Dielectric bushings are used to electrically isolate portions of the UST system (i.e., tank from piping).

"Dispensing" means the transference of a regulated substance from a UST or aboveground storage tank (AST) directly into the fuel tank of a motor vehicle operated by an internal combustion engine, for use by that motor vehicle. Also, "dispensing" is the transference of a regulated substance from a UST or AST directly into a portable container, as prescribed in 41 Ill. Adm. Code 170.150.

"Double-walled", in reference to tanks and piping, is a factory certified container consisting of an inner-wall and an outer-wall with an interstitial space between the inner-wall and outer-wall suitable for interstitial monitoring, and is designed, constructed and installed to:

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contain regulated substances released from the tank system until they are detected and removed;

prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and

be checked at least every 30 days for evidence of a release.

"European suction" is a piping system that draws a liquid through the system by suction pump or vacuum pump located at the dispenser. This system shall have the piping sloped back to the tank and may have no more than one check valve, and it shall be located directly under the suction pump. This type of piping system never requires line leak detection.

"Excavation zone" is the volume containing the tank system and backfill material bounded by the ground surface, walls and floor of the pit and trenches into which the UST system is placed at the time of installation.

"Existing tank system" means a tank system used to contain an accumulation of regulated substance or for which installation has commenced before April 21, 1989. Installation is considered to have commenced if the owner or operator has obtained all ~~federal~~<sup>Federal</sup>, State and local approvals or permits necessary to begin physical construction and installation of the tank system and the system is completed and brought into operation.

"Farm" is a tract of land devoted to the production of crops or raising of animals, including fish. "Farm" includes all contiguous land and structures and other appurtenances and improvements; also, fish hatcheries, rangeland and nurseries with growing operations. "Farm" does not include agribusiness (as defined in 20 ILCS 3605/2(i)), laboratories where animals are raised, land used to grow timber and pesticide aviation operations. Moreover, this definition does not include retail stores or garden centers where the produce of nursery farms is marketed, but not produced.

"Farm tank" means a motor fuel UST located on a farm and used exclusively for farm purposes.

"Flow-through process tank" is a tank that forms an integral part of a production

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process through which there is a steady, variable, recurring or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction to the process or for the storage of finished products or by-products from the production process. When the process is shut down, flow-through process tanks do not store product to be used once the process is resumed and may contain no more than a de minimis amount of product.

"Gathering lines" are any pipeline, equipment, facility or building used in the transportation of oil or gas during oil or gas production or gathering operations.

"Hazardous substance" means any substance defined in ~~section~~Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 (42 USC ~~Section~~9601); but not including any substance regulated as a hazardous waste under subtitle C of the Resource Conservation and Recovery Act (RCRA) of 1976 (42 USC ~~Section~~6901 et seq.).

"Hazardous substance UST system" means an underground storage tank system that contains a hazardous substance or any mixture of such substances and petroleum and ~~that~~which is not a petroleum UST system.

"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; other residual fuel oils (including Navy Special Fuel Oil and Bunker C) and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers or furnaces.

"Heating oil tank for consumptive use on the premises where stored" means heating oil consumed exclusively on the premises where the heating oil UST is located, for space-heating or water-heating purposes. It does not include using heating oil to heat from a boiler or furnace through direct conductivity any product or substance used in a manufacturing or production process or using heating oil as an ingredient in a manufacturing or production process. Heating oil used to heat grain dryers or kilns is used for consumptive use on the premises.

"Hydraulic lift tank" means a tank holding hydraulic fluid for a closed loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators or other similar devices.

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"Interior liner" is a person who applies interior or internal lining.

"Interior or internal lining" means corrosion and chemical resistant materials that are sprayed, brushed or applied to the inside of a tank to protect the tank and its product from contamination by corrosion. Interior lining is applied by an interior liner.

"Interstitial monitoring" is a release detection method used to determine the presence of a regulated substance between the inner and outer barriers for a leak or release of regulated substances from the underground tank and/or piping and is designed, constructed and installed to detect a leak from any portion of the tank or piping that routinely contains product and meets any other applicable requirements of Section 170.530(g) and 40 CFR 280.43(g).

"Kerosene" is a refined petroleum distillate consisting of a homogeneous mixture of hydrocarbons essentially free of water, inorganic, acidic or basic compounds, and excessive amounts of particulate contaminants. Two classifications are recognized by ASTM D 3699-92, incorporated by reference in Section 170.410, as follows:

No. 1-K - A special low-sulfur grade kerosene suitable for use in nonflue-connected kerosene burner appliances and for use in wick-fed illuminating lamps; and

No. 2-K - A regular grade kerosene suitable for use in flue-connected burner appliances and for use in wick-fed illuminating lamps.

"Liquid traps or associated gathering lines directly related to oil or gas production or gathering operations" refer to sumps, well cellars or other traps used in association with oil or gas production, gathering or extraction operations (including gas production plants), for the purpose of collecting oil, water or other liquids. Such liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream or may collect and separate liquids from a gas stream.

"Motor fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel or any grade of gasohol and is typically used in the operation of a motor engine.

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"New tank system" means a tank system that will be used to contain an accumulation of regulated substances and for which installation commenced on or after April 21, 1989. A new tank system may include a tank which has been installed, contained regulated substances, removed and re-certified.

"Noncommercial purposes" with respect to motor fuel means not for resale and shall be exclusively for farm or residential use.

"OMI" or "Operational Maintenance Inspection" is an inspection performed by an STSS to establish a facility's regulatory compliance.

"On the premises where stored" means tanks located on the same or contiguous property where the stored heating oil is used. "On the premises" is not limited to the building where the heating oil is stored. Thus, centralized heating units using heating oil that serve more than one building on the same property are included.

"Operation" or "use" in reference to underground storage tanks *means that the tank must have had input or output of petroleum, petroleum products, or hazardous substances, with the exception of hazardous wastes, during the regular course of its usage. "Operation" does not include:* ~~(i)~~ |

*compliance with leak detection requirements as prescribed by rules and regulations of the Office of the State Fire Marshal; or* ~~(ii)~~ |

*the mere containment or storage of petroleum products, or hazardous substances, with the exception of hazardous wastes. [430 ILCS 15/4]*

"Operator" means any person in control of, or having responsibility for, the daily operation of the UST system.

"OSI" or "Operational Safety Inspection" is an inspection of removal, abandon-in-place, or any tank entry activity requiring an STSS on site.

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

"Overfill release" is a release that occurs when a tank is filled beyond its capacity, resulting in a discharge of the regulated substance to the environment.

"Owner" means:

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

In the case of any UST system in use before November 8, 1984, but no longer in use on that date, any person who owned such UST immediately before the discontinuation of its use.

"PAI" or "Performance Assurance Inspection" is an inspection of UST installation and upgrades, where an STSS is scheduled by Date and Time Certain job schedules.

"Person" means an individual, trust, firm, partnership, joint stock company, corporation, ~~federal~~Federal agency, state, municipality, commission, unit of local government or political subdivision of a state or any interstate body. "Person" also includes consortium, joint venture, commercial entity or the United States Government.

"Petroleum" (including crude oil or any fraction of crude oil that is liquid at standard conditions of temperature and pressure (60° F and 14.7 pounds per square inch absolute)), includes, but is not limited to, petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading or finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents or used oils.

"Petroleum UST system" means an underground storage tank system that contains petroleum or a mixture of petroleum with de minimis quantities of hazardous substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents or used oils.

"Pipe" or "piping" is any hollow cylinder or tubular conduit that is constructed of non-earthen materials.

"Pipeline facilities (including gathering lines)" include new or existing pipe rights-of-way and any equipment, facilities or buildings used in the transportation of gas (or hazardous liquids, which include petroleum or any other liquid designated by the United States Secretary of Transportation) or the treatment of

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gas or designated hazardous liquids during the course of transportation.

"Re-~~certification~~Certification" of Removed USTs: A re-certified tank is any tank that has been internally and externally inspected. These inspections and re-certifications shall be conducted by a member of the Steel Tank Institute or Fiberglass Tank Institute, or original manufacturer. The re-certified tank must have a warranty remaining for at least 5 years and the warranty must be submitted in writing to OSFM.

"Regulated substance" means petroleum or hazardous substance as defined in this Section.

"Release" means any spilling, overfilling, leaking, emitting, discharging, escaping, leaching or disposing from a UST into groundwater, surface water or subsurface soils.

"Reliner" means "interior liner".

"Repair" means to restore a UST system component that has caused or may cause a release of product from the UST system.

"Residence" means single-family dwelling unit or duplex and parcel of property each is located on, with only one unit or duplex per parcel.

"Residential tank" is a motor fuel UST located on residential property used for noncommercial purposes by a single family and located on property on which that family's residence is located. For purposes of this definition, "residence" shall include a single-family dwelling or duplex.

"Secondary containment" means a release prevention and release detection system for underground tanks and/or piping consisting of an inner and outer barrier with a space suitable for interstitial monitoring, and is designed, constructed and installed to:

contain regulated substances released from the tank system until they are detected and removed;

prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and

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be checked at least every 30 days for evidence of a release.

Secondary containment may include double-walled tanks and piping.

"Service stations" are defined as:

"Automotive service station". That portion of property where regulated substances used as motor fuels are stored and dispensed for retail sale (see Section 2 of the Use Tax Act [\[35 ILCS 105/2\]](#) for a definition of "retail sale" ~~[\[35 ILCS 105/2\]](#)~~) from fixed equipment into the fuel tanks of motor vehicles operated by internal combustion engines, for use by those motor vehicles.

"Marine service station" or "Marina". That portion of property where regulated substances used as motor fuels are stored and dispensed from fixed equipment on shore, piers, wharves or floating docks into the fuel tanks of self-propelled craft operated by internal combustion engines, for use by those self-propelled craft.

"Service station", whether automotive or marine, includes attended service station, attended self-service station and unattended self-service station.

"Site assessment" is sampling and analyzing the results of the sampling to determine if a release has occurred and if contamination is present on a site. In making this determination, consideration shall include, but not be limited to, the following factors: whether the site is within an area where it is likely that contamination may exist; nature of the stored substance; the type of initial alarm or cause for suspicion; the types of backfill; the depth of groundwater; and any other factors appropriate for identifying the presence and source of a release.

"Spill release" is a release that usually occurs at the fill pipe opening of a tank when a delivery truck's hose is disconnected from the fill pipe, while product continues to exit the hose, resulting in a discharge of the regulated substance to the environment.

"Storm-water" or "wastewater" collection system is all piping, pumps, conduit and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation or domestic, commercial or industrial

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wastewater to and from retention areas or areas where treatment is designated to occur. The collection of storm-water or wastewater does not include treatment, except where incidental to conveyance.

"STSS" means Storage Tank Safety Specialist.

"Surface impoundment" is a natural topographic depression, man-made excavation or diked area formed primarily of earthen materials (although it may be lined with man-made materials) that is not an injection well.

"Tank" is a stationary device designed to contain an accumulation of regulated substances and constructed of non-earthen materials (e.g., steel, fiberglass, concrete or plastic) that provides structural support.

"Tank containment sump" means containment located at the tank at the submersible pump or the entry point of American suction piping at the tank that will prevent leaks from the product piping from reaching soil or groundwater. Such containment must be liquid-tight on its sides, bottom, and at any penetrations; be compatible with the substance conveyed by the piping; and be accessible at grade and be monitored.

"Ten percent or more beneath the surface of the ground" with reference to a tank, means that its volume (including the volume of its connected underground piping) is 10 percent or more beneath the ground surface or otherwise covered with earthen materials. If a tank is in a vault, it is considered "beneath the surface of the ground", if it cannot be viewed from all sides and top and base.

"Under-dispenser containment" or "UDC" means containment underneath a dispenser that will prevent leaks from the dispenser from reaching soil or groundwater. Such containment must be liquid-tight on its sides, bottom, and at any penetrations; be compatible with the substance conveyed by the piping; and allow for visual inspection and access to the components in the containment system and/or be monitored.

"Underground pipes connected thereto" means all underground piping, including valves, elbows, joints, flanges and flexible connectors attached to a tank system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual UST system, the piping that joins two UST systems should be allocated equally between the systems. Where tanks are

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manifolded together with product piping, each tank is considered a separate UST system. Exempt tanks shall not be connected by piping to regulated tanks.

