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ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



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HEALTHCARE AND FAMILY SERVICES, DEPARTMENT OF
Medical Assistance Programs

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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.].

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2010

| <u>Issue #</u> | <u>Rules Due Date</u> | <u>Date of Issue</u> |
|----------------|-----------------------|----------------------|
| 1 | December 21, 2009 | January 4, 2010 |
| 2 | December 28, 2009 | January 8, 2010 |
| 3 | January 4, 2010 | January 15, 2010 |
| 4 | January 11, 2010 | January 22, 2010 |
| 5 | January 19, 2010 | January 29, 2010 |
| 6 | January 25, 2010 | February 5, 2010 |
| 7 | February 1, 2010 | February 16, 2010 |
| 8 | February 8, 2010 | February 19, 2010 |
| 9 | February 16, 2010 | February 26, 2010 |
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| 18 | April 19, 2010 | April 30, 2010 |
| 19 | April 26, 2010 | May 7, 2010 |
| 20 | May 3, 2010 | May 14, 2010 |
| 21 | May 10, 2010 | May 21, 2010 |
| 22 | May 17, 2010 | May 28, 2010 |
| 23 | May 24, 2010 | June 4, 2010 |

| <u>Issue #</u> | <u>Rules Due Date</u> | <u>Date of Issue</u> |
|----------------|-----------------------|----------------------|
| 24 | June 1, 2010 | June 11, 2010 |
| 25 | June 7, 2010 | June 18, 2010 |
| 26 | June 14, 2010 | June 25, 2010 |
| 27 | June 21, 2010 | July 2, 2010 |
| 28 | June 28, 2010 | July 9, 2010 |
| 29 | July 6, 2010 | July 16, 2010 |
| 30 | July 12, 2010 | July 23, 2010 |
| 31 | July 19, 2010 | July 30, 2010 |
| 32 | July 26, 2010 | August 6, 2010 |
| 33 | August 2, 2010 | August 13, 2010 |
| 34 | August 9, 2010 | August 20, 2010 |
| 35 | August 16, 2010 | August 27, 2010 |
| 36 | August 23, 2010 | September 3, 2010 |
| 37 | August 30, 2010 | September 10, 2010 |
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| 39 | September 13, 2010 | September 24, 2010 |
| 40 | September 20, 2010 | October 1, 2010 |
| 41 | September 27, 2010 | October 8, 2010 |
| 42 | October 4, 2010 | October 15, 2010 |
| 43 | October 12, 2010 | October 22, 2010 |
| 44 | October 18, 2010 | October 29, 2010 |
| 45 | October 25, 2010 | November 5, 2010 |
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| 48 | November 15, 2010 | November 29, 2010 |
| 49 | November 22, 2010 | December 3, 2010 |
| 50 | November 29, 2010 | December 10, 2010 |
| 51 | December 6, 2010 | December 17, 2010 |
| 52 | December 13, 2010 | December 27, 2010 |
| 53 | December 20, 2010 | January 3, 2011 |

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

| | | |
|-------------|-----------|--------------------------------------|
| 120.60 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.61 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.62 | Repeal | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.63 | Repeal | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.65 | Repeal | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.308 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.347 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.379 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.380 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.381 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.382 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.384 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.385 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.387 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.388 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.Table B | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.318 | Amendment | 34 Ill. Reg. 2631; February 19, 2010 |
| 120.400 | Amendment | 34 Ill. Reg. 2631; February 19, 2010 |

- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 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:

Jeanette Badrov
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/782-1233

The Department requests the submission of written comments within 45 days after the publication of this Notice. The Department 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].

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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These proposed amendments do not have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85].

- 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 because: this rulemaking was not anticipated by the Department when the most recent regulatory agendas were published.

The full text of the Proposed Amendment is identical to the text of the Emergency Amendment that appears in this issue of the *Illinois Register* on page 13538:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Snowmobile Trail Establishment Fund Grant Program
- 2) Code Citation: 17 Ill. Adm. Code 3020
- 3)

| | |
|-------------------------|-------------------------|
| <u>Section Numbers:</u> | <u>Proposed Action:</u> |
| 3020.50 | Amendment |
| 3020.70 | Amendment |
- 4) Statutory Authority: Implementing and authorized by Section 9-1 and 9-2 of the Snowmobile Registration and Safety Act [625 ILCS 40/9-1 and 9-2]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to clarify that the use of grant funds may be used to purchase mandatory liability insurance and to add language pertaining to the maintenance and retention of all financial records on approved projects.
- 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 incorporations by reference? No
- 9) Does this rulemaking contain incorporation by reference? No
- 10) Are there any other proposed rulemaking pending on this Part: No
- 11) Statement of Statewide Policy Objection: This grant program provides financial aid to eligible, private snowmobile clubs/organizations in Illinois having not-for-profit incorporation status for the purpose of assisting them in construction, maintenance, and rehabilitation of snowmobile trails and facilities on public lands, designated roadways or private land opened to such use.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

George Sisk, Legal Counsel
Department of Natural Resources

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

- 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 project sponsor must: adequately patrol facility to insure proper usage of the facility obtain letters of agreement or lease from property owners associated with the development; possess its Charter papers proving Not-for-Profit corporation status; possess insurance protection providing a minimum \$1,000,000 liability coverage; initially finance 100% of the total cost prior to grant reimbursement; properly maintain and operate the facility after project completion; provide documents required for reimbursement; maintain financial records accordingly; provide work specifications to the Department representative; indemnify, protect and hold harmless the Department; obtain all necessary permits; comply with the Department's Operation and Maintenance provisions and applicable State statutes; and agree to non-compliance procedures.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2010

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER g: GRANTSPART 3020
SNOWMOBILE TRAIL ESTABLISHMENT FUND GRANT PROGRAM

Section

| | |
|---------|--|
| 3020.10 | Program Objective |
| 3020.20 | Program Eligibility Requirements |
| 3020.30 | Funding Assistance Formula |
| 3020.40 | General Procedures for Grant Applications and Awards |
| 3020.50 | Eligible Project Expenditures |
| 3020.60 | Project Evaluation Criteria/Priorities |
| 3020.70 | Program Compliance Requirements |
| 3020.80 | Program Information |

AUTHORITY: Implementing and authorized by Sections 9-1 and 9-2 of the Snowmobile Registration and Safety Act [625 ILCS 40/9-1 and 9-2].

SOURCE: Adopted and codified at 7 Ill. Reg. 198, effective December 22, 1982; amended at 7 Ill. Reg. 14964, effective November 1, 1983; amended at 11 Ill. Reg. 12869, effective July 28, 1987; amended at 16 Ill. Reg. 1833, effective January 17, 1992; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 21 Ill. Reg. 9085, effective June 26, 1997; amended at 28 Ill. Reg. 10635, effective July 13, 2004; amended at 34 Ill. Reg. _____, effective _____.

Section 3020.50 Eligible Project Expenditures

- a) Grant assistance may be obtained for, but not limited to, the purchase of the following items or materials necessary to construct such items:
- 1) trail signs;
 - 2) trail fencing;
 - 3) trail groomers;
 - 4) bridges or fence traversing ramps (must be portable);

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- 5) parking facilities;
- 6) warming shelters/restrooms (facility must be located on public park land);
- 7) equipment rental necessary for facility construction; and
- 8) other (considered on a case-by-case basis).

b) Grant assistance may be obtained for mandatory liability insurance as required under Section 3020.40(c) of this Part.

c)~~b)~~ Grant assistance may be obtained for annual trail maintenance costs as authorized by the Department to cover fuel and necessary oils/fluids, vehicle insurance, equipment repairs, and routine maintenance parts directly associated with the operation and transporting of STEF-assisted grooming equipment while maintaining designated trails open to the general public for snowmobile use.

d)~~e)~~ It is the Department's policy that the STEF grant program be used to assist local snowmobile clubs purchase necessary materials for development and maintenance of snowmobile facilities. Labor necessary for project completion and maintenance shall be the sole responsibility of the project sponsor utilizing donated/volunteer labor. No funding assistance will be provided for club member labor costs associated with an approved project.

e)~~d)~~ No grant assistance will be awarded to projects which, either in whole or in part, will not be open to the general public for snowmobile use. If the project sponsor so chooses, use of the project facilities can be restricted to only those snowmobilers who can show proof of adequate personal liability insurance coverage or are willing to sign liability waivers concerning use of the facility.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 3020.70 Program Compliance Requirements

- a) Grants awarded through the STEF grant program shall be for a period not to exceed 18 months. All approved projects must be in accordance with the agreed upon project specifications and a final billing request for reimbursement submitted to the Department.