"Underground storage tank system" or "UST" means any one or combination of tanks (including underground pipes, ancillary equipment and cathodic protection connected thereto) 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. A tank system classified as a UST may not be re-classified as being a non-UST unless there has been a change-in-service as provided in Section 170.630. A non-UST system tank used to store a non-regulated substance may not be converted to a UST system tank unless the tank has been re-certified and is in compliance with all applicable upgrade requirements. A UST system does include an emergency power generator tank that stores any classification of fuel for use exclusively, alternately or concurrently by an emergency power generator, except as otherwise excluded in this definition. The term "underground storage tank system" or "UST" does not include any pipes connected to any tank excluded from this definition. Underground storage tank system or UST does not include any tank system as follows:

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

Heating oil tank of any capacity used exclusively for storing heating oil for consumptive use on a farm or residence;

Septic tank;

Pipeline facility (including gathering lines):

Regulated under the Natural Gas Pipeline Safety Act of 1968 (49 USC 1671 et seq.);

Regulated under the Hazardous Liquid Pipeline Safety Act of 1979 (49 USC 2001 et seq.); or

Regulated under the Illinois Gas Pipeline Safety Act [220 ILCS 20];

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Any wastewater treatment tank system (including oil-water separators) that is part of a wastewater treatment facility regulated under ~~section~~Section 402 or 307(b) of the Clean Water Act;

Surface impoundment, pit, pond or lagoon;

Storm-water or wastewater collection system;

Flow-through process tank;

Emergency spill protection tank or overflow tank that is emptied expeditiously following use;

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

Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft or tunnel) if the storage tank is situated upon or above the surface of the floor and can be viewed from all sides and top and base;

Storage tank situated in a vault (whether underground or aboveground), if the storage tank is situated upon or above the surface of the floor or ground and can be viewed from all sides and top and base;

Tank abandoned-in-place by filling with inert material in compliance with Section 170.670 issued by the Office of the State Fire Marshal;

Tank with a capacity of 110 gallons or less;

Any UST system holding hazardous wastes listed or identified under ~~subtitle~~Subtitle C of the Solid Waste Disposal Act (42 USC 3251 et seq.);

Tank that contains a de minimis concentration of regulated substances, except that such tank shall have been in such status as of April 21, 1989 and may not have been converted to a UST system tank on or after that date, unless the tank has been re-certified and is in compliance with applicable upgrade requirements; or

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Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks or electrical equipment tanks.

The following UST systems are deferred from the requirements of Sections 170.420 through 170.580 and 170.620 through 170.672 (whether single- or double-wall construction):

Wastewater treatment tank system (including oil-water separators, except that oil-water separators which are components of an oil processing, refining or treatment system are not wastewater treatment tanks);

Any UST system containing radioactive material that is regulated under the Atomic Energy Act of 1954 (42 USC 2011);

Any UST system that is part of an emergency generation system at a nuclear power generation facility regulated by the United States Nuclear Regulatory Commission;

Airport hydrant fuel distribution system; and

Any field-constructed tank.

Although the systems deferred immediately above are exempt from the requirements in Sections 170.420 through 170.580 and 170.620 through 170.672, they are required to comply with Sections 170.590 through 170.610 and, by December 22, 1998, are required to comply with the following:

Be constructed to prevent releases due to corrosion or structural failure for the operational life of the UST system;

Be cathodically protected against corrosion, constructed of non-corrodible material, steel clad with a non-corrodible material, or designed in a manner to prevent the release or threatened release of any stored substance;

Be constructed or lined with material that is compatible with the stored substance; and

An owner of a UST system with a field-constructed tank shall install a

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method for leak detection in accordance with written directives issued by the Office of the State Fire Marshal.

"UST activity" means a UST:

Installation - including retrofitting and cathodic protection installation;

Repair - including upgrade, which includes retrofitting and cathodic protection installation;

Removal - decommissioning, which includes abandonment-in-place;

Lining;

Lining inspections, lining touchup;

Tank entry;

Tank and/or line precision testing; or

Cathodic protection testing.

"Upgrade" is the addition or retrofit of some portion of a UST system, such as cathodic protection, leak detection, new dispenser islands, new piping, interior lining (lining) or spill and overfill controls, manway, flex connectors or new bungs, to improve the ability of the UST to prevent the release of product.

"Wastewater treatment tank" means a tank that is designed to receive and treat any influent wastewater through physical, chemical or biological methods.

(Source: Amended at 32 Ill. Reg. 1428, effective February 1, 2008)

**Section 170.411 USTs Out of Service**

USTs may remain non-operational, but shall meet the complete upgrade requirements specified in this Part and 40 CFR [280](#), and may continue in a state of nonuse provided the requirements of this Section are met. The tank must be removed within 60 days after a Notice of Violation is issued by the OSFM if, at any time after a UST is taken out of service, the tank is not maintained in compliance with 40 CFR 280 and the following requirements:

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- a) The UST and product lines are empty, with no more than 1 inch of product remaining in the tank; if not, tank and line release detection must remain in operation and must be maintained.
- b) Cathodic protection shall be maintained and operational for all tanks and lines, and tested as required, to include flex/pipe connectors. This will include any monthly logs that need to be maintained.
- c) The Office of the State Fire Marshal receives a written request, within 30 days after the date the tanks was last used, requesting out of service status.
- d) Leave vent lines open and functioning.
- e) Within 7 days, the owner/operator shall capCap and secure all product and electric lines, and secure.~~Secure~~ all pumps, manways and ancillary equipment.
- f) A UST system may be put back in operation any time during the first 12 months, subject to the requirement that the OSFM be notified in writing at least 10 days prior to operation.
- g) If there is no ongoing incident cleanup specific to the tank or tanks that are the subject of the out of service request, a A-site assessment verifying the absence of a release shall be conducted at the end of one year from the date of non-use, and a report shall be submitted to the OSFM.
- h) Systems out of use for over 1 year may be put back in service provided that:
  - 1) Tanks and lines are to be precision tested and proven sufficient.
  - 2) Line leak detectors must be tested and proven sufficient.
  - 3) Tank and line release detection is tested and proven operational.
  - 4) Cathodic protection is tested and proven sufficient.
  - 5) Site assessment verifying the absence of a release was conducted at the end of the first year.

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- 6) All test results referenced in subsections (h)(1)-(5) must be performed not less than~~within~~ 30 days before~~after~~ placing the tank back in service and submitted to the Office of the State Fire Marshal 10 days prior to reopening so that a certification audit can be performed.
- i) The state of non-operations may continue for a period of 5 years from the first date of non-operational status provided that the requirements of this Section are met. After 5 years of non-operation, the tank system shall be removed within 60 days after the conclusion of the 5-year period.

(Source: Amended at 32 Ill. Reg. 1428, effective February 1, 2008)

**Section 170.420 Design, Construction, Installation, Upgrade Procedures and Notification of UST Systems**

- a) Tanks. Any newly installed or replaced underground tank shall be of double-wall construction and equipped with interstitial monitoring that meets the applicable requirements of Section 170.530(g) and 40 CFR 280.43(g) for all permits issued February 1, 2008 and after.
- b) Each tank shall be properly designed, constructed and installed, and any portion underground that routinely contains product shall be protected from corrosion, in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory, as follows~~specified below~~:
- 1) The tank is constructed of fiberglass-reinforced plastic. (The following industry codes, incorporated by reference in Section 170.410, may be used to comply with this subsection (~~b~~a)(1): UL 1316; UL Canada Standard CAN4-S615; or ASTM D 4021-92.) To prevent penetration of the tank bottom, all non-metallic tanks shall be equipped with steel striker plates on the tank bottom immediately below any opening which might be used for taking dipstick measurements.
  - 2) The tank is constructed of steel and cathodically protected (The following codes and standards, incorporated by reference in Section 170.410, may be used to comply with this subsection (~~b~~a)(2): STI-P3; UL Canada Standard CAN4-S603, CAN4-S603.1 and CAN4-S631; NACE RPO285; or UL 58.) in the following manner:

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- A) Metallic tanks shall be thoroughly coated on the outside with suitable rust-resisting dielectric material.
  - B) All field-installed cathodic protection systems shall be designed by a corrosion expert.
  - C) New impressed current systems shall be designed to allow determination of the systems' operating status by means of permanently installed lights and gauges as required in Section 170.460. Existing impressed current systems must meet these requirements on or before November 1, 2003.
  - D) Cathodic protection systems are operated and maintained in accordance with Section 170.460.
- 3) Steel tanks shall be set on firm foundations and surrounded with at least 12 inches of non-corrosive inert material such as clean sand or gravel, well-tamped in place. The tank shall be placed in the hole with care, since dropping or rolling the tank into the hole can break a weld, puncture or damage the tank or scrape off the protective coating of coated tanks.
- 4) Steel tanks shall be covered with a minimum of three feet of earth. USTs existing on October 1, 1985 shall have been buried so that the tops of the tanks will not be less than two feet below the surface of the ground or shall be under at least 12 inches of earth and a slab of reinforced concrete not less than four inches in thickness; the slab shall be set on a firm, well-tamped earth foundation and shall extend at least one foot beyond the outline of the tank in all directions. When asphaltic or reinforced paving is used as part of the protection, it shall extend at least one foot horizontally beyond the outline of the tank in all directions.
- 5) Either:
- A) The tank is constructed of a steel-fiberglass-reinforced plastic composite (The following industry codes, incorporated by reference in Section 170.410, may be used to comply with this subsection (b)(5): Act-100 or UL 1746.); or
  - B) The tank construction and corrosion protection are determined by

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the Office of the State Fire Marshal to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health or the environment than subsections (b)(1) and (2) of this Section. Before the installation of any such tank, its construction and corrosion protection shall be submitted to the Office in writing and is subject to written approval by the Office.

- 6) Re-certified tanks may satisfy the requirements of subsections (b)(1) and (2) of this Section; however, written proof of such re-certification shall be submitted to the Office of the State Fire Marshal and STSS. Re-certified tanks must be reinstalled within 6 months after removal or re-certification, whichever is sooner. Re-certified tanks must have a warranty remaining for at least 5 years. Re-certifications must be conducted by a member of the Steel Tank Institute, Fiberglass Tank Institute, or the original tank manufacturer.

cb) Spill and overflow prevention equipment.

- 1) To prevent spilling and overflowing associated with product transfer to the UST system, owners or operators shall use the following spill and overflow prevention equipment:
  - A) Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (e.g., a spill catch basin). New or replaced spill prevention equipment must have a minimum 5 gallon capacity and be maintained in a dry, clean state; and
  - B) Overflow prevention equipment that:
    - i) Automatically shuts off flow into the tank when the tank is no more than 95 percent full;
    - ii) Alerts the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high-level alarm; or
    - iii) Provides alternative methods that are no less restrictive

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than Subpart A or B and no less protective of human health or the environment, as approved in writing by the Office of the State Fire Marshal.

- C) Float vent valves for overfill prevention shall not be allowed on any type suction system.
- 2) Owners or operators are not required to use the spill and overfill prevention equipment specified in subsections (c**b**)(1)(A) and (B), if:
  - A) Alternative equipment is used that is determined by the Office of the State Fire Marshal in writing to be no less protective of human health or the environment than the equipment specified in subsections (c**b**)(1)(A) and (B).
  - B) The UST system is filled by transfers of no more than 25 gallons at one time, but shall have spill containment.
- d**e**) Installation tank, piping and upgrade procedures.
  - 1) Excavation for USTs shall be made with due care to avoid undermining of foundations of existing structures. All USTs under buildings shall be located with respect to existing building foundations and supports so that the loads carried by the latter cannot be transmitted to the tank.
  - 2) All tanks and piping shall be properly installed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions. (Tank and piping system installation practices and procedures described in the following codes, incorporated by reference in Section 170.410, may be used to comply with this subsection (d**e**)(2): API Recommended Practice 1615; PEI Publication RP100; or ANSI B31.3 and B31.4.)
  - 3) Metallic tanks shall not be surrounded or covered by cinders or other material of corrosive effect. Corrosion protection shall be provided in accordance with Section 2-3.3 of NFPA 30, incorporated by reference in Section 170.410, where soil resistivity is 10,000 ohm-centimeters or less. Such corrosion protection shall be in accordance with API 1615,

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incorporated by reference in Section 170.410.