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- b) All equipment/materials purchased through the STEF grant program utilized on private property shall be subject to repossession by the Department and shall be reclaimed upon the dissolution of the project sponsor or as a result of project sponsor non-compliance with program regulations as stated herein.
- c) With the exception of designated snowmobile routes on township roads, all snowmobile facilities developed with assistance from the STEF shall be posted with a liability disclaimer sign at ingress/egress points to the facility that warns snowmobilers they use the facility at their own risk.
- d) With the exception of designated snowmobile routes on township roads, it shall be the sole responsibility of the project sponsor to adequately patrol the STEF-assisted facility to insure proper usage of the facility and user compliance with all State and local snowmobiling regulations. Failure of the project sponsor to take corrective measures, which bring the facility into compliance with this Part, to help remedy complaints lodged by local citizens concerning misuse of STEF-assisted facilities shall be grounds for rescission of Department participation in the project.
- e) For projects proposing permanent land/facility improvements, such as warming shelters, picnic shelters, bridges, and parking lots, it shall be necessary for the project sponsor(s) to possess/obtain signed "letters of agreement" or "leases" from all property owners directly associated with the development of STEF-assisted facilities which shall, at a minimum, stipulate the following terms:
 - 1) General
 - A) The effective dates of the agreement/lease which shall, at a minimum, be for a 4 month period from December 1 to April 1 for 2 consecutive years.
 - B) A precise description of the property to be covered under the terms of the agreement/lease for snowmobiling use.
 - C) If applicable, the agreed upon rental/lease fee to be paid the landowner in consideration for use of the designated property. PLEASE NOTE that any private landowner who accepts a valuable consideration in return for opening his/her land for public

DEPARTMENT OF NATURAL RESOURCES

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snowmobiling purposes jeopardizes the possibility for limited liability protection afforded under the Snowmobile Registration and Safety Act [625 ILCS 40/5-1(I) and (J)] to private landowners who open their lands to snowmobiling for no valuable consideration.

- D) The agreement/lease is non-revocable by the landowner unless terms of the agreement/lease are violated by the club or excessive vandalism by snowmobile users is evident. Should either the project sponsor or landowner wish to terminate the agreement/lease for any reason prior to the expiration date, the Department must be notified and made a party to the negotiations for termination.

2) Permitters (landowners) Acknowledgements

- A) Permitter agrees that the described property in the agreement/lease will be open to the general public for [snowmobiling](#) snowmobile purposes regardless of race, sex, color, creed or national origin.
- B) During the terms of the agreement/lease, the permitter shall not utilize, make alterations to, further sublet or in other ways legally encumber the designated premises or parts thereof so as to interfere with the intended snowmobiling use of the property.
- C) Permitter shall not post "no trespassing" or other restrictive use signs on the described property at any time during the terms of the agreement/lease.
- D) Permitter shall be allowed to restrict snowmobile use on the described property during the terms of the agreement/lease only when:
- i) snowcover is less than 4 inches,
 - ii) there is evidence of continued facility misuse or damage to the designated property by snowmobilers,
 - iii) it is judged that conditions of the facility jeopardize user

DEPARTMENT OF NATURAL RESOURCES

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safety.

- E) Permitter agrees that all materials/equipment used to make improvements to or mark the designated property for snowmobiling use shall remain the property of the permittee and State of Illinois and shall be reclaimed/removed at the termination of the agreement/lease.
 - F) Permitter agrees to hold harmless permittee, its officers and members, and the State of Illinois and its agents from any and all claims, demands, judgments, and executions which may arise as a direct or indirect result of this agreement/lease or actions taken in reliance thereupon.
 - G) Permitter in no way implies or assures through the execution of this agreement/lease that the designated property is safe for snowmobile use; or confers upon any trail user the legal status of invitee to whom a duty of care is owed; or assumes liability responsibility for injury to person/property caused through snowmobile use of the designated property.
- 3) Permittees (snowmobile club) Acknowledgements
- A) To restrict snowmobiling on the Permitter's property to those areas specifically designated for that purpose in the agreement/lease.
 - B) To make only those improvements or trim and cut only those trees and shrubs on the designated property as approved by the property owner. It is further understood that all damage to fencing or other personal property of the property owner as a result of facility development or usage shall be repaired by the permittee to pre-damage condition upon termination of the agreement/lease or request of the property owner.
 - C) To post necessary trail signs to insure safe and proper snowmobile usage of the designated property and remove them, as requested, upon termination of the agreement/lease or snowmobiling season.
 - D) To patrol and use all reasonable measures to promote safe and

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proper snowmobile usage of the designated property and to prevent the deposit of litter upon said property by users and to remove such litter that may be deposited.

- f) All Leases/Letters of Agreement must be submitted to the Department, and must be consistent with subsection (e) of this Section prior to consideration for STEF grant assistance. Upon the expiration or termination of a lease agreement which causes relocation of project facilities, the Department shall be notified as to the location of the new facility site.
- g) During all times of operation of a STEF-assisted snowmobile facility, the project sponsor must possess, in current force, its Charter papers proving Not-for-Profit corporation status with the State of Illinois, and must possess insurance protection providing a minimum of \$1,000,000 liability coverage.
- h) The project sponsor must possess the resource capabilities to:
 - 1) Initially finance 100% of the total cost prior to grant reimbursement; and
 - 2) Properly maintain and operate the fund-assisted snowmobile facility after project completion.
- i) Documents required at the time of final billing for grant reimbursement on a project include the following:
 - 1) a signed "Billing Request" Form that itemizes specific project costs and contains a certification statement verifying project expenditures;
 - 2) copies of receipts/invoices for all approved project costs incurred in completing the project for which reimbursement is claimed;
 - 3) copies of cancelled checks showing proof of payment; and
 - 4) "as-built" drawings for the completed project.

(~~NOTE~~Note: It shall be understood by the project sponsor that 45-60 days are required by the Department to disburse grant reimbursement funds to local project sponsors after receipt of an acceptable "Billing Request" submittal in compliance with the above listed items.)

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- j) All financial records on approved projects must be maintained and retained, in accordance with the Grant Funds Recovery Act [30 ILCS 705] and the State Records Act [5 ILCS 160], by the project sponsor for possible State audit ~~for a period of 5 years~~ after final reimbursement payment is made by the Department.
- k) The project sponsor must permanently post at the project site a STEF grant program acknowledgement sign. The required acknowledgement sign will be furnished by the Department.
- l) All work specifications must be submitted by the project sponsor to the Department upon request for review prior to commencing work. Project sponsor will be notified by the Department if the proposed project requires the approval of a registered structural engineer.
- m) Department representatives shall have access to STEF-assisted project sites at any time during construction to assess project progress and during facility operation to ensure compliance with program regulations. As time allows, Department representatives shall be available, upon request, for consultation/technical assistance concerning project development. It shall be further understood that a final inspection and acceptance of the completed project work must be made by a Department representative prior to approval of final reimbursement payment to the local project sponsor.
- n) The sponsoring agency shall ~~indemnify~~ identify, protect and hold harmless the Department from any and all liability, costs, damages, and claims arising as a direct or indirect result of the construction, operation or maintenance of STEF-assisted snowmobile facilities.
- o) In connection with, and prior to, the construction, and thereafter the subsequent operation and maintenance of STEF-assisted snowmobile facilities, sponsoring agency agrees that it shall be responsible for and obtain all necessary permits, licenses or forms of consent, as the case may be, from, but not limited to, the following agencies:
 - 1) Illinois Department of Transportation: Division of Highways,
 - 2) Illinois Department of Natural Resources: Division of Water Resources,

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- 3) Illinois Environmental Protection Agency,
 - 4) U.S. Army Corp of Engineers,
 - 5) Local building, zoning or roadway boards/commissions.
- p) The project sponsor must comply with and abide by the following Operation and Maintenance provisions:
- 1) The charging of user fees for general public use of STEF-assisted snowmobile facilities is prohibited.
 - 2) All STEF-assisted snowmobile facilities shall be operated, maintained and utilized for general public use in such a manner as to maximize the facility's intended benefits.
 - 3) The sponsoring agency shall satisfactorily maintain STEF-assisted snowmobile facilities so as to promote the safe and enjoyable use of the facility by the snowmobiling public.
 - 4) All snowmobiling trails/facilities developed, improved and/or maintained as a result of STEF grant assistance must be open and available to general public use and enjoyment without regard to sex, race, color, creed or national origin.
 - 5) Department personnel shall have access to STEF-assisted facilities at all times for inspection purposes to ensure continued compliance with program regulations.
- q) All funds administered by the Department under the STEF grant program and expended by the project sponsor shall be in accordance with all applicable State statutes.
- r) The Department may unilaterally rescind project agreements at any time prior to commencement of the project, if the Department experiences a funding problem or the applicant demonstrates non-compliance with this Part. After project commencement, agreements may be rescinded, modified, or amended only by mutual agreement with the project sponsor. A project shall be deemed commenced when the project sponsor has made an expenditure or has incurred an

DEPARTMENT OF NATURAL RESOURCES

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obligation with respect to the project.

- s) Failure by the local project sponsor to comply with any of the herein cited program regulations and terms shall be cause for the suspension of all STEF grant assistance obligations and/or repossession of project equipment/material obtained thereunder, unless, in the judgment of the Department, such noncompliance was due to no fault of the project sponsor.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- 1) Headline of the Part: Boiler and Pressure Vessel Repairer Regulations
- 2) Code Citation: 41 Ill. Adm. Code 121
- 3)

| <u>Section Numbers</u> : | <u>Proposed Action</u> |
|--------------------------|------------------------|
| 121.10 | Amend |
| 121.20 | Amend |
| 121.30 | Amend |
| 121.40 | Amend |
| 121.50 | Amend |
| 121.60 | Amend |
| 121.70 | Amend |
| 121.80 | Amend |
| 121.90 | Amend |
| 121.100 | Amend |
- 4) Statutory Authority: Boiler and Pressure Vessel Repairer Regulation Act [225 ILCS 203]
- 5) A Complete Description of the Subjects and Issues Involved: The Sections are being amended to clarify that a license is being issued instead of a certificate of registration. The application process and requirements have not been altered.
- 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 proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons wishing to comment on this proposed rulemaking may submit comments no later than 45 days after the publication of this Notice to:

Alex Messina
General Counsel's Office
Attn: Part 121 Rules
Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield, IL 62703-4259

Telephone: 217/785-4210
Facsimile: 217/558-1424

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Any small business that performs welding on boilers and pressure vessels that affects pressure retaining boundaries.
 - B) Reporting, bookkeeping or other procedures required for compliance: Individuals and companies that provide welding services are required to maintain records on services provided.
 - C) Types of Professional skills necessary for compliance: The party seeking the license must have a valid Certificate of Authorization to use the "R" Repair Symbol Stamp issued by the National Board of Boiler and Pressure Vessel Inspectors and a certificate of insurance in the amount of \$300,000.
- 14) Regulatory Agenda on which this rulemaking was summarized: These proposed amendments were not included on either of the 2 most recent regulatory agendas because: the need for the new amendments was not anticipated at the time that the agendas were published.

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

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

TITLE 41: FIRE PROTECTION
CHAPTER I: OFFICE OF THE STATE FIRE MARSHALPART 121
BOILER AND PRESSURE VESSEL
REPAIRER REGULATIONS

Section

| | |
|---------|--|
| 121.10 | Definitions |
| 121.20 | Officer |
| 121.30 | Application for LicenseRegistration |
| 121.40 | Communication by Organization |
| 121.50 | Changes of Location of Offices |
| 121.60 | Change of Ownership |
| 121.70 | Termination or Change in LicenseRegistration |
| 121.80 | Records and Documents to be Kept by Boiler or Pressure Vessel Repairer |
| 121.90 | Availability of Books, Records, Forms and Stationery |
| 121.100 | Renewals |

AUTHORITY: Implementing the Boiler and Pressure Vessel Repairer Regulation Act [225 ILCS 203] and authorized by Section 25 of that Act.

SOURCE: Adopted at 21 Ill. Reg. 972, effective January 1, 1997; amended at 34 Ill. Reg. _____, effective _____.

Section 121.10 Definitions

The following definitions shall apply to this Part:

"Act" means the Boiler and Pressure Vessel Repairer Regulation Act [225 ILCS 203].

"Board" means the Board of Boiler and Pressure Vessel Rules.

"Boiler and Pressure Vessel Repairer" means an organization performing any welding on boilers and pressure vessels that affects pressure retaining boundaries and includes, but is not limited to, repairs and alterations as defined in 41 Ill. Adm. Code 120. However, an [organization that](#) ~~Organization who~~ performs welding to its own equipment and is authorized pursuant to 41 Ill. Adm. Code

OFFICE OF THE STATE FIRE MARSHAL

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120.1010 is not required to have a license.

"~~License Certificate of Registration~~" means ~~the license certificate~~ issued to a ~~qualified organization~~ by ~~OSFM the Office~~ pursuant to the ~~Boiler and Pressure Vessel Repairer Regulation Act~~.

"Managerial ~~or Administrative~~ Control" means having authority to conduct the affairs of the ~~organization~~ ~~Organization~~ and direct others in the conduct of the affairs or business of the ~~organization~~ ~~Organization~~.

"Organization" means a business or other entity, including, but not limited to, a sole proprietorship, partnership, corporation or association and includes units of local government and the State of Illinois.

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

"~~State Fire Marshal~~" means ~~Executive Director of the Office of the State Fire Marshal of the State of Illinois~~.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 121.20 Officer

- a) If the ~~organization~~ ~~Organization~~ is a sole proprietorship, the owner of the ~~organization~~ ~~Organization~~ or any person exercising managerial control shall be considered an officer.
- b) If the ~~organization~~ ~~Organization~~ is a partnership, any partner who has at least 10% ownership interest or any partner who exercises managerial control shall be considered an officer.
- c) If the ~~organization~~ ~~Organization~~ is a corporation, any officer or director of the corporation or any person who has at least 10% ownership interest in ~~thesueh~~ corporation or who exercises managerial control shall be considered an officer.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 121.30 Application for License Registration

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- a) All applications for a licenseregistration as a boiler or pressure vessel repairer, whether located in Illinois or out-of-state, shall be submitted to OSFMthe Office, on forms provided by OSFMthe Office, and shall include all the information required by this Section.;
- 1)a) Persons and Organizations thatwho desire to practice boiler or pressure vessel repairs in this State, in accordance with Section 40 of the Act, shall file an application with OSFMthe Office, on forms provided by OSFMthe Office, together with the following:
- A)1) A valid Certificate of Authorization to use the "R" Repair Symbol Stamp issued by the National Board of Boiler and Pressure Vessel Inspectors;
- B)2) The name and address of all officers (as defined in Section 121.20) of the boiler or pressure vessel repairer. The address shall be an actual street address and shall include the city, state and zip code. A post office box number is not acceptable as an address;
- C)3) If an assumed name is to be used, a copy of the assumed name certificate; and
- 4) The appropriate fee as stated below:
- A) For an initial Certificate of Registration \$300.00
- B) A renewal of Certificate of Registration \$150.00 (every three years); and
- D)5) A Certificate of Insurance in the amount of \$300,000.00 to cover losses, naming OSFMthe Office as a person to be notified in the event of cancellation or nonrenewal.
- 2)b) Corporations, in addition to the requirements of subsection (a)-above, shall submit the following:
- A)1) The name and registered address of the corporation and its registered address, and the name and address of the Registered Agent;