- 4) Secure proper permitting and job schedules for installation, piping or upgrades and obtain a stamped acknowledgement from the OSFM.
- 5) Conduct on-site inspection to ensure accuracy of approved site plans, drawings and actual equipment being installed.
- 6) Provide equipment with sufficient lifting capacity to unload and place USTs into the tank excavation. Tanks shall not be rolled, dropped or dragged.
- 7) Upon delivery at the installation site, tanks and piping shall be inspected to detect any evidence of damage to coatings or structure.
- 8) Upon discovery of any damage to tanks or piping, repairs shall be in accordance with manufacturer's instructions or supervision.
- 9) Prepare excavations to ensure safe movement of equipment and materials. Excavations shall provide adequate space for the installation of tanks, piping and ancillary equipment. Special attention shall be given to sloping, benching, stepping or shoring the sides of the excavation to make it stable.
- 10) Conduct Date and Time Certain inspection by OSFM personnel for testing USTs before installation, as per manufacturer's recommended procedures.
- 11) To prevent flotation of USTs as a result of high water table or flooding, approved anchorage methods or ballasting shall be installed.
- 12) Pipe trenches shall meet manufacturer's specifications and API 1615 Section 10.3.1 for depth, width, slope, spacing and placement of pipe within.
- 13) Pipe installation shall meet manufacturer's specifications and API 1615, Sections 9.3 and 9.4. Joint adhesive and thread sealant shall meet manufacturer's requirements for petroleum products, including ethanol or methanol blended gasoline.

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- 14) OSFM personnel may conduct Date and Time Certain air test of pipe installation and examine any corrosion protection before backfilling of pipe trenches.
- 15) Wiring of electric pumps and all electrical equipment in connection therewith shall conform to NFPA 70.
- 16) After all work has been completed and the system has been put into service, OSFM personnel may conduct a Date and Time Certain final inspection. This inspection will be conducted on the UST installation, leak detection equipment, spill and overfill equipment and the electrical system. The completed Notification of Underground Storage Tanks form will be ready to present to the OSFM STSS during the final inspection.
- 17) Contractors shall complete the manufacturer's installation checklist for USTs and piping and submit it to the manufacturer or owner as applicable. The contractor shall maintain a copy of the checklist.
- 18) There shall be a minimum of two manufactured slotted or perforated observation wells of at least 4" diameter installed in each new tank field of tanks larger than 1,000 gallons and one well for 1,000 gallon tanks or less and shall have two wells for fields with more than one tank. They shall be placed at opposite ends or opposite corners 1 foot below the invert elevation of lowest UST. Lids shall be securely protected against unauthorized activities. Only one well will be required if groundwater flow direction can be proven and such proof is supplied at the time of permitting and the well is then installed in the downstream location.
- 19) Containments - submersible and dispensers.
  - A) A ~~water tight~~ containment sump must be installed at the tank on all new tanks with submersible pumps or American suction piping systems. European suction systems are not required to have containment ~~or when piping is replaced at the tank.~~
  - B) ~~Under-Water tight~~ dispenser containment must ~~containments will~~ be installed ~~under dispensers~~ on all new dispenser installations where there previously was no dispenser ~~or when piping is replaced at dispensers.~~

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- C) When an existing dispenser is removed and replaced with another dispenser and equipment used to connect the dispenser to the UST is replaced, under-dispenser containment is required. This equipment may include flex connectors or risers or other transitional components that are beneath the dispenser and connect the dispenser to the piping. European suction systems are not required to have containment.
- D) If more than 20' or 50% of a pipe run is replaced, the containments required in subsections (d)(19)(A) and (B) are required.
- E) If an OSFM STSS observes water in a sump and it is in contact with bare metal piping including flex connectors, then corrosion protection must be installed on the metal piping in accordance with Section 170.460 or the sump shall be replaced. In the event the sump is not replaced, the water shall be removed and the sump shall be made water-tight.
- FE) A hydrostatic test will be performed on all containment installations as follows (hydrostatic testing does not apply to piping):
- i) All penetrations must be completed prior to testing, including electrical.
  - ii) Containment is to be filled with water to a height that covers the highest penetration by 2".
  - iii) Containment is not to be backfilled (backfilling is allowed for support of containment sump, but not to be installed around the sides of the sump) prior to test.
  - iv) Test duration is 30 min. and performed under PAI Time and Date Certain requirements with no drop in water level.
- 20) All repairs, installations, upgrades and maintenance of UST systems shall be done in accordance with manufacturer's recommended procedures.

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- 21) Any installation work performed in or around the excavation area must stop at sunset unless adequate lighting is provided.
- ed)** Certification of installation.
- 1) Contractors shall certify on the UST notification form that:
- A) The installer has been certified or licensed by the Office of the State Fire Marshal.
  - B) The installation has been approved by the Office of the State Fire Marshal.
  - C) All work listed in the manufacturer's installation checklist has been completed, if applicable.
  - D) All applicable Office of the State Fire Marshal installation requirements, as contained in this Part, have been completed. Upgrade are to follow the appropriate Section of the installation guidelines.
  - E) Contractors shall certify on the UST notification form in accordance with Section 170.440(f) that the installer has been certified by the tank and piping manufacturers, if applicable.

(Source: Amended at 32 Ill. Reg. 1428, effective February 1, 2008)

**Section 170.421 Piping**

- a) Underground piping installed or replaced shall be of double-wall construction and equipped with interstitial monitoring that meets the applicable requirements of Section 170.530(g) and 40 CFR 280.43(g) for all permits issued February 1, 2008 and after. Any replaced piping that exceeds 20 feet or 50% of the total piping run shall require the entire pipe run to be replaced with double-wall, monitored piping. Where the site has multiple distinct pipe runs, only that piping run being replaced shall be required to be double-wall construction.
- b) Piping, valves and fittings for flammable liquids shall be designed for the working pressures and structural stresses to which they may be subjected and approved for

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their intended use. The application of any material shall not interfere with the normal operation of the shear valves, fusible links or any equipment installed under the dispensers or submersibles. They shall be of steel or other materials suitable for use with the liquid being handled. Pipe-wall thicknesses being determined in accordance with ANSI B31, incorporated by reference in Section 170.410, shall be deemed to comply with this Section, except that carbon steel pipe shall not be thinner than standard wall thickness listed in ANSI B36, incorporated by reference in Section 170.410.

- cb) Non-metallic piping systems conforming to the requirements of ANSI B31, incorporated by reference in Section 170.410, for use with flammable and combustible liquids are permitted underground.
- de) After installation, pressurized piping shall be tested for 30 minutes at 1.5 times the working pressure or 50 PSI, whichever is higher. Suction and vent piping shall be tested at a minimum positive pressure of 7 psi or in accordance with the manufacturer's recommended procedures.
- ed) Piping that routinely contains regulated substances and is in contact with the ground, backfill or water shall be properly designed, constructed and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory, as specified in this subsection below, and all steel risers, vents, and fills in contact with the ground, backfill or water shall be dielectrically wrapped or coated:

  - 1) The piping is constructed of fiberglass-reinforced plastic (the following codes and standards, incorporated by reference in Section 170.410, may be used to comply with this subsection (ed)(1): UL 567; UL Canada Subject C107C; or UL Canada Standard CAN4-S633);
  - 2) The piping is constructed of steel and cathodically protected in the following manner:
    - A) The piping is coated with a suitable dielectric material;
    - B) Field-installed cathodic protection systems are designed by a corrosion expert;
    - C) New impressed current systems are designed to allow

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determination of system operating status by means of permanently installed lights, amp, volts and hour gauges as required in Section 170.460 and existing impressed current systems must meet these requirements on or before November 1, 2003;

- D) Cathodic protection systems are operated and maintained in accordance with Section 170.460 (the following codes and standards, incorporated by reference in Section 170.410, may be used to comply with this subsection (cd)(2): NFPA 30; API Recommended Practice 1615; API Recommended Practice 1632; or NACE RPO285); or
- E) The piping construction and corrosion protection are determined by the Office of the State Fire Marshal to be designed to prevent the release or threatened release of any stored regulated substance, in a manner that is no less protective of human health and the environment than the requirements in subsections (cb)(1) and (2). Before the installation of any such piping, its construction and corrosion protection shall be submitted to the Office in writing, and the Office shall issue written approval.
- fe) UST wiring procedures. All wiring at UST locations shall be in accordance with NFPA 70, incorporated by reference in Section 170.410. Wiring within 20 feet of tanks, within 20 feet of dispenser pumps or run in the product line trenches shall be installed in rigid metallic conduit or threaded steel conduit (or any petroleum or product resistant conduit approved for that use). Electrical conduit shall maintain at least six inches of separation from product piping to avoid damage from abrasion or stray electrical current and shall be routed away from product piping. Minimum cover is required in accordance with Table 300-5 of NFPA 70, incorporated by reference in Section 170.410. Intrinsically safe wiring shall be in conduit when installed within Class I locations, as specified in NFPA 70, incorporated by reference in Section 170.410. Caution should be taken when grounding since it impairs cathodic protection of metallic tanks or piping. When locating electrical wiring in the same trench as the product lines, the conduit shall be positioned on either side of the product piping but not above or below the product piping. This electrical conduit shall cross over the top of any product piping whenever a cross-over is necessary. A six-inch separation shall be maintained at all times, even during a cross-over. All cross-overs shall be kept to a minimum. All electrical power shall be shut off at the immediate location

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where installations, repairs or upgrades are in progress. All electrical seal-offs are to be properly filled whether being used or for future use.

- gf) All related wiring shall be inspected during UST final inspection.
- hg) A positive shut off valve shall be installed on the product line at the submersible or at the tank for all suction systems on all new installations and when piping is replaced at existing sites and made accessible at grade. Extractor valve will be accepted on European suction instead of positive shut off valve.
- ih) Vent lines will be tested from the tank to grade level at the time of installation. This test will be done at 7 psi minimum or at the pressure recommended by the manufacturer. This test will be performed at the time of the line PAI test.
- ji) The application of any material shall not interfere with the normal operation of the shear valves or fusible links, or any equipment installed under dispensers or submersibles.
- ~~jj) The new installation or total upgrade of product piping shall be double walled for the entire length of that product line, with the exception of European suction, after May 1, 2003.~~
- k) Any time product piping is broken for repairs, a precision line tightness test must be conducted before the piping is put back into service.

(Source: Amended at 32 Ill. Reg. 1428, effective February 1, 2008)

**Section 170.425 Fill Pipes**

- a) Fill pipes shall be extended to a location outside of any building, as remote as possible from any doorway or other opening into any building and in no case closer than five feet from any such opening. Remote fills are subject to approval by the Office of the State Fire Marshal, on a case by case basis. Fill pipes for used oil tanks are permissible when located inside buildings.
- b) Location shall be in a place where there is a minimum danger of breakage from trucks or other vehicles.
- c) Each fill pipe shall be closed by a screw cap or other tight fitting cap of a type

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~~that~~which can be locked. It is the responsibility of the owner/operator to maintain the security of the UST system.

- d) Each loading pipe or fill pipe riser shall be identified by color code or labeling to indicate the product contained in the tank.
- e) Adequate collision protection to protect against physical damage shall be provided for fill pipes which protrude above-grade.
- f) All remote fills shall be double walled and constructed of non-corrosive material or cathodically protected except for gravity flow waste oil.
- g) All tanks shall be equipped with a drop tube that extends to within 6 inches of the bottom of the tank, with the exception of waste oil.
- h) Any new installation with a remote fill over 20 ft. in length shall have interstitial monitoring and an audible and visible overfill alarm. Remote fills shall be sloped back to the tank. Beginning February 1, 2008, on all new installations where non-metallic piping is used for a remote fill, a grounding station shall be installed and used during delivery.