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- ~~B)2)~~ A copy of the Articles of Incorporation bearing the seal of the officer, in the jurisdiction in which the ~~corporation~~~~Corporation~~ is organized, whose duty it is to register corporations under the laws of that jurisdiction. If it is a foreign corporation, a copy of the Certificate of Authority to transact business in this State is also required; and
- ~~C)3)~~ If an assumed name is to be used, a copy of the assumed name certificate.
- ~~3)e)~~ Partnerships, in addition to the requirements of subsection (a)~~(1) above~~, shall submit the following:
- ~~A)1)~~ An application containing the name and business address of the partnership ~~and its business address~~ and the names and addresses of all general partners; and
- ~~B)2)~~ An affidavit stating that the partnership has been legally formed.
- ~~4)d)~~ Limited ~~partnerships~~~~Partnerships~~, in addition to the requirements of subsections (a)~~(1)~~ and ~~(a)(3)(e) above~~, shall submit the following:
- ~~A)1)~~ A letter of authority from the Secretary of State's Business Services~~Limited Partnership~~ Department; and
- ~~B)2)~~ A listing of all limited partners.
- b) After reviewing the application, OSFM shall notify the applicant of the reason for the denial of the license or invoice the applicant for the appropriate fee as follows:
- 1) Initial License – \$300; or
- 2) Renewal License – \$150 (except as otherwise provided in Section 121.100(e)(2)).
- ce) Upon receipt of the appropriate fee~~above documents and review of the application~~, ~~OSFM the Office~~ shall issue a license~~Certificate of Registration~~ authorizing the organization~~Organization~~ to engage in boiler and pressure vessel

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repairs ~~or shall notify the applicant of the reason for the denial of such license.~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 121.40 Communication by Organization

A boiler or pressure vessel repairer shall use in all communications only the ~~organization~~Organization name or tradestyle exactly as it appears on the ~~organization's license~~Organization's Certificate of Registration (the certificate) issued by ~~OSFM~~the Office (e.g., ABC Boiler Repairer cannot use a name such as ABC Heating and Cooling Company).

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 121.50 Changes of Location of Offices

If an ~~organization~~Organization changes the location of an existing office other than at the time of renewal, the ~~organization~~Organization shall notify ~~OSFM~~the Office in writing of the new address at least 30 days prior to the change of location and file the required application and fee of ~~\$50.00.~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 121.60 Change of Ownership

When 51% of the assets, stock or equity of a boiler or pressure vessel repairer ~~organization~~Organization are sold, a new boiler or pressure vessel repairer application shall be filed with ~~OSFM~~the Office in accordance with Section 121.30.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 121.70 Termination or Change in License~~Registration~~

a) The ~~license~~Certificate of Registration shall terminate when the:

- 1) Organization ceases operation;
- 2) Organization ceases to operate under the name on ~~the license~~Certificate of Registration;

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- 3) Certificate of Insurance ~~has expired or~~ is nonrenewed or cancelled;
 - 4) ~~License~~~~Certificate of Registration~~ is revoked;
 - 5) Period for which the ~~license~~~~Certificate of Registration~~ has ~~expired~~~~ended~~ and no renewal has been issued by ~~OSFM~~~~the Office~~; or
 - 6) ~~The "R" Stamp expired or the organization~~~~Organization~~ ceases to possess an "R" Stamp as required by Section 121.30(a)(1)(A).
- b) The ~~organization~~~~Organization~~ shall notify ~~OSFM~~~~the Office~~ in writing by certified mail within 10 days after the ~~organization~~~~Organization~~ ceases to operate or ceases to operate under the name on the ~~license~~~~certificate~~.
 - c) In the event of a change of the ~~organization~~~~Organization~~ name, the registrant must apply for a new ~~license~~~~Certificate of Registration~~ in advance of the effective date of such change. ~~The application shall be handled as an initial application.~~
 - d) All notices required by this Section shall be sent to ~~OSFM~~~~the Office~~ at its headquarters in Springfield, addressed to the Chief Inspector of Boiler and Pressure Vessel Safety. The address is 1035 Stevenson Drive, Springfield, IL 62703-4259.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 121.80 Records and Documents to be Kept by Boiler or Pressure Vessel Repairer

- a) The current ~~license~~~~Certificate of Registration~~ shall be prominently displayed at the location where the ~~organization~~~~Organization~~ conducts business.
- b) ~~Records shall be maintained as~~~~All records~~ required by 41 Ill. Adm. Code 120.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 121.90 Availability of Books, Records, Forms and Stationery

All books, records, forms and stationery associated with boiler or pressure vessel repair shall be made available to ~~OSFM~~~~agents of the Office~~ upon request. Failure or refusal ~~by the~~~~organization~~ to make these records available ~~by the~~~~Organization~~ shall be grounds for denial,

OFFICE OF THE STATE FIRE MARSHAL

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suspension, or revocation of the organization's license~~Organization's registration~~ under Section 65 of the Act.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 121.100 Renewals

- a) Subject to the terms of subsection (e), each license~~Each Certificate of Registration~~ issued under the Act shall be issued for a period of three years. A renewal notice, along with the renewal forms, will be sent to the organization~~90 registrant ninety~~ days prior to the expiration date. Upon receipt of the completed renewal forms and the appropriate fee, OSFM~~the Office~~ will renew~~issue~~ the license~~new Certificate of Registration~~.
- b) It is the responsibility of each licensee~~registrant~~ to notify OSFM~~the Office~~ of any change of address, contact information, or information provided in the original application or renewal form.
- c) Failure to receive a renewal form from OSFM~~the Office~~ shall not constitute an excuse for failure to pay the renewal fee or to renew one's license.
- d) In addition to the renewal fee, a reinstatement fee of \$100-~~00~~ shall be assessed for each organization~~Organization~~ failing to renew within 60 days after the end of the licensure~~license~~ period. A sole proprietorship may have the renewal and reinstatement fees waived if the person was on active duty in the military, pursuant to Section 50 of the Act.
- e) On the effective date of this amendatory rulemaking of 2010, any new or renewed license will be issued for a period that coincides with the 3 year authorization period of the "R" Stamp. For the first renewal issued after the effective date of this amendment of 2010, there will be no charge for a renewed license issued for 3 months or less; a \$75 fee for a renewed license issued for a period longer than 3 months but less than 18 months; and the normal renewal fee for a renewed license issued for more than 18 months. The Office will invoice this fee.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Advance Deposit Wagering (ADW)
- 2) Code Citation: 11 Ill. Adm. Code 325
- 3)

| | |
|-------------------------|-------------------------|
| <u>Section Numbers:</u> | <u>Proposed Action:</u> |
| 325.10 | Amendment |
| 325.60 | Amendment |
| 325.80 | New Section |
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) A Complete Description of the Subjects and Issues Involved: On August 31, 2010, the Board voted in favor of raising the limit of the interstate commission fee, found in Section 325.60(d), the fees ADW licensees are charged by out-of-state racetracks, from 5% to no more than 9%. The 5% cap originally set by the Board was not well received by racing fans using ADW platforms because several prominent out-of-state racetracks refused to sell their race signal to licensed Illinois ADW's for 5%. Section 325.10 proposes a definition for "licensee," which is the same definition found in the Horse Racing Act. Lastly, the Board is proposing in Section 325.80 that no Illinois licensee shall engage in any anti-competitive practices in the process of contracting for the right to receive or send any interstate simulcast signal or wagering on such signal.
- 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? No
- 10) Are there any other proposed rulemakings pending in this Part? No
- 11) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this Notice, to:

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

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

312/814-5017

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: The Board did not anticipate the need for this rulemaking at that time.

The full text of the Proposed Amendments is identical to that of the Emergency Amendments found in this issue of the *Illinois Register* on page 13558:

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Illinois Safety Responsibility Law
- 2) Code Citation: 92 Ill. Adm. Code 1070
- 3) Section Number: 1070.110 Proposed Action: Amendment
- 4) Statutory Authority: 625 ILCS 5/7-708
- 5) A Complete Description of the Subjects and Issues Involved: Public Act 96-1284, effective January 1, 2011, allows the Department of Healthcare and Family Services to direct the Secretary of State to issue a Family Financial Responsibility Permit (FFRP) to a person whose driver's license is suspended for non-payment of child support. The FFRP permit will allow the person to drive for work, medical purposes, or to obtain employment. This Public Act also expanded the authority of a court to order the Secretary of State to issue a FFRP to allow a person to search for employment.
- 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: The rulemaking will not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Text of the prepared amendments is posted on the Secretary of State's website, www.sos.il.us/departments/index/home as part of the Illinois Register. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:

Jennifer Egizii
Office of the Secretary of State

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

Driver Services Department
2701 South Dirksen Parkway
Springfield, Illinois 62723

217/557-4462

- 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 2010

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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1070
ILLINOIS SAFETY RESPONSIBILITY LAW

| | |
|----------|---|
| Section | |
| 1070.10 | Forms of Security |
| 1070.20 | Future Proof |
| 1070.30 | Installment Agreements |
| 1070.40 | Disposition of Security |
| 1070.50 | Failure to Satisfy Judgment |
| 1070.60 | Release From Liability |
| 1070.70 | Incomplete Unsatisfied Judgment |
| 1070.80 | Driver's License Restriction for Exclusive Operation of Commercial Vehicles |
| 1070.90 | Dormant and Dead Judgments |
| 1070.100 | Bankruptcy |
| 1070.110 | Illinois Safety and Family Financial Responsibility Law |

AUTHORITY: Implementing and authorized by the Illinois Safety and Family Financial Responsibility Law [625 ILCS 5/Ch. 7].

SOURCE: Filed and effective December 17, 1971; codified at 6 Ill. Reg. 12674; repealed at 7 Ill. Reg. 13678, effective October 14, 1983; New Part adopted at 11 Ill. Reg. 20215, effective November 30, 1987; amended at 14 Ill. Reg. 6859, effective April 24, 1990; amended at 14 Ill. Reg. 10107, effective June 12, 1990; amended at 15 Ill. Reg. 15083, effective October 8, 1991; amended at 16 Ill. Reg. 2172, effective January 24, 1992; amended at 17 Ill. Reg. 8517, effective May 27, 1993; amended at 18 Ill. Reg. 10909, effective June 28, 1994; amended at 20 Ill. Reg. 398, effective December 20, 1995; amended at 20 Ill. Reg. 7956, effective May 30, 1996; amended at 24 Ill. Reg. 1672, effective January 14, 2000; emergency amendment at 27 Ill. Reg. 14361, effective August 20, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18458, effective November 24, 2003; emergency amendment at 30 Ill. Reg. 7974, effective April 14, 2006, for a maximum of 150 days; emergency expired September 11, 2006; amended at 30 Ill. Reg. 6392, effective April 12, 2007; amended at 32 Ill. Reg. 16507, effective September 25, 2008; amended at 32 Ill. Reg. 19163, effective November 25, 2008; amended at 34 Ill. Reg. _____, effective _____.

Section 1070.110 Illinois Safety and Family Financial Responsibility Law

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- a) For purposes of this Section, the following definitions shall apply:

"Administrative Order of Support" – an order for the support of dependent children issued by an administrative body of this or any other state.

"Cancellation" – the annulment or termination by formal action of the Secretary of State of a person's Family Financial Responsibility Driving Permit (FFRP) because of some error or defect in the FFRP or because the permittee is in some form of violation of any of the requirements contained in the Illinois Vehicle Code or Illinois Administrative Code.

"Certification" – the electronic transmission to the Department from the Illinois Department of Healthcare and Family Services when a person is 90 days or more delinquent in payment of support under an order of support entered by an administrative body of this or any other state.

"Department" – the Department of Driver Services within the Office of the Secretary of State.

"Department of Healthcare and Family Services" or "HFS" – the Illinois Department of Healthcare and Family Services.

"Family Financial Responsibility Driving Permit" or "FFRP" – a document issued to persons who have had their full driving privileges suspended that grants and specifies limited driving privileges as specified in IVC Section 7-702.1.

"Illinois Vehicle Code", "Vehicle Code" or "IVC" – 625 ILCS 5.

"Invalidation" – to render a license or permit no longer valid for the purpose it was issued, as specified in IVC Section 6-301.3.

"Law Enforcement" – a police officer, sheriff, coroner, municipal prosecutor, or state's attorney.

"Law Enforcement Sworn Report" – a confirmation of correctness and truth by an affidavit, oath or deposition, or a verification by certification, executed by a law enforcement officer, as specified in IVC Section 11-501.1(d) and Section 1-109 of the Code of Civil Procedure [735 ILCS 5/1-109].

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"Received by the Department of Administrative Hearings" – a written request for an administrative hearing that is received and date-file stamped at the Department of Administrative Hearings or any formal hearing location .

"Recipient Identification Number" or "RIN" – the file number used by the Department of Healthcare and Family Services to identify child support cases.

"Stay Order" – the temporary suspension of the regular order of proceeding in a cause, by direction or order of the court.

b) Suspension of Driving Privileges

1) The Department shall suspend the driver's license of an obligor, pursuant to IVC Section 7-702(a) or (b), upon receipt of an authenticated report as set forth in IVC Section 7-703. The authenticated report must be on a form prescribed by the Secretary of State and include the obligor's name, address, driver's license number, date of birth and gender, the date and county in which the order was entered, case number, judge's signature, court seal or file stamp, and date certified.

2) The Department shall enter an order of suspension pursuant to IVC Section 7-702(c) upon receipt of certification by HFS that the obligor is 90 days or more delinquent in payment of support under an order of support issued by an administrative body of this or any other state. The certification shall include the obligor's name, address, date of birth, gender and case number.

3) Any submitted authenticated report or Record of Nonpayment of Court-Ordered Child Support that is defective by not containing sufficient information or that has been completed in error shall not be entered onto the obligor's driving record, but shall be returned to the court of jurisdiction and shall indicate why the order of suspension cannot be entered.

4) Any certification from HFS that contains insufficient data or has been completed in error shall not be entered onto the obligor's driving record, but shall be electronically returned to HFS with an indication as to why the order of suspension cannot be entered.

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c) Termination of Suspension

1) Upon receipt of an authenticated document, in a form approved by the Department, that the obligor is in compliance with a court order of support or that the order has been stayed by subsequent order of the court, the Department shall terminate the suspension. The authenticated document must include the obligor's name, address, driver's license number, date of birth and gender, the date and county in which the order was entered, case number, judge's signature, and court seal or file stamp.

2) Upon receipt of an electronic certification of compliance from HFS when the person has paid the delinquent support in full or has arranged for payment of the delinquent support and current support obligations in a manner satisfactory to HFS. The certification must include the person's name, address, date of birth, gender and RIN.

d) Family Financial Responsibility Permits (FFRP)

1) The Department shall enter an FFRP pursuant to IVC Section 7-702.1(a) if the following conditions are met:

A) The Department receives a certified court order, on a form prescribed by the Secretary of State, from the court of jurisdiction.

B) The court order includes: obligor's name, address, driver's license number, date of birth and gender, date the order was issued, case number, obligor's employer and address if applicable, medical or treatment provider and address if applicable, whether the permit allows the obligor to seek employment, hours obligor is permitted to operate a vehicle, routes to be traveled, case number, judge's signature, county in which the order was issued, permit type (original, duplicate or renewal), permit expiration date (maximum duration is one year), and court seal or file stamp.

2) The Department shall enter an FFRP pursuant to IVC Section 7-702.1(b) if the following conditions are met:

A) The Department receives an order, on a form prescribed by the Secretary of State, from HFS.