(Source: Amended at 32 Ill. Reg. 1428, effective February 1, 2008)

**Section 170.520 Release Detection Requirements for Hazardous Substance UST Systems**

Owners or operators of hazardous substance UST systems shall provide release detection that meets the following requirements:

- a) Release detection at existing UST systems shall meet the requirements for petroleum UST systems in Section 170.510. All existing and new hazardous substance UST systems shall meet the release detection requirements for new systems in subsection (b) of this Section and comply with Sections 170.420(a), 170.421(a) and Section 170.530.
- b) Release detection for hazardous substance UST systems shall meet the following requirements:
  - 1) Secondary containment systems shall be designed, constructed and installed to:

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- A) Contain regulated substances released from the tank system until they are detected and removed and must have interstitial monitoring capable of detecting a failure from the inner and outer wall;
  - B) Prevent the release of regulated substances to the environment at any time during the operational life of the UST system;
  - C) All interstitial monitoring must be checked every 30 days. This can be done by keeping reports from an ATG interstitial monitoring system status report tape showing a pass, normal, etc., or by keeping a log showing the date of inspection, initials of inspector, system status (pass, normal, etc.). The monthly records for the previous 3 years must be kept on site; and
  - D) Interstitial monitoring components shall be tested for operation every 3 years and the records for the previous 3 years must be kept on site. This testing shall be done by a person trained by the manufacturer or a licensed contractor.
- 2) Double-wall tanks shall be designed, constructed and installed to:
- A) Contain a release from any portion of the inner tank within the outer wall; and
  - B) Detect the failure of the inner wall.
- 3) External liners (including vaults) shall be designed, constructed and installed to:
- A) Contain 100 percent of the capacity of the largest tank within its boundary;
  - B) Prevent the interference of precipitation or groundwater intrusion with the ability to contain or detect a release of regulated substances;
  - C) Surround the tank completely (i.e., it is capable of preventing

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lateral as well as vertical migration of regulated substances); and

- D) Detect the failure of the tanks and the external liner.
- 4) Underground piping shall be equipped with secondary containment that satisfies the requirements of subsections (b)(1) through (3) of this Section (e.g., trench liners, jacketing or double-walled pipe). In addition, underground piping that conveys regulated substances under pressure shall be equipped with an automatic line leak detector in accordance with Section 170.540(a) and an interstitial monitor in accordance with 170.530(g).
- 5) Other methods of release detection may be used if owners or operators:
  - A) Demonstrate to the Office of the State Fire Marshal that an alternate method can detect a release of the stored substance as effectively as the method allowed in Section 170.530(g); written approval is required from the Office to use the alternate release detection method before the installation and operation of the new UST system; and
  - B) Provide written information to the Office of the State Fire Marshal on effective corrective action technologies, health risks and chemical and physical properties of the stored substance, and the characteristics of the UST site.

(Source: Amended at 32 Ill. Reg. 1428, effective February 1, 2008)

**Section 170.530 Methods and Requirements of Release Detection for Tanks**

Owners and operators of petroleum UST systems shall provide release detection on tanks. These tanks must be monitored at least every 30 days for releases using one or more of the methods listed below:

- a) Monthly inventory control.
  - 1) Product inventory control (or another test of equivalent performance) shall be conducted monthly to detect a release of at least 1.0 percent of the flow-through plus 130 gallons on a monthly basis in the following

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manner:

- A) Inventory volume measurements for regulated substance inputs, withdrawals and the amount still remaining in the tank are recorded each operating day;
- B) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;
- C) The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery;
- D) Deliveries are made through a drop tube that extends to within 6 inches of the tank bottom;
- E) Product dispensing is metered and recorded pursuant to Section 8 of the Weights and Measures Act [225 ILCS 470/8];
- F) The measurement of any water level in the bottom of the tank is made to the nearest one-eighth of an inch at least once a month (practices described in API Recommended Practice 1621, incorporated by reference in Section 170.410, may be used, where applicable, as guidance in meeting the requirements of this subsection (a));
- G) To the extent the above measurements or recordkeeping are the responsibility of the UST owner, the owner or whoever performs those activities on the owner's behalf, shall be knowledgeable in such performance;
- H) Monthly inventory control records for the previous 3 years must be kept on site;
- I) This method can only be used for a period of 10 years from the date cathodic protection was installed on the tank. A precision tank test must be performed at 5 years and 10 years and these records kept on site for 10 years. At 10 years, another form of leak

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detection is required;

- J) Inventory control will only be allowed on sites currently using this method until the 10-year time allowance expires. No new sites will be allowed to use this method after May 1, 2003;
  - K) Inventory control may not be used on systems with blending pumps or siphon tanks.
- 2) Monthly inventory control cannot be used as a method of release detection for any tank that, after passing only a noninvasive tank integrity assessment, was upgraded using the cathodic protection method.
- b) Manual tank gauging. Only tanks of 600 gallons or less nominal capacity may use the method described in this subsection as the sole method of release detection. For tanks of 601 to 2,000 gallons, this method may be used for a period of 10 years from the date cathodic protection was installed on the tank. For tanks over 2,000 gallons, this method shall not be used. Tanks 601 to 2,000 gallons must receive a precision tank test once every year. The monthly records required for manual tank gauging and the yearly tank tests must be kept for 3 years on site. At the end of 10 years, another form of tank leak detection is required for tanks 601 gallons to 2,000 gallons.
- 1) Manual tank gauging shall meet the following requirements:
    - A) Tank liquid level measurements are taken at the beginning and ending of a period of at least 36 hours during which no liquid is added to or removed from the tank;
    - B) Level measurements are based on an average of two consecutive stick readings at both the beginning and ending of the period;
    - C) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;
    - D) A leak is suspected and subject to the requirements of Sections 170.560 through 170.610, if the variation between beginning and ending measurements exceeds the weekly or monthly standards in

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Table B;

- E) The measurement of any water level in the bottom of the tank is made to the nearest one-eighth of an inch at least once a month (practices described in API Recommended Practice 1621, incorporated by reference in Section 170.410, may be used, where applicable, as guidance in meeting the requirements of this subsection (b)); and
  - F) To the extent the above measurements or recordkeeping are the responsibility of the UST owner, the owner or whoever performs those activities on the owner's behalf, shall be knowledgeable in such performance.
- 2) Manual tank gauging cannot be used as a method of release detection for any tank that, after passing only a noninvasive tank integrity assessment, was upgraded using the cathodic protection method.
  - 3) This method will not be allowed for tanks 601 to 2,000 gallons after May 1, 2003, except that, for those tanks for which this method was being used on May 1, 2003, the method may be used until the 10-year allowance expires.
- c) Precision tank tightness testing, as approved by the Office of the State Fire Marshal.
- 1) Tank tightness testing (or another test of equivalent performance) shall be capable of detecting a 0.1 gallon per hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table. There are four types of precision testing:
    - A1) 100 percent volumetric overfill;
    - B2) Volumetric underfill with an approved ullage test of negative pressure or inert gas as approved by the Office of the State Fire Marshal;

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- C3) A negative pressure; or
- D4) Other approved methods, in accordance with subsection (i).
- 2) In the case of a suspected release, tracer elements and ATGs are not an approved method of precision tank testing.
- d) Automatic tank gauging (ATG). Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control shall meet the following requirements:
- 1) The automatic product level monitor test can detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product.
  - 2) The ATG must be third party evaluated by and listed in the NWGLDE publication "List of Leak Detection Evaluations for Underground Storage Tank Systems". The ATG must be installed, calibrated and in compliance with the protocol of the third party evaluation.
  - 3) All new or replacement ATG monitors shall be mounted no more than 6 feet from the floor and must remain unobstructed and accessible.
  - 4) All new ATG systems must be equipped with printers. Existing ATG systems must be equipped with printers by May 1, 2004. If a system has to be retrofitted, a permit will be required. Systems with remote printers will be accepted.
- e) Vapor monitoring. Testing or monitoring for vapors within the soil gas of the excavation zone shall meet the following requirements:
- 1) The materials used as a backfill are sufficiently porous (e.g., gravel, sand or crushed rock) to readily allow diffusion of vapor from releases into the excavation area;
  - 2) The stored regulated substance or a tracer compound placed in the tank system is sufficiently volatile (e.g., gasoline) to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank;

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- 3) The measurement of vapors by the monitoring device is not rendered inoperative by groundwater, rainfall, soil moisture or other known interferences so that a release could go undetected for more than 30 days;
  - 4) The level of background contamination in the excavation zone will not interfere with the method used to detect releases from the tank;
  - 5) The vapor monitors are designed and operated to detect any significant increase in concentration above the background of the regulated substance stored in the tank system, a component or components of that substance, or a tracer compound placed in the tank system; vapor monitor sensors must be permanently installed in the vapor monitor wells; a monthly inspection of the vapor monitoring system must be made and a log maintained showing the date of inspection, results, and initials of the party doing the inspection;
  - 6) In the UST excavation zone, the site is assessed to ensure compliance with the requirements in subsections (e)(1) through (4) of this Section and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product;
  - 7) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering;
  - 8) Vapor monitoring wells shall be of sufficient design to allow vapors to be detected from any portion of the tank being monitored and shall be a minimum of four inches in diameter or as approved by the Office of the State Fire Marshal on the applicable permit; and
  - 9) An adequate number of vapor monitoring wells shall be provided to ensure that a release can be detected from any portion of the tank. Adequacy of such wells is subject to approval of the Office of the State Fire Marshal on the applicable permit.
- f) Groundwater monitoring. Testing or monitoring for liquids on the groundwater shall meet the following requirements:
- 1) The regulated substance stored is immiscible in water and has a specific

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gravity of less than one;

- 2) Groundwater is never more than 20 feet from the ground surface, the hydraulic conductivity of the soil between the UST system and the monitoring wells or devices is not less than 0.01 cm/sec (e.g., the soil should consist of gravels, coarse to medium sands, coarse silts or other permeable materials), and groundwater shall be present in the groundwater monitoring wells at all times;
- 3) The slotted or perforated portion of the monitoring well casing shall be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low groundwater conditions;
- 4) Groundwater monitoring wells shall be sealed from the ground surface to the top of the filter pack;
- 5) Monitoring wells or devices intercept the excavation zone or are as close to it as is technically feasible;
- 6) The continuous monitoring devices or manual methods used can detect the presence of at least ? of an inch of free product on top of the groundwater in the monitoring wells.
  - A) The continuous monitoring devices must be fixed sensors mounted permanently inside the well or samples must be taken by a mechanical bailer capable of detecting the presence of at least ? - inch of free product on top of the groundwater in the monitoring wells.
  - B) Groundwater monitoring must be done monthly and a log of the inspection made showing the date of the inspection, initials of the person conducting the inspection, and results of the well sampling. This log must be done every 30 days and kept on-site, or available within 30 minutes, for 3 years.
- 7) Within and immediately below the UST system excavation zone, the site is assessed to ensure compliance with the requirements in subsections (f)(1) through (5) of this Section and to establish the number and

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positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product;

- 8) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering;
  - 9) The minimum diameter of groundwater monitoring wells shall be 8 inches or as approved by the Office of the State Fire Marshal on the applicable permit; and
  - 10) An adequate number of groundwater monitoring wells shall be provided to ensure that a release can be detected from any portion of the tank. Adequacy of such wells is subject to approval of the Office of the State Fire Marshal on the applicable permit. On new installations, there shall be two 8-inch diameter monitoring wells for the first tanks and 1 additional well for each additional tank installed. The wells will be of manufactured slotted or perforated type. They shall be at opposite ends and corners, one foot below the invert elevations of the lowest UST.
- g) Interstitial monitoring. Interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it, or interstitial monitoring meeting the requirements of this Section as required by Sections 170.420(a) and 170.421(a), may be used but only if the system is designed, constructed and installed to detect a leak from any portion of the tank that routinely contains product and, also, meets one of the following requirements:
- 1) For double-wall UST systems, the sampling or testing method can detect a release through the inner wall in any portion of the tank that routinely contains product; the provisions specified in STI, "Standard for Dual Wall Underground Storage Tank", incorporated by reference in Section 170.410, may be used as guidance for aspects of the design and construction of underground steel double-wall tanks.
  - 2) For UST systems with a secondary barrier within the excavation zone, the sampling or testing method used can detect a release between the UST system and the secondary barrier.
    - A) The secondary barrier around or beneath the UST system consists of artificially constructed material that is sufficiently thick and

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- impermeable (not in excess of 0.000001 cm/sec for the regulated substance stored) to direct a release to the monitoring point and permit its detection;
- B) The barrier is compatible with the regulated substance stored so that a release from the UST system will not cause a deterioration of the barrier allowing a release to pass through undetected;
  - C) For cathodically protected tanks, the secondary barrier shall be installed so that it does not interfere with the proper operation of the cathodic protection system;
  - D) The groundwater, soil moisture or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than 30 days;
  - E) The site is assessed to ensure that the secondary barrier is always above the groundwater and not in a 25-year flood plain unless the barrier and monitoring designs are for use under such conditions;
  - F) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering; and
  - G) An adequate number of monitoring wells shall be provided to ensure that a release can be detected from any portion of the tank. Adequacy of the number of such wells is subject to the approval of the Office of the State Fire Marshal.
- 3) For tanks with an internally fitted liner, an automated device can detect a release between the inner wall of the tank and the liner, and the liner is compatible with the substance stored.
  - 4) The interstitial monitoring system must be tested every 3 years to verify its operation and records from the previous test must be kept on-site, or available within 30 minutes. Testing of the system sensors shall be done in such a way as to verify their function but not damage the sensors.
  - 5) Recordkeeping requirements for interstitial monitoring of tanks and lines requires an inspection once every 30 days and records for the previous 3

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years must be kept on-site or available within 30 minutes. The records can be from an ATG system showing the interstitial monitors' status (pass/normal/other/) on a print out tape or by maintaining a log showing date of inspection, initials of inspector, status of system (pass/normal/other).