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- B) The HFS order includes: obligor's name, address, driver's license number, date of birth and gender, date the order was issued, obligor's employer and address if applicable, medical or treatment provider and address if applicable, whether the permit allows the obligor to drive to seek employment, hours the obligor is permitted to operate a vehicle, routes to be traveled, RIN, signature of the HFS representative, county in which the order was issued, permit type (original, duplicate or renewal), permit expiration date (maximum duration is one year), and HFS stamp or seal.
- 3) Any submitted court or HFS order directing the Department to issue an FFRP that contains insufficient data or fails to comply with any provisions of this Part or IVC Article VII shall not be entered to the obligor's driving record, but shall be returned to the court of jurisdiction or HFS, indicating why the FFRP cannot be issued at that time.
- e) Invalidation of FFRP
- 1) Upon receipt of any of the following documents from a circuit clerk, law enforcement agency or the Department of Administrative Hearings within the Office of the Secretary of State, the Department shall invalidate an FFRP:
- A) a copy of a charging document for reckless homicide resulting from operation of a motor vehicle in violation of Section 9-3 of the Criminal Code [720 ILCS 5/9-3], driving under the influence of alcohol and/or other drugs in violation of IVC Section 11-501 or a similar provision of a local ordinance, driving outside of restrictions of permit in violation of IVC Section 6-113(e), leaving the scene of a motor vehicle accident involving death or personal injury in violation of IVC Section 11-401, or street racing in violation of IVC Section 11-506. The law enforcement officer issuing a citation for any of these offenses shall confiscate the FFRP and forward it, along with the citation, to the clerk of the circuit court of the county in which the citation was issued. The circuit clerk shall forward the FFRP and a facsimile of the officer's citation to the Secretary of State as expeditiously as possible; or

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B) a report of any disposition of court supervision or conviction for reckless homicide resulting from operation of a motor vehicle in violation of Section 9-3 of the Criminal Code [720 ILCS 5/9-3], driving under the influence of alcohol and/or other drugs in violation of IVC Section 11-501 or a similar provision of a local ordinance, leaving the scene of a motor vehicle accident involving death or personal injury in violation of IVC Section 11-401, or street racing in violation of IVC Section 11-506; or

C) Law Enforcement Officer's Sworn Report.

2) The Department shall invalidate an FFRP, upon receipt of a court order indicating the obligor is no longer entitled to the permit, in the same manner that a driver's license may be invalidated.

3) The Department shall invalidate an FFRP if the obligor's driver's license expires during the term of the FFRP and the obligor does not renew his or her driver's license in the manner set forth in IVC Section 6-115.

f) Termination of FFRP

1) Upon receipt of authenticated documentation from the court that the obligor is in compliance with the court order of support or that the order of suspension has been stayed, the Department shall terminate the FFRP.

2) Upon receipt of an electronic certification of compliance from HFS, the Department shall terminate the FFRP. The certification of compliance must include the obligor's name, address, driver's license number, date of birth, gender and RIN.

g) Administrative Hearings

1) The obligor may make a written request for an administrative hearing to contest the family financial responsibility suspension of his or her driver's license, pursuant to IVC Section 2-118.

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- 2) If the Department of Administrative Hearings of the Secretary of State receives a written hearing request by the obligor, in a manner and form approved by the Secretary of State, prior to the effective date of the family financial responsibility suspension, the Department shall stay the suspension in accordance with IVC Section 7-706.
- h) Fees. The Department shall collect a driver's license reinstatement fee as prescribed by IVC Sections 6-118 and 7-707. A reinstatement fee shall be charged for each suspension entered pursuant to IVC Section 7-702.
- b) The Department shall not enter an order of suspension pursuant to IVC Section 7-702(a) or (b) unless the authenticated report provided for in IVC Section 7-703 is complete. It must be on a form prepared or approved by the Secretary of State and include obligor's name and address, case number, driver's license number, date of birth, sex, the date the order was entered, court clerk or judge's signature or the signature of his/her designee, court seal or file stamp, court, court address, date certified, obligee's full name and attorney initiating action where applicable.
- e) The Department shall not enter an FFRP pursuant to IVC Section 7-702.1 unless the following conditions are met:
- 1) The Department receives a certified court order on a form prepared and approved by the Secretary of State from the court of jurisdiction.
 - 2) The order shall include: name and address of individual receiving permit, court case number, driver's license number, date of birth, sex, employer and address if applicable, medical treatment if applicable, hours petitioner permitted to operate vehicle, route to be traveled, issue date, judge's signature or the signature of his/her designee, court seal and county.
- d) Upon receipt of one or more of the following documents from a circuit clerk's office, law enforcement agency or the Department of Administrative Hearings within the Office of the Secretary of State, the Department shall invalidate an FFRP:
- 1) a copy of a charging document for manslaughter or reckless homicide resulting from operation of a motor vehicle in violation of Section 9-3 of the Criminal Code [720 ILCS 5/9-3], driving under the influence of alcohol and/or other drugs in violation of IVC Section 11-501 or a similar

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~~provision of a local ordinance, driving outside of restrictions of permit in violation of IVC Section 6-113(e), leaving the scene of a motor vehicle accident involving death or personal injury in violation of IVC Section 11-401, or drag racing in violation of IVC Section 11-504. The law enforcement officer issuing a citation for any of the offenses listed in this subsection (d)(1) shall confiscate the FFRP and forward it, along with the citation, to the clerk of the circuit court of the county in which the citation was issued. Whenever an FFRP is forwarded to a court, as a result of confiscation by a law enforcement officer, it shall be the duty of the clerk to forward the FFRP and a facsimile of the officer's citation to the Secretary of State as expeditiously as possible.~~

- 2) ~~a report of any disposition of court supervision or convictions for manslaughter or reckless homicide resulting from operation of a motor vehicle in violation of Section 9-3 of the Criminal Code [720 ILCS 5/9-3], driving under the influence of alcohol and/or other drugs in violation of IVC Section 11-501 or a similar provision of a local ordinance, leaving the scene of a motor vehicle accident involving death or personal injury in violation of IVC Section 11-401, or drag racing in violation of IVC Section 11-504; or~~
- 3) Law Enforcement Officer's Sworn Report.
 - e) ~~An FFRP issued pursuant to IVC Section 7-702.1 shall be valid until it is invalidated, suspended, revoked or canceled, or as specified by the court.~~
 - f) ~~The Department shall invalidate an FFRP, upon receipt of a court order indicating the permittee is no longer entitled to the permit, in the same manner that a driver's license may be invalidated.~~
 - g) ~~The Department, upon receipt of authenticated documentation that the obligor is in compliance with the court order of support or that the order of suspension has been stayed, shall terminate the FFRP.~~
 - h) ~~In order to reinstate the privileges suspended pursuant to IVC Section 7-702(a) or (b), the Department must receive authenticated documentation on a form prepared or approved by the Secretary of State that includes case number, driver's license number, name, address and county, date of birth, sex, notice of compliance or stay, signature of circuit clerk, issuing judge, circuit court, court seal, street and~~

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city.