- h) Statistical Inventory Reconciliation (SIR).
- 1) The company that uses this method shall provide the Office of the State Fire Marshal a written affirmation that their data collection staff is trained in the data gathering procedures and that only trained staff will be utilized for data collection. Each tank monitored by SIR shall be identified to the Office in writing within 30 days of the commencement of such monitoring, specifying tank size, product stored, facility location and any other pertinent identification information necessary.
  - 2) SIR methods may only be used in conjunction with precision tank tightness testing conducted yearly.
  - 3) A precision tank tightness test, as approved by the Office of the State Fire Marshal, shall be mandatory, if any data analysis indicates a possible release or is inconclusive or indeterminate, or for any test result other than a pass.
  - 4) The measurement of any water level in the bottom of the tank is made to the nearest 1/8 - inch at least once a month (practices described in API Recommended Practice 1621, incorporated by reference in Section 170.410, may be used, where applicable, as guidance in meeting the requirements of this subsection (h)).
  - 5) SIR test records for the previous 3 years must be kept on-site (a lag time of 60 days will be allowed for on-site records) or available within 30 minutes.
  - 6) New requests to use SIR after May 1, 2003 will no longer be accepted. If SIR is discontinued at a site, it will not be allowed again.
  - 7) After January 1, 2006, SIR may not be used on systems with blending pumps or siphon tanks.

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- i) Other methods. Any other type of release detection method or combination of methods, approved by the Office of the State Fire Marshal, may be used if ~~the~~<sup>The</sup> owner or operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in subsections (c) through (h) of this Section. Demonstration of any such method shall be in writing submitted to the Office of the State Fire Marshal. In comparing methods, the Office shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner or operator shall comply with any conditions imposed by the Office on its use to ensure the protection of human health or the environment. Before the utilization of the method, the Office shall issue written approval.
- j) One copy of each independent third-party evaluation and its protocol, for the release detection methods in subsections (c), (d), (e), (g), (h) and (i), shall be submitted to the Office of the State Fire Marshal. Any deviation from the third-party evaluation shall be resubmitted for approval.
- k) Only one approved method of primary release detection is required for each tank, ~~;~~ although ~~;~~ multiple methods are acceptable.
- l) No method of release detection shall be used, unless that method has been approved by the Office of the State Fire Marshal.

(Source: Amended at 32 Ill. Reg. 1428, effective February 1, 2008)

**Section 170.541 Installer, Repairer, Liner or Remover of USTs and Obtaining Permits**

Any person who is an installer, repairer, liner or remover of underground storage tanks is a contractor. However, in order for a contractor to do lining inspections, lining touch up or cathodic protection, or install, repair, line, upgrade, abandon or remove any UST, the contractor is required to be licensed and obtain a permit for that activity, in compliance with the following:

- a) Pay \$100 per site to the Office of the State Fire Marshal for a permit to install, repair, or line, or perform lining touch up, lining inspections, cathodic protection, or abandonment, upgrade or removal of underground storage tanks.
  - 1) A separate fee is required for each type of activity.

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- 2) This fee is to be paid by check or money order made payable to "Office of the State Fire Marshal" and is to be from the installer, repairer, liner or remover.
- 3) Only contractors licensed and certified in accordance with Subpart E (or their respective employees, who do not have to be licensed and certified), and not barred pursuant to Subpart D, may obtain permits. Contractors are required to be licensed and certified in the UST activity for which they are applying.
- 4) Only contractors, their employees or subcontractors may perform the permitted UST activity in accordance with Subpart E.
- 5) Only the most current permit application for the activity is to be submitted.
- 6) Insufficient information submitted with the permit application or an illegible permit application submission is cause for return or denial.
- 7) Permits expire 6 months from the date they are issued. The applicant may apply for additional 6 month extensions. Each extension request will be accompanied by a \$100 fee. Contractors may apply for one extension at the time of the original application. A new permit application and fee must be submitted if the permit lapses.
- 8) Permit applications denied or rejected the second time will require a new application submission fee.
- 9) Permit applications and issued permits are not transferable.
- 10) Permit applications and issued permits may only be submitted and amended by contractors licensed and certified in the area of UST activity for which they are applying.
- 11) Amended permits. Granted permits may be amended only once in the office or in the field without a new application fee. Additional amendments may be allowed with an additional \$100 fee; except, each change that requires a new contractor, a new site plan or another engineering review to determine acceptability will require a new permit

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application submission and \$100 fee.

- 12) A person who is the owner of a UST for which a permit is obtained shall be listed on the permit application as the owner.
- 13) In the event there is a delegation of authority to the City of Chicago to enforce UST rules and regulations, pursuant to 430 ILCS 15/2, subject to the terms of such an agreement, the City has the authority to modify this subsection (a) to issue the permits and collect the fees for its own use, regarding UST activities within the jurisdiction of the City.
- 14) A permit is closed:
  - A) When the work under the permit is completed and the required notification forms have been submitted to the OSFM; or
  - B) When the permit has lapsed, expired or been revoked.
- b) No permit may be issued when a current owner is listed on a permit application who owes fees pursuant to Section 170.441 or 170.442 until any such fee is paid in full.
- c) No UST activity requiring a permit may proceed without a granted permit in the possession of the contractor or representative of the contractor at the UST site, except pursuant to Section 170.481, and the permit shall be available upon request of an Office of the State Fire Marshal representative. Performance by a contractor of a UST activity in violation of this Section may result in the suspension or revocation of the license of that contractor to perform any UST activity. This does not preclude suspension or revocation for a violation of any other applicable Section.
- d) No UST owners or operators may perform any UST activity on their UST, unless the owner complies with the licensing and certification requirements of Subpart E.
- e) UST activity performed that is not in compliance with the conditions of a permit issued to a contractor is cause for permit revocation, or suspension or revocation of the license of that contractor to perform any UST activity. This does not preclude suspension or revocation for a violation of any other applicable Section.

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- f) For purposes of this Section, the term "installer" includes "replacer" and "install" includes "replace"; the term "repairer" includes a person who upgrades and "repair" includes "upgrade"; and the term "remover" includes a person who "abandons-in-place" and "remove" includes "abandon-in-place" a UST.
- g) Actions requiring a permit.
- 1) A permit is required to do any of the following to USTs:
- A1) remove;
  - B2) abandon-in-place;
  - C3) upgrade;
  - D4) repair;
  - E5) line;
  - F6) inspect linings;
  - G7) lining touch ups;
  - H8) emergency repairs;
  - I9) repair or install cathodic protection;
  - J10) install manways (except in cases associated with a lining permit or lining inspection permit) with manholes bolted to the tank top, only when in conjunction with an inspection and in a manner that does not damage the existing lining;
  - K11) install a UST and piping; or
  - L12) any time a tank is entered.
- 2) Primary leak detection systems, corrosion protection, spill containment, overfill prevention, dispenser activity under Section 170.420(d)(19), and new dispenser islands also require permits.

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- h) Actions not requiring a permit.
- 1) No permit is required to do routine maintenance on, or like-for-like replacements for, the following:
    - A) submersible pumps;
    - B) spill containment devices;
    - C) drop tube valves;
    - D) ball floats;
    - E) ATG probes;
    - F) mechanical line leak detectors;
    - G) electronic line leak detectors;
    - H) wireless electronic line leak detectors; or
    - I) rectifiers.
  - 2) The exceptions listed in subsection (h)(1i) are the only exceptions from the permit requirement. If the equipment is not present or another type of equipment is to be used, a permit shall be required. Any pipe or flex connector work requires a permit.
  - 3) In the event that equipment is not installed like-for-like and/or equipment is installed without a permit, the owner/operator will be required to do the following:
    - A) Hire an OSFM recognized contractor other than the contractor who did the unauthorized/non-permitted work.
    - B) OSFM Engineering Department will determine if the equipment is approved for this application.

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- C) Contractor will submit a Date and Time Certain job schedule to review the installation and determine that the equipment has been installed as per manufacturer's specifications.
  - D) Contractor will schedule a Date and Time Certain final inspection. The contractor will have a representative at the final inspection that is knowledgeable and able to work with this equipment. An amended notification form for this installation shall be available for the STSS. The representative will review the equipment with the STSS.
- 4) Replacing of any of the above equipment must be reported in writing, within 24 hours after the activity, to the OSFM, on an OSFM approved form, listing the make, model, and manufacturer of the equipment, indicating where the equipment is being installed.
  - 5) When replacing an electronic line leak detector that is capable of detecting a release within 0.1gph with a mechanical line leak detector, notification must be made by the contractor to the OSFM in writing, within 8 working hours after replacement, on an approved OSFM form. An original replacement must be completed within 10 working days and notification of completion shall be submitted to the OSFM within 8 working hours after the replacement.
  - 6) A valid permit does not remedy a violation until the work is completed and does not allow for any extensions of time for compliance.

(Source: Amended at 32 Ill. Reg. 1428, effective February 1, 2008)

## ILLINOIS GREEN GOVERNMENTS COORDINATING COUNCIL

## NOTICE OF EMERGENCY RULES

- 1) Heading of the Part: Green Cleaning for Elementary and Secondary Schools
- 2) Code Citation: 23 Ill. Adm. Code 2800
- 3) 

<u>Section Numbers:</u>	<u>Emergency Action:</u>
2800.10	New Section
2800.20	New Section
2800.30	New Section
2800.40	New Section
2800.50	New Section
2800.APPENDIX A	New Section
2800.APPENDIX B	New Section
- 4) Statutory Authority: Implementing and authorized by Green Cleaning Schools Act [105 ILCS 140]
- 5) Effective Date of Rules: February 1, 2008
- 6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: These emergency rules will not expire before the proposed rulemaking is adopted.
- 7) Date Filed with the Index Department: January 22, 2008
- 8) A copy of the emergency rulemaking, 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 Green Cleaning Schools Act became effective August 13, 2007. The Act required the Illinois Green Governments Coordinating Council to promulgate these guidelines and specifications. The authorizing law for the Illinois Green Governments Coordinating Council (Public Act 95-657) did not become effective until October 17, 2007. Thus, the development of the guidelines and specifications was delayed. The Green Cleaning Schools Act required the Council to promulgate the guidelines and specifications no later than February 11, 2008. The issuance of rules at this time will promote public safety and allow schools sufficient time to comply with the guidelines for the next school year. There is a threat to the public interest. In order to implement these guidelines and specifications this school year, the adoption of the emergency rules is needed.