- i) ~~Any submitted authenticated report or Record of Nonpayment of Court-Ordered Child Support that is defective by not containing sufficient information or has been completed in error shall not be entered into the record, but shall be returned to the court of jurisdiction, and shall indicate why the order of suspension cannot be entered unless the necessary information is submitted.~~
- j) ~~Any submitted court order that contains insufficient data or fails to comply with any provisions of this Part or Article VII of the Illinois Vehicle Code shall be returned to the court of jurisdiction indicating why the FFRP cannot be issued at that time.~~
- k) ~~The Secretary of State, upon receipt of a written request for administrative hearing that is received by the Department of Administrative Hearings prior to the effective date of the suspension, on a form prescribed by the Secretary, shall stay the Family Financial Responsibility Suspension in accordance with IVC Section 7-706.~~
- l) ~~The Secretary of State, upon receipt of an Order to Stay as listed on the Notice of Compliance prior to or after the effective date of the suspension, shall stay the Family Financial Responsibility Suspension in accordance with IVC Section 7-704.~~
- m) ~~An obligor whose driving privileges have been suspended pursuant to IVC Section 7-702 and possesses an FFRP shall be required to renew his/her driving privileges in the same manner as set forth in IVC Section 6-115. Non-renewal of a driver's license pursuant to IVC Section 6-115 will result in invalidation of the FFRP.~~
- n) ~~The fee collected by the Department for reinstatement of a driver's license following a suspension shall be as prescribed by IVC Sections 6-118 and 7-707 and shall be charged for each suspension entered pursuant to IVC Section 7-704.~~
- o) ~~The Department shall enter an order of suspension pursuant to IVC Section 7-702(c) when the Department of Healthcare and Family Services submits the certification to the Department when the person is 90 days or more delinquent in payment of support under an order of support issued by an administrative body of~~

SECRETARY OF STATE

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~~this or any other state. The certification shall include the person's name, address, date of birth, sex and case number.~~

- p) ~~The Department shall enter a notice of compliance for purposes of IVC Section 7-702(c) when HFS electronically submits a certification of compliance to the Department when the person has paid the support delinquency in full or has arranged for payment of the delinquency and current support obligations in a manner satisfactory to HFS. The certification of compliance must include the person's name, address, date of birth, sex and case number.~~
- q) ~~Any electronic submission to the Department from HFS that contains insufficient data or fails to comply with any provisions of Ch. 7, Art. VII of the Illinois Vehicle Code shall be rejected and returned electronically to HFS.~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED REPEALER

- 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> |
|-------------------------|------------------------|
| 170.10 | Repeal |
| 170.11 | Repeal |
| 170.15 | Repeal |
| 170.80 | Repeal |
| 170.91 | Repeal |
| 170.110 | Repeal |
| 170.115 | Repeal |
| 170.120 | Repeal |
| 170.130 | Repeal |
| 170.140 | Repeal |
| 170.145 | Repeal |
| 170.150 | Repeal |
| 170.160 | Repeal |
| 170.180 | Repeal |
| 170.200 | Repeal |
| 170.210 | Repeal |
| 170.211 | Repeal |
| 170.212 | Repeal |
| 170.310 | Repeal |
| 170.400 | Repeal |
| 170.410 | Repeal |
| 170.411 | Repeal |
| 170.412 | Repeal |
| 170.420 | Repeal |
| 170.421 | Repeal |
| 170.422 | Repeal |
| 170.423 | Repeal |
| 170.424 | Repeal |
| 170.425 | Repeal |
| 170.426 | Repeal |
| 170.427 | Repeal |
| 170.428 | Repeal |
| 170.429 | Repeal |

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| | |
|---------|--------|
| 170.430 | Repeal |
| 170.440 | Repeal |
| 170.441 | Repeal |
| 170.442 | Repeal |
| 170.450 | Repeal |
| 170.460 | Repeal |
| 170.470 | Repeal |
| 170.480 | Repeal |
| 170.481 | Repeal |
| 170.490 | Repeal |
| 170.500 | Repeal |
| 170.520 | Repeal |
| 170.530 | Repeal |
| 170.540 | Repeal |
| 170.541 | Repeal |
| 170.542 | Repeal |
| 170.543 | Repeal |
| 170.544 | Repeal |
| 170.545 | Repeal |
| 170.546 | Repeal |
| 170.550 | Repeal |
| 170.560 | Repeal |
| 170.580 | Repeal |
| 170.590 | Repeal |
| 170.610 | Repeal |
| 170.630 | Repeal |
| 170.640 | Repeal |
| 170.660 | Repeal |
| 170.670 | Repeal |
| 170.672 | Repeal |
| 170.700 | Repeal |
| 170.705 | Repeal |
| 170.710 | Repeal |
| 170.720 | Repeal |
| 170.730 | Repeal |
| 170.740 | Repeal |
| 170.750 | Repeal |
| 170.760 | Repeal |
| 170.770 | Repeal |

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| | |
|----------------|--------|
| 170.780 | Repeal |
| 170.790 | Repeal |
| 170.795 | Repeal |
| 170.800 | Repeal |
| 170.810 | Repeal |
| 170.820 | Repeal |
| 170.830 | Repeal |
| 170.840 | Repeal |
| 170.850 | Repeal |
| 170.870 | Repeal |
| 170.880 | Repeal |
| 170.890 | Repeal |
| 170.900 | Repeal |
| 170.910 | Repeal |
| 170.920 | Repeal |
| 170.930 | Repeal |
| 170.940 | Repeal |
| 170.1000 | Repeal |
| 170.1100 | Repeal |
| 170.1200 | Repeal |
| 170.1300 | Repeal |
| 170.APPENDIX E | Repeal |
| 170.TABLE A | Repeal |
| 170.TABLE B | Repeal |

- 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 Repealer: September 2, 2010
- 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 repealer, including any material incorporated by reference, is on file in the principal office of the State Fire Marshal, 1035 Stevenson Drive, Springfield, Illinois, and is available for public inspection at that location.

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NOTICE OF ADOPTED REPEALER

- 9) Notice of Proposed Repealer published in the Illinois Register: 33 Ill. Reg. 16022; November 20, 2009
- 10) Has JCAR issued a Statement of Objection to this repealer? No
- 11) Changes made between the proposed and adopted versions: 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 rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending to this Part? No
- 15) Summary and purpose of repealer: Repeals text of current Part 170 underground storage tank system (UST) rules.
- 16) Information and questions regarding this repealer 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

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NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Compliance Certification for Underground Storage Tanks
- 2) Code Citation: 41 Ill. Adm. Code 171
- 3)

| <u>Section Numbers</u> : | <u>Adopted Action</u> : |
|--------------------------|-------------------------|
| 171.10 | Repeal |
| 171.50 | Repeal |
| 171.70 | Repeal |
| 171.90 | Repeal |
| 171.100 | Repeal |
| 171.110 | Repeal |
| 171.120 | Repeal |
| 171.150 | Repeal |
| 171.160 | Repeal |
| 171.180 | Repeal |
| 171.200 | Repeal |
- 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 Repealer: September 2, 2010
- 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 repealer, including any material incorporated by reference, is on file in the principal office of the State Fire Marshal, 1035 Stevenson Drive, Springfield, Illinois, and is available for public inspection at that location.
- 9) Notice of Proposed Repealer published in the Illinois Register: 33 Ill. Reg. 16196; November 20, 2009
- 10) Has JCAR issued a Statement of Objection to this repealer? No
- 11) Changes made between the proposed and adopted versions: 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.

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- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending to this Part? No
- 15) Summary and purpose of repealer: Repeals text of current Part 171 underground storage tank system (UST) rules.
- 16) Information and questions regarding this adopted repealer 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

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: General Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances
- 2) Code Citation: 41 Ill. Adm. Code 174
- 3)

| <u>Section Numbers:</u> | <u>Adopted Action:</u> |
|-------------------------|------------------------|
| 174.100 | New |
| 174.200 | New |
| 174.210 | New |
| 174.300 | New |
| 174.310 | New |
| 174.320 | New |
| 174.330 | New |
| 174.340 | New |
| 174.350 | New |
| 174.360 | New |
| 174.370 | New |
| 174.400 | New |
| 174.410 | New |
| 174.420 | New |
| 174.430 | New |
| 174.440 | New |
| 174.450 | New |
| 174.APPENDIX A | New |
- 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 Rules: September 2, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. A variety of codes and standards developed by independent national associations and work groups have been incorporated and are available for public inspection at:

Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield, IL 62703-4259

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- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the principal office of the State Fire Marshal, 1035 Stevenson Drive, Springfield, Illinois, and is available for public inspection at that location.
- 9) Notice of Proposed Rules published in the Illinois Register: 33 Ill. Reg. 16205; November 20, 2009
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Changes made between the proposed and adopted versions:

In Section 174.100, in the definition of "Blended Fuel", replace "20%" with "10%".

In Section 174.100, in the definition of "Farm" or "Agricultural Site", replace "the produce of nursery farms is marketed" with "nursery farm products are marketed".