## ILLINOIS GREEN GOVERNMENTS COORDINATING COUNCIL

## NOTICE OF EMERGENCY RULES

- 10) A Complete Description of the Subjects and Issues Involved: The Green Cleaning Schools Act was adopted to protect the environmental and occupant health of primary and secondary schools.
- 11) Are there any proposed amendments to this Part pending? No
- 12) Statement of Statewide Policy Objectives: This rulemaking implements Public Act 95-657, which creates a non-reimbursable State mandate.
- 13) Information and questions regarding these emergency rules shall be directed to:

Kate Tomford  
Office of Lt. Governor Pat Quinn  
100 W. Randolph, Suite 15-200  
Chicago IL 60601

312/814-5220  
Fax: 312/814-4862

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

## ILLINOIS GREEN GOVERNMENTS COORDINATING COUNCIL

## NOTICE OF EMERGENCY RULES

## TITLE 23: EDUCATION AND CULTURAL RESOURCES

## SUBTITLE A: EDUCATION

## CHAPTER XX: ILLINOIS GREEN GOVERNMENTS COORDINATING COUNCIL

## PART 2800

## GREEN CLEANING FOR ELEMENTARY AND SECONDARY SCHOOLS

## Section

2800.10 Applicability of Requirements

## EMERGENCY

2800.20 Definitions

## EMERGENCY

2800.30 Cleaning Supply Purchases with Pre-Qualification

## EMERGENCY

2800.40 Cleaning Supply Purchases with Alternative Qualification

## EMERGENCY

2800.50 Exemption from Required Practices

## EMERGENCY

2800.APPENDIX A Application for Alternative Qualification

## EMERGENCY

2800.APPENDIX B Exemption Notification

## EMERGENCY

AUTHORITY: Implementing the Green Cleaning Schools Act [105 ILCS 140].

SOURCE: Emergency rule adopted at 32 Ill. Reg. 1479, effective February 1, 2008, for a maximum of 150 days.

**Section 2800.10 Applicability of Requirements****EMERGENCY**

After extensive public comment, the Council has adopted these guidelines for green cleaning policies in elementary and secondary schools in Illinois. The requirements set forth in this Section of the guidelines must be utilized in all school buildings unless an exemption is obtained, as described in this Part. These guidelines must be utilized for all in-house and contracted cleaning services in the affected facilities.

**Section 2800.20 Definitions****EMERGENCY**

## ILLINOIS GREEN GOVERNMENTS COORDINATING COUNCIL

## NOTICE OF EMERGENCY RULES

Act means the Green Cleaning Schools Act [105 ILCS 140].

Bathroom Cleaners are products used to clean hard surfaces in a bathroom, such as counters, walls, floors, fixtures, basins, tubs or tile.

Carpet Cleaners are products used to eliminate dirt and stains on rugs and carpeting.

Council means the Illinois Green Governments Coordinating Council created by the Green Governments Illinois Act [20 ILCS 3954] and authorized by the Green Cleaning Schools Act to adopt guidelines for this program.

Disinfectants are products used on hard inanimate surfaces and objects to destroy or irreversibly inactivate infectious fungi and bacteria, but not necessarily their spores.

General Purpose and Hard Floor Surface Cleaners are products used for routine cleaning of hard surfaces, including impervious flooring such as concrete or tile. This category does not include products intended primarily to strip, polish or wax floors, and it does not include cleaners intended primarily for cleaning toilet bowls, dishes, laundry, upholstery or wood.

Glass, Window and Mirror Cleaners are products used to clean glass, windows, mirrors or metallic or polished surfaces.

Hand Cleaners and Hand Soaps are products used for routine, non-specialized hand cleaning.

Paper Products are paper towels or other paper used for cleaning.

Sanitizers are products used to reduce, but not necessarily eliminate, microorganisms from the inanimate environment to levels considered safe as determined by public health codes or regulations.

School, under the Act, means *all elementary and secondary public school and all elementary and secondary non-public schools with 50 or more students*. [105 ILCS 140/10]

## ILLINOIS GREEN GOVERNMENTS COORDINATING COUNCIL

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School buildings are:

Any structure suitable for use as a classroom, including a school facility such as a laboratory, library, school eating facility, or facility used for the preparation of food.

Any gymnasium or other facility specially designed for athletic or recreational activities for an academic course in physical education.

Any other facility whose primary use is for the instruction or housing of students, or for the administration of educational or research programs.

Any maintenance, storage or utility facility, including any hallway essential to the operation of any facility described in this definition of "school building".

**Section 2800.30 Cleaning Supply Purchases with Pre-Qualification  
EMERGENCY**

- a) The institutional (school) cleaning market is composed of several categories of cleaning supplies. After review and evaluation, the Council has determined that a sufficient selection of cost-competitive, effective and environmentally sensitive cleaning supplies is available in each of the following categories:
  - 1) Bathroom Cleaners
  - 2) Carpet Cleaners
  - 3) General Purpose and Hard Floor Surface Cleaners
  - 4) Glass, Window and Mirror Cleaners
  - 5) Hand Cleaners and Hand Soaps
  - 6) Paper Products
- b) For the aforementioned cleaning supply categories, any school may be deemed in compliance with the Act if the school solely uses products that are:

## ILLINOIS GREEN GOVERNMENTS COORDINATING COUNCIL

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- 1) Certified by Green Seal, 1001 Connecticut Ave., NW, Suite 827, Washington DC, 20036-5525, 202/872-6400, 202/872-4324 (fax), [www.green Seal.org](http://www.green Seal.org).
  - 2) Certified by Environmental Choice EcoLogo Program, 107 Sparks St., 2<sup>nd</sup> Floor, Ottawa, Ontario, Canada KIA 0H3, [www.ecologo.org](http://www.ecologo.org).
  - 3) For chemicals: Recognized by the U.S. Environmental Protection Agency Design for the Environment (DfE) Formulator Program, Office of Pollution Prevention and Toxics, USEPA, 1200 Pennsylvania Ave., NW, Mail Code 7406-M, Washington DC, 20460, [www.epa.gov/dfe/contact.htm](http://www.epa.gov/dfe/contact.htm).
  - 4) For paper products: In compliance with the U.S. Environmental Protection Agency Comprehensive Procurement Guidelines for Commercial and Industrial Sanitary Tissue (40 CFR 247, 2007, no later amendments or editions), [www.epa.gov/cpg.htm](http://www.epa.gov/cpg.htm).
- c) Schools must use the supplies as intended by the manufacturer and applicable certification body. The schools must follow all manufacturer/certifier guidelines, as well as the guidelines in this Section.
  - d) For all chemical products, the schools must use the concentrated version, if available, and not a ready-to-use version. Consumption of cleaning products in concentrated form reduces the amount of container material, packaging and fuel used in the transport of the product. As a result, use of a concentrated product both conserves natural resources and reduces waste.
  - e) The Council is not proposing requirements for any supply categories not listed in subsection (a) due to the limited availability of such products, cost or questions about efficacy. The Council will continue to review other supply categories for later inclusion in this Part.

**Section 2800.40 Cleaning Supply Purchases with Alternative Qualification  
EMERGENCY**

- a) Although the Council has determined that there is an adequate supply of pre-qualified cleaning supplies at competitive prices in the product categories listed in Section 2800.30(a), schools may procure and use cleaning supplies in the listed

## ILLINOIS GREEN GOVERNMENTS COORDINATING COUNCIL

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categories that are qualified through an alternative method. More specifically, schools may procure and use cleaning supplies qualified as environmentally sensitive through alternative means, provided the products meet the criteria set forth in this Section.

- b) Schools may procure and use non-pre-qualified cleaning supplies provided that the manufacturer or distributor of those supplies provides alternative qualification of environmental sensitivity by providing the Council with independent documentation verifying that the products meet the criteria of at least one of the Green Seal standards (GS-37 or GS-41 for chemicals; GS-9 for paper) or EcoLogo standards (CCD (Certification Criteria Document)-104, CCD-146 or CCD-148 for chemicals; CCD-86 for paper).
- c) The verification must come in the form of testing data provided by one or more independent third-party laboratories. Any laboratories that maintain accreditation meeting the standards of ISO/IEC 17025 (International Organization for Standardization/International Electrotechnical Commission; 1, ch. de voie-Creuse, Case postale 56 CH-1211, Geneva 20, Switzerland, telephone: +41 22 749 01 11; www.iso.org; 2005, no later amendments or editions included) may conduct the required testing. The Council shall post the required tests for each of the qualification standards on its website.
- d) The Council shall charge no fee to the party seeking alternative qualification. The party seeking alternative qualification shall bear all laboratory and other costs necessary to obtain the required test results.
- e) A properly submitted verification form shall entitle the product to alternative qualification for a period of no less than one year. Unlimited automatic renewals of the qualification shall be accepted at no charge for additional one-year periods provided that there have been no substantial changes in either the relevant criteria for qualification of that product, or in the formulation of that product. If substantial changes have occurred, a renewal of alternative qualification requires new laboratory verification.
- f) A school may procure and use any pre-qualified or alternatively qualified cleaning supplies in meeting the requirements set forth in the Act. The Council will post the list of pre-qualified and alternatively qualified cleaning supplies on its website.

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**Section 2800.50 Exemption from Required Practices  
EMERGENCY**

- a) Existing Supplies  
*A school may deplete its existing cleaning and maintenance supply stocks*  
(existing on February 1, 2008, the effective date of this Part). [115 ILCS 140/10]
- b) Economic Feasibility
  - 1) The Council has found sufficient competition for the categories of environmentally sensitive cleaning supplies set forth in Section 2800.30(a) to ensure reasonable costs. However, some schools may find that certain green cleaning supplies are not available in their geographic area or are cost-prohibitive.
  - 2) The Act allows individual schools to forego establishing a green cleaning policy, including but not limited to the purchase and use of environmentally sensitive cleaning supplies, if to do so would not be "economically feasible" for specified product categories. Any school in such a circumstance may provide a written notification to the Council that implementation of a green cleaning policy for a product category is not economically feasible. A school seeking exemption must use the form provided in Appendix B and the Council's website.
  - 3) After notification, the school may continue using its non-green cleaning policy for the specified product category. The exemption must be renewed annually until such time as green cleaning becomes economically feasible for the product category. An exemption must be sought for each school, although multiple schools in a district may apply together.
  - 4) To claim a product category exemption due to economic infeasibility, the school must provide:
    - A) The price of the current cleaning supply;
    - B) If applicable, the dilution factor for the current cleaning supply in use;
    - C) The prices of three comparable green cleaning supplies; and

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- D) If applicable, the dilution factors of those three comparable green cleaning supplies.
- 5) If the costs of the three comparable green cleaning supplies, accounting for dilution factors, are higher than the cost of the current product in use, the Council will find economic infeasibility for that supply category. The finding of economic infeasibility is specific to the supply category and the applicant school.

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**Section 2800.APPENDIX A Application for Alternative Qualification  
EMERGENCY****State of Illinois  
Illinois Green Governments Coordinating Council****Green Cleaning Schools Act Program****APPLICATION FOR ALTERNATIVE QUALIFICATION**

For the cleaning supply categories listed in 23 Ill. Adm. Code 2800.30(a), schools may procure and use non-pre-qualified cleaning supplies provided that they meet the requirements of the Green Cleaning Schools Act and 23 Ill. Adm. Code 2800.40, summarized as follows.

The manufacturer or distributor of a non-pre-qualified product must seek alternative qualification of environmental sensitivity by providing the Green Governments Coordinating Council (the "Council") with independent documentation verifying that the product meets the criteria of at least one of the Green Seal standards (GS-37 or GS-41 for chemicals; GS-9 for paper) or EcoLogo standards (CCD-104, CCD-146 or CCD-148 for chemicals; CCD-86 for paper).

The verification must come in the form of testing data provided by one or more independent third-party laboratories. Any laboratories that maintain accreditation meeting the standards of ISO/IEC 17025 may conduct the required testing.

The Council shall charge no fee to the party seeking alternative qualification. The party seeking alternative qualification shall bear all laboratory and other costs necessary to obtain the required test results.

A properly submitted verification application and documentation shall entitle the product to alternative qualification for a period of no less than one year. Unlimited automatic renewals of the qualification shall be accepted at no charge for additional one-year periods provided that there have been no substantial changes in either the relevant criteria for qualification of that product, or in the formulation of that product. If substantial changes have occurred, a renewal of alternative qualification requires new laboratory verification.

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Applicants must complete one application per product seeking alternative qualification. Please attach all documentation of test results to the completed copy of this application. Submit all pages to the Council in a single envelope.

Mail the completed application and supporting documentation to:

Illinois Green Governments Coordinating Council  
c/o Lt. Governor's Office  
100 West Randolph Street, Suite 15-200  
Chicago, Illinois 60601

ILLINOIS GREEN GOVERNMENTS COORDINATING COUNCIL

NOTICE OF EMERGENCY RULES

**Date of Application:** \_\_\_\_\_

**Company Information**

Company Name: \_\_\_\_\_

Description of distribution and/or manufacturing activities: \_\_\_\_\_  
\_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

General Phone: \_\_\_\_\_

Web Site: \_\_\_\_\_

**Primary Contact Information**

Name: \_\_\_\_\_

Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Email: \_\_\_\_\_

**Cleaning Supply Information**

Name of product seeking alternative qualification:  
\_\_\_\_\_

Product category (check only one):

- Bathroom Cleaner
- Carpet Cleaner
- General Purpose and Hard Floor Surface Cleaner
- Glass, Window and Mirror Cleaner
- Hand Cleaners and Hand Soap
- Paper Product

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Documentation attached proves adherence to the following standard (check only one):

Green Seal

- GS-9 Paper Towels and Paper Napkins
- GS-37 Industrial & Institutional Cleaners
- GS-41 Industrial & Institutional Hand Cleaners

EcoLogo

- CCD-86 Hand Towels
- CCD-104 Hand Cleaners - Industrial & Institutional
- CCD-146 Hardsurface Cleaners
- CCD-148 Carpet and Upholstery Cleaners

Refer to the Council's website for copies of the standards listed above.

**Laboratory Information**

Name of Laboratory Organization: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

General Phone: \_\_\_\_\_

Web Site: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Email: \_\_\_\_\_

If multiple laboratories are used for testing, please provide the information above for each laboratory on a separate attached page.

## ILLINOIS GREEN GOVERNMENTS COORDINATING COUNCIL

## NOTICE OF EMERGENCY RULES

**Section 2800.APPENDIX B Exemption Notification  
EMERGENCY****State of Illinois  
Illinois Green Governments Coordinating Council****Green Cleaning Schools Act Program****EXEMPTION NOTIFICATION**

The Green Cleaning Schools Act [105 ILCS140] allows individual schools to forego green cleaning if to do so would not be "economically feasible" for specified product categories. Any school in such a circumstance may complete this application to provide a written notification to the Council that implementation of a green cleaning policy for a product category is not economically feasible.

After notification, the school may continue using its non-green cleaning policy for the specified product categories. The exemption must be renewed annually until such time as green cleaning becomes economically feasible for the product category. An exemption must be sought for each school, although multiple schools in a district may apply together.

To claim a product category exemption due to economic infeasibility, the school must provide to the Council:

1. The price of the current cleaning supply
2. If applicable, the dilution factor for the current cleaning supply in use
3. The prices of three comparable green cleaning supplies
4. If applicable, the dilution factors of those three comparable green cleaning supplies

If the costs of the three comparable green cleaning supplies, accounting for dilution factors, are higher than the cost of the current product in use, the Council will find economic infeasibility for that supply category. The finding of economic infeasibility is specific to the supply category and the applicant school.

## ILLINOIS GREEN GOVERNMENTS COORDINATING COUNCIL

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Exemption notification must be postmarked by June 30 and will be valid for the following fiscal year (July 1 through June 30). By law, schools must submit notification annually.

Schools are required to maintain the appropriate documentation to substantiate the data reported in this application. However, schools are not required to submit any additional documentation with their notification. The Council reserves the right to request documentation at any later date within the current fiscal year.

Mail the completed notification to:

Illinois Green Governments Coordinating Council  
c/o Lt. Governor's Office  
100 West Randolph Street, Suite 15-200  
Chicago, Illinois 60601

ILLINOIS GREEN GOVERNMENTS COORDINATING COUNCIL

NOTICE OF EMERGENCY RULES

**Date of Notification:** \_\_\_\_\_

**School Information**

Applicant School Name: \_\_\_\_\_

Co-Applicant School Name(s): \_\_\_\_\_

District: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Principal Name: \_\_\_\_\_

School Type (public, private, parochial, charter): \_\_\_\_\_

**Primary Contact Information**

Name: \_\_\_\_\_

Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Email: \_\_\_\_\_

**Category: Bathroom Cleaners**

Current Product:

Name: \_\_\_\_\_

Price: \_\_\_\_\_ Per Quantity: \_\_\_\_\_

Dilution Factor: \_\_\_\_\_

Three Comparable Qualified Products:

(1) Name: \_\_\_\_\_

Price: \_\_\_\_\_ Per Quantity: \_\_\_\_\_

ILLINOIS GREEN GOVERNMENTS COORDINATING COUNCIL

NOTICE OF EMERGENCY RULES

Dilution Factor: \_\_\_\_\_

(2) Name: \_\_\_\_\_

Price: \_\_\_\_\_ Per Quantity: \_\_\_\_\_

Dilution Factor: \_\_\_\_\_

(3) Name: \_\_\_\_\_

Price: \_\_\_\_\_ Per Quantity: \_\_\_\_\_

Dilution Factor: \_\_\_\_\_

**Category: Carpet Cleaners**

Current Product:

Name: \_\_\_\_\_

Price: \_\_\_\_\_ Per Quantity: \_\_\_\_\_

Dilution Factor: \_\_\_\_\_

Three Comparable Qualified Products:

(1) Name: \_\_\_\_\_

Price: \_\_\_\_\_ Per Quantity: \_\_\_\_\_

Dilution Factor: \_\_\_\_\_

(2) Name: \_\_\_\_\_

Price: \_\_\_\_\_ Per Quantity: \_\_\_\_\_

Dilution Factor: \_\_\_\_\_

(3) Name: \_\_\_\_\_

Price: \_\_\_\_\_ Per Quantity: \_\_\_\_\_

Dilution Factor: \_\_\_\_\_

**Category: General Purpose and Hard Floor Surface Cleaners**

Current Product:

Name: \_\_\_\_\_

ILLINOIS GREEN GOVERNMENTS COORDINATING COUNCIL

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Price: \_\_\_\_\_ Per Quantity: \_\_\_\_\_

Dilution Factor: \_\_\_\_\_

(1) Name: \_\_\_\_\_

Price: \_\_\_\_\_ Per Quantity: \_\_\_\_\_

Dilution Factor: \_\_\_\_\_

(2) Name: \_\_\_\_\_

Price: \_\_\_\_\_ Per Quantity: \_\_\_\_\_

Dilution Factor: \_\_\_\_\_

(3) Name: \_\_\_\_\_

Price: \_\_\_\_\_ Per Quantity: \_\_\_\_\_

Dilution Factor: \_\_\_\_\_

**Category: Glass, Window and Mirror Cleaners**

Current Product:

Name: \_\_\_\_\_

Price: \_\_\_\_\_ Per Quantity: \_\_\_\_\_

Dilution Factor: \_\_\_\_\_

Three Comparable Qualified Products:

(1) Name: \_\_\_\_\_

Price: \_\_\_\_\_ Per Quantity: \_\_\_\_\_

Dilution Factor: \_\_\_\_\_

(2) Name: \_\_\_\_\_

Price: \_\_\_\_\_ Per Quantity: \_\_\_\_\_

Dilution Factor: \_\_\_\_\_

(3) Name: \_\_\_\_\_

Price: \_\_\_\_\_ Per Quantity: \_\_\_\_\_

Dilution Factor: \_\_\_\_\_

ILLINOIS GREEN GOVERNMENTS COORDINATING COUNCIL

NOTICE OF EMERGENCY RULES

**Category: Hand Cleaners and Hand Soaps**

Current Product:

Name: \_\_\_\_\_

Price: \_\_\_\_\_ Per Quantity: \_\_\_\_\_

Dilution Factor: \_\_\_\_\_

Three Comparable Qualified Products:

(1) Name: \_\_\_\_\_

Price: \_\_\_\_\_ Per Quantity: \_\_\_\_\_

Dilution Factor: \_\_\_\_\_

(2) Name: \_\_\_\_\_

Price: \_\_\_\_\_ Per Quantity: \_\_\_\_\_

Dilution Factor: \_\_\_\_\_

(3) Name: \_\_\_\_\_

Price: \_\_\_\_\_ Per Quantity: \_\_\_\_\_

Dilution Factor: \_\_\_\_\_

**Paper Products**

Current Product:

Name: \_\_\_\_\_

Price: \_\_\_\_\_ Per Quantity: \_\_\_\_\_

Three Comparable Qualified Products:

(1) Name: \_\_\_\_\_

Price: \_\_\_\_\_ Per Quantity: \_\_\_\_\_

(2) Name: \_\_\_\_\_

ILLINOIS GREEN GOVERNMENTS COORDINATING COUNCIL

NOTICE OF EMERGENCY RULES

Price: \_\_\_\_\_ Per Quantity: \_\_\_\_\_

(3) Name: \_\_\_\_\_

Price: \_\_\_\_\_ Per Quantity: \_\_\_\_\_

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 January 15, 2008 through January 22, 2008 and have been scheduled for review by the Committee at its February 14, 2008 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
2/28/08	<u>Teachers' Retirement System, The Administration and Operation of the Teachers' Retirement System (80 Ill. Adm. Code 1650)</u>	11/30/07 31 Ill. Reg. 15988	2/14/08
2/28/08	<u>Department of Revenue, Retailers' Occupation Tax (86 Ill. Adm. Code 130)</u>	11/30/07 31 Ill. Reg. 15950	2/14/08
2/29/08	<u>Department of Public Health, Hospital Licensing Requirements (77 Ill. Adm. Code 250)</u>	3/9/07 31 Ill. Reg. 3701	2/14/08
2/29/08	<u>Department of Public Health, Hospital Licensing Requirements (77 Ill. Adm. Code 250)</u>	5/18/07 31 Ill. Reg. 7240	2/14/08
2/29/08	<u>Department of Public Health, Health Care Professional Credentials Data Collection Code (77 Ill. Adm. Code 965)</u>	3/9/07 31 Ill. Reg. 3971	2/14/08
3/2/08	<u>Department of Financial and Professional Regulation, Optometric Practice Act of 1987 (68 Ill. Adm. Code 1320)</u>	11/30/07 31 Ill. Reg. 15929	2/14/08
3/2/08	<u>Department of Financial and Professional</u>	11/30/07	2/14/08

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

Regulation, Pharmacy Practice Act of 1987 (68  
Ill. Adm. Code 1330)

31 Ill. Reg.  
15948

## STATE BOARD OF ELECTIONS

NOTICE OF AGENCY RESPONSE TO AN OBJECTION OF THE  
JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) Heading of the Part: Miscellaneous
- 2) Code Citation: 26 Ill. Adm. Code 207
- 3) Section Number: 207.170
- 4) Date Notice of Proposed Amendment Published in the Register: 31 Ill Reg. 12576;  
August 31, 2007
- 5) Date JCAR Statement of Objection Published in the Register: 31 Ill. Reg. 17101;  
December 28, 2007
- 6) Summary of Action Taken by the Agency: As a result of JCAR's objection to this proposed rulemaking based on the SBEL Board's lack of statutory authority to permit amended statements of returns and abstracts of votes after the transmission of canvass results by the Board and proclamation of the Governor following an election, the SBEL withdrew this rulemaking in this issue of the *Illinois Register* and may seek a statutory provision that would allow it to establish a mechanism to accept amended canvasses from the election authorities.

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## NOTICE OF PUBLICATION ERROR

## DEPARTMENT OF PUBLIC HEALTH

- 1) Heading of the Part: Smoke Free Illinois Code
- 2) Code Citation: 77 Ill. Adm. Code 975
- 3) Register citation of JCAR notice and other pertinent action: January 25, 2008; 32 Ill. Reg. 1169
- 4) Explanation: On the Statement of Objection and Filing Prohibition to Proposed Rulemaking, the Section numbers were mistakenly reported as "77.10", etc. rather than "975.10", etc. Also, the list of sections in the rulemaking should have included Section 975.140. JCAR regrets the inadvertent error.

## STATE BOARD OF ELECTIONS

## NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENT

- 1) Heading of the Part: Miscellaneous
- 2) Code Citation: 26 Ill. Adm. Code 207
- 3) 

<u>Section Number</u>	<u>Proposed Action</u> :
207.170	Amend
- 4) Date Notice of Proposed Amendment Published in the Illinois Register: 31 Ill Reg. 12576; August 31, 2007
- 5) Reason for the Withdrawal: As a result of JCAR's objection to this proposed rulemaking based on the SBEL Board's lack of statutory authority to permit amended statements of returns and abstracts of votes after the transmission of canvass results by the Board and proclamation of the Governor following an election, the SBEL is withdrawing this rulemaking and may seek a statutory provision that would allow it to establish a mechanism to accept amended canvasses from the election authorities.

## PROCLAMATIONS

**2008-7****Amber Alert Awareness Day**

WHEREAS, the AMBER Alert System is an early warning system created and instituted after the tragic abduction and murder of nine-year-old Amber Hagerman, who was kidnapped while riding her bicycle in Arlington, Texas in January of 1996; and

WHEREAS, along with paying tribute to Amber Hagerman's memory, AMBER is also an acronym, standing for America's Missing: Broadcast Emergency Response; and

WHEREAS, since 2002, more than 350 children, or 80 percent of all successful recoveries of abducted children in this country, have occurred as a result of the AMBER Alert System's presence in all 50 states. Thus, this successful collaboration of law enforcement professionals, broadcasters and transportation representatives has formed a critical chain of communication to more effectively recover missing children; and

WHEREAS, the coordinated efforts at local, state and national levels are continuing to see significant improvements in the management and communication operations of the AMBER Alert System. As a result, a greater number of citizens are being educated about the AMBER Alert System, how it works, and how they can get involved in helping to further its efforts; and

WHEREAS, here in the State of Illinois, we are proud to join in the national fight to search for missing children by raising public awareness of this tremendous program:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim January 13, 2007 as AMBER ALERT AWARENESS DAY in Illinois, and encourage all citizens to actively participate in safely recovering our nation's abducted children.

Issued by the Governor January 11, 2008

Filed by the Secretary of State January 17, 2008.

**2008-8****Dr. Martin Luther King, Jr. Day**

WHEREAS, at the time of his death in 1968, Dr. Martin Luther King, Jr. was a leading advocate for racial equality, social justice, and universal peace; and

## PROCLAMATIONS

WHEREAS, in the period between 1955 and 1968, Dr. King traveled more than six million miles and spoke on more than 2,500 occasions, appearing and speaking wherever there was injustice and civil unrest; and

WHEREAS, during that time, Dr. King helped lead a successful bus boycott in Montgomery, Alabama to end segregation on city buses and improve treatment of passengers. King also led a massive civil rights protest in Birmingham, Alabama that drew worldwide attention to the appalling treatment of African Americans in the South; and

WHEREAS, Dr. King is best known, however, for his "I Have A Dream" speech during the peaceful March on Washington demonstration for civil rights, in which he eloquently described a day when "all of God's children, black men and white men, Jews and Gentiles, Protestants and Catholics, will be able to join hands and sing in the words of the old Negro spiritual, 'Free at last! Free at last! Thank God Almighty, we are free at last;'" and

WHEREAS, in January of 2006, Dr. King's wife, Coretta Scott King, passed away. She was at Dr. King's side during his finest hours, including when he received the Nobel Peace Prize in 1964, and during his historic march for voting rights in Selma, Alabama in 1965. Along with her husband, she left behind a legacy of courage and compassion, and her message of equal rights and peace for all continues to make our world a better place; and

WHEREAS, were he still with us, today would be Dr. King's 79<sup>th</sup> birthday. Although it has been 40 years since Dr. King's death, his words and teachings still resonate today:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim January 15, 2008 as DR. MARTIN LUTHER KING, JR. DAY in Illinois in honor and remembrance of Dr. King, whose dream of racial equality, social justice, and universal peace we embrace and strive to realize.

Issued by the Governor January 14, 2008

Filed by the Secretary of State January 17, 2008.

**2008-9**

**Pfc. Phillip J. Pannier**

WHEREAS, on Tuesday, January 8, Army Pfc. Phillip J. Pannier from Washburn, Illinois was killed at age 20 during a firefight near Samarra, Iraq; and

## PROCLAMATIONS

WHEREAS, Pfc. Pannier volunteered for the Army shortly after graduating from Roanoke-Benson High School in 2006 and was assigned to the 101st Airborne Division; and

WHEREAS, Pfc. Pannier played football for two years in high school. He was also involved in 4-H and Future Farmers of America and raised sheep that he showed for both organizations; and

WHEREAS, a funeral will be held on Friday, January 18 for Pfc. Pannier, who is survived by his mother and father, Robyn and Donald Pannier:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby order all State facilities to fly their flags at half-staff from sunrise on January 16, 2008 until sunset on January 18, 2008 in honor and remembrance of Pfc. Pannier, whose selfless service and sacrifice is an inspiration.

Issued by the Governor January 14, 2008

Filed by the Secretary of State January 17, 2008.

**2008-10****School Social Work Week**

WHEREAS, every day, millions of parents entrust the education of their children to thousands of classroom teachers at hundreds of schools all across the state. Unfortunately, teaching is not easy when there are many distractions; and

WHEREAS, in addition to contending with personal and family problems that have always accompanied children, classroom teachers now have to compete with technology such as cell phones, computers, and television; and

WHEREAS, indeed, it is more difficult to engage children in the classroom today than ever before. That is why the role of school social workers is more important today than ever before; and

WHEREAS, school social workers have the critically important job of helping classroom teachers provide the best education possible. They do so by offering a number of services to children such as academic assistance, conflict resolution, crisis intervention, group counseling, and coordination of school and community health resources; and

## PROCLAMATIONS

WHEREAS, school social workers also serve as a link between schools and parents when classroom teachers have not been able to reach them through normal channels. In all, there are more than 1,500 school social workers in Illinois; and

WHEREAS, for the past 21 years, the Governor of the State of Illinois has proclaimed a week in March to commend and honor school social workers in our state. During this week the Illinois Association of School Social Workers and other organizations will hold events to make people aware of the work done by school social workers:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim March 2-8, 2008 as SCHOOL SOCIAL WORK WEEK in Illinois in recognition of school social workers for their essential and vital support of classroom teachers and their commitment and dedication to the well-being of children.

Issued by the Governor January 15, 2008

Filed by the Secretary of State January 17, 2008.

**2008-11****Earned Income Tax Credit Awareness Day**

WHEREAS, in 1975 Congress enacted the Earned Income Tax Credit (EITC) to offset the burden of Social Security taxes on low-income families, supplement wages and make employment more attractive than welfare; and

WHEREAS, Illinois also created a state EITC modeled after the federal EITC, and this past year I signed legislation that extends eligibility to an additional 100,000 Illinoisans who work hard but struggle to make ends meet; and

WHEREAS, in most cases EITC payments do not affect welfare benefits and are not used to determine eligibility for Medicaid, Supplemental Security Income, food stamps, low-income housing or Temporary Assistance for Needy Families payments; and

WHEREAS, since its implementation the EITC has helped lift millions of Americans above the poverty line and has had a high participation rate relative to other programs for low-income families. However, there are still many Americans who do not realize that they qualify for the EITC or do not know how to claim it; and

WHEREAS, for the second year, communities and states throughout the country will promote the availability of the EITC and free tax preparation services for low-income families on January 31:

## PROCLAMATIONS

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim January 31, 2008 as EARNED INCOME TAX CREDIT AWARENESS DAY in Illinois in support of the nationwide effort to raise awareness about EITC, which puts money back in the pockets of hardworking Illinois families.

Issued by the Governor January 15, 2008

Filed by the Secretary of State January 17, 2008.

**2008-12****Ronald Reagan Day**

WHEREAS, Ronald Wilson Reagan was born on February 6, 1911 in Tampico, Illinois. He attended high school in Dixon, Illinois and went on to earn a degree in economics and sociology from Eureka College, where he also played on the football team and acted in theatre productions; and

WHEREAS, Reagan began his career as a radio sports announcer, calling games for the University of Iowa, and later for the Chicago Cubs. In 1937, a screen test won him a contract in Hollywood and over the next two decades, he would appear in 53 feature films; and

WHEREAS, Reagan's success as an actor, coupled with his strong leadership abilities, earned him the opportunity to serve as President of the Screen Actors Guild. It was in that role that Reagan got his first taste of political life; and

WHEREAS, in 1966, Reagan was elected Governor of California by a one million vote margin and was re-elected to serve a second term in 1970; and

WHEREAS, with eight years of governorship under his belt, Ronald Reagan won the Republican Presidential nomination in 1980 and in November of that year, he went on to defeat incumbent President Jimmy Carter in the General Election to earn the Presidency; and

WHEREAS, on January 20, 1981, Reagan was sworn in as the 40th President of the United States and was re-elected to a second term in 1984. In his eight years in office, President Reagan worked to stimulate economic growth, curb inflation, increase employment, and strengthen national defense. He also made foreign policy a top priority and sought to achieve "peace through strength," improving relations with the Soviet Union by conducting several meetings with Soviet leader Mikhail Gorbachev, and eventually negotiating a treaty that would eliminate intermediate range nuclear missiles; and

## PROCLAMATIONS

WHEREAS, President Reagan's great charisma and people skills allowed him to connect with the nation and earned him the title of "The Great Communicator;" and

WHEREAS, in November of 1994, Reagan publicly announced that he had Alzheimer's disease. Almost ten years later, on June 5, 2004, he passed away at the age of 93; and

WHEREAS, President Reagan is remembered as a strong and confident leader. He left behind a legacy that will clearly resonate in this country and throughout the world for centuries to come:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim February 6, 2008 as RONALD REAGAN DAY in Illinois, in recognition of the birthday of this accomplished Illinois native.

Issued by the Governor January 15, 2008

Filed by the Secretary of State January 17, 2008.

**2008-13****Congenital Diaphragmatic Hernia Awareness Day**

WHEREAS, a congenital diaphragmatic hernia is an opening in the diaphragm that allows the abdominal organs to push into the chest cavity. This birth defect is often life-threatening because it limits the growth of the lungs; and

WHEREAS, congenital diaphragmatic hernias account for 8 percent of all major congenital anomalies and occur in 1 of every 2,000 live births in the United States; and

WHEREAS, early diagnosis and appropriate management of fetuses with congenital diaphragmatic hernias can minimize the incidence of emergency situations and dramatically improve survival rates. However, there is a need for increased public awareness of the condition; and

WHEREAS, groups such as Breath of Hope are working to promote public awareness and encourage research efforts to one day prevent or successfully treat all those diagnosed with congenital diaphragmatic hernias; and

WHEREAS, one March 31, they will join forces to provide families an opportunity to celebrate and remember the loved ones they have lost to congenital diaphragmatic hernias and to raise public awareness about this condition:

## PROCLAMATIONS

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim March 31, 2008 as CONGENITAL DIAPHRAGMATIC AWARENESS DAY in Illinois in support of this important campaign.

Issued by the Governor January 17, 2008

Filed by the Secretary of State January 17, 2008.

**2008-14****Congenital Heart Defect Awareness Week**

WHEREAS, congenital heart defects, the most common type of major birth defect and the leading cause of birth defect related deaths, develop during pregnancy when a baby's heart fails to form properly, resulting in structural abnormalities; and

WHEREAS, every year, approximately 40,000 babies in the United States, including about 2,000 in Illinois, are born with congenital heart defects, resulting in thousands of families across America facing the challenge and hardship of raising children with this birth defect; and

WHEREAS, congenital heart defects are still a little known problem and, as a result, congenital heart defects may not be diagnosed until months or years after birth; and

WHEREAS, those born with congenital heart defects are usually not diagnosed and treated until later, which creates complications and concerns; and

WHEREAS, many deaths of young athletes due to cardiac arrest are attributed to treatable congenital heart defects that go undiagnosed; and

WHEREAS, the proper treatment for those with a congenital heart defect can mean living a healthy life well in to adulthood; and

WHEREAS, by raising awareness about congenital heart defects and the importance of early detection and treatment, we can save countless lives:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim February 7-14, 2008 as CONGENITAL HEART DEFECT AWARENESS WEEK in Illinois to promote early detection and treatment of the problem.

Issued by the Governor January 17, 2008

PROCLAMATIONS

Filed by the Secretary of State January 17, 2008.

# ILLINOIS ADMINISTRATIVE CODE

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