In Section 174.100, in the definition of "Interior Lining" or "Internal Lining", immediately after "contamination by corrosion", insert "or to ensure that the inside of the tank is compatible with the product stored" and delete the last sentence in that definition.

In Section 174.100, in the definition of "Motor Fuel Dispensing Facility Located Inside a Building, immediately before "permission", insert "written" and delete "prior to 1985".

In Section 174.100, insert "'NOV' means a notice of violation issued by OSFM."

In Section 174.100, in the definition of "Operation" or "Use", delete everything after "its usage."

In Section 174.100, in the definition of "Reportable Quantity", replace "176.305 or 176.330" with "176.320 or 176.340".

In Section 174.100, in the definition of "Site Assessment", delete the words "or "Phase II Environmental Assessment"" and replace "176.320" with "176.330".

In Section 174.100, in the definition of "Underground Storage Tank", replace "176.305 and 176.320 through 176.340" with "176.300 through 176.360".

In Section 174.210(a), in the incorporation of NFPA standards and codes, insert the following immediately after "(2007)": "NFPA 17, "Standard for Dry Chemical Extinguishing Systems' (2009)." And for the reference to NFPA 72, replace "2007" with "2010".

At the end of Section 174.210(a), insert the following immediately after "January 2009":

"Underwriters Laboratories, c/o COMM 2000, 151 Eastern Avenue, Bensenville, IL 60106, 1-888-853-3503:

Pre-Engineered Dry Chemical Extinguishing System Units, UL 1254 (2005)."

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In Section 174.300, replace "the effective date of this Part" with "September 1, 2010".
In Section 174.310(a), replace subsection (a)(7) with the following:

- "7) No fuel deliveries shall be made while tank entry work is going on at the same UST facility unless the facility can demonstrate that
 - A) the fill port to be fueled is not connected to the UST being worked on,
 - B) no other connection directly or indirectly exists between the UST being worked on and the UST receiving the fuel, and
 - C) the conditions for delivery are safe, including the distance between the UST being worked on and the UST receiving fuel.

- 8) Smoking on or about any tank truck while loading or unloading any flammable or combustible liquid is forbidden. Extreme care shall be taken during unloading operations to avoid deliveries where spark generating equipment is being operated nearby, to avoid other practices involving a risk of fire, and to keep fire away, and to prevent persons in the vicinity from smoking, lighting matches or carrying any flame or lighted cigar, pipe or cigarette."

Renumber the remainder of the paragraphs in subsection (a) in accord with the change immediately above.

In subsection 174.310(a)(9), replace "Owners and operators" with "Owners, operators and delivery personnel".

In subsection 174.310(a)(10), replace "176.330" with "176.340" in both places.

In subsection 174.310(a)(11), replace "176.340" with "176.350".

In Section 174.320(e), replace "the effective date of this Part," with "September 1, 2010,".

In Sections 174.330 and 174.340, replace "the effective date of this Part" with "September 1, 2010" in all 4 places where the reference exists.

In Section 174.400(b), change "The" to "With the exception of industrial or fleet facilities with no connection to any UST from which regulated products are sold at retail, the".

In Section 174.410, in the lead-in, replace "the effective date of this Part" with "September 1, 2010".

In Section 174.410(b), replace all of subsection (b), with the following:

- "b) Any portable container into which gasoline or benzol is to be dispensed, except a tank wagon or truck, shall be red and shall be labeled "gasoline" or "benzol" as the case may be. These containers shall be labeled in letters at least ½" high. It shall be unlawful to use portable containers not

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complying with this Section. For purposes of the red container requirement under this Section, "portable" shall mean those containers that may be reasonably carried or wheeled by a single person by hand. Such containers would not include trailers or other wheeled devices intended to be pulled by a motor vehicle."

In Section 174.410(c), insert "that are" immediately before "labeled or marked" and delete the second use of "containers" in that line.

- 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 rules: Reorganizes and consolidates existing underground storage tank system (UST) rules concerning the storage, handling and use of flammable and combustible liquids, bulk handling, mobile fueling, incorporations by reference, and definitions for the purpose of UST rules. Adopts NFPA 30 and 30A regarding the storage, handling and use for situations and issues not already addressed by existing UST rules. Subject to certain requirements, provides that a single bulk loadout may be connected to a single UST at a motor fuel dispensing facility. Changes the definition of a "blended fuel" so that any fuel with more than 10% ethanol is a "blended fuel". Changes the definition of "lining" to include linings that are installed for compatibility purposes only. Bans work on a UST while fuel deliveries are being made under certain circumstances. Makes non-substantive changes as compared to comparable text in current Part 170 text being repealed and replaced by new Parts 174, 175, and 176.
- 16) Information and questions regarding this adopted rulemaking 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 Rules begins on the next page:

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED RULES

TITLE 41: FIRE PROTECTION

CHAPTER I: OFFICE OF THE STATE FIRE MARSHAL

PART 174

GENERAL REQUIREMENTS FOR UNDERGROUND STORAGE TANKS
AND THE STORAGE, TRANSPORTATION, SALE AND USE OF
PETROLEUM AND OTHER REGULATED SUBSTANCES

SUBPART A: DEFINITIONS

Section
174.100 Definitions

SUBPART B: INCORPORATION BY REFERENCE

Section
174.200 Incorporation of National Standards
174.210 Incorporations by Reference

SUBPART C: BULK LOADING AND UNLOADING AND
GENERAL UNDERGROUND STORAGE TANK FACILITY REQUIREMENTS

Section
174.300 Storage, Handling and Use of Flammable and Combustible Liquids
174.310 Bulk Loading and Unloading for Railroad Tank Cars and Tank Vehicles
174.320 Locating Bulk Facilities Adjacent to a Motor Fuel Dispensing Facility; Dual
Purpose USTs
174.330 Heating Systems
174.340 Greasing Pits
174.350 Fire Extinguishers
174.360 Fireworks
174.370 General Requirement to Maintain All Equipment

SUBPART D: PORTABLE AND VEHICULAR DISPENSING

Section
174.400 Dispensing Requirements at Motor Fuel Dispensing Facilities
174.410 Portable Containers and Portable Fuel Tanks
174.420 Deliveries from Portable Fuel Tanks and Tank Vehicles Restricted
174.430 Auxiliary Fuel Tanks for Vehicles over a Certain Size
174.440 Dispensing or Delivery of Flammable or Combustible Motor Fuels from Tank
Vehicles

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174.450 Requirements for Permit to Fuel Motor Vehicles from Tank Vehicles

174.APPENDIX A Derivation Table

AUTHORITY: Implementing the Gasoline Storage Act [430 ILCS 15] and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15/2].

SOURCE: Adopted at 34 Ill. Reg. 13318, effective September 2, 2010.

SUBPART A: DEFINITIONS

Section 174.100 Definitions

The following definitions shall apply to 41 Ill. Adm. Code 174, 175, 176 and 177 concerning underground storage tanks and tank systems and the storage, transportation, sale and use of petroleum and other regulated substances.

"Abandonment-in-place" is the permanent placement of a UST in an inoperative condition by filling it with inert material in accordance with 41 Ill. Adm. Code 175.840.

"American Suction" is any suction system other than European.

"Ancillary Equipment" means any devices including, but not limited to, piping, fittings, flanges, valves, pumps, dispensers, line leak detection equipment, ATG probes, interstitial tank sensors, sump sensors, flex connectors, and automatic overfill prevention devices used to distribute, meter or control the flow of regulated substances to and from a UST.

"ANSI" means American National Standards Institute.

"API" means American Petroleum Institute.

"ASTM" means American Society for Testing and Materials.

"Attendant" means the owner or any person who is employed by an owner of a motor fuel dispensing facility to dispense motor fuel at that facility.

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"Blended Fuel" means gasoline containing greater than 10% ethanol and petroleum diesel containing greater than 20% biodiesel.

"Building" means any three dimensional space that is enclosed by a roof and walls where more than 50% of the possible area of the perimeter walls (sides) of the space is covered and not open to the outside.

"Bulk Storage" means the containment in a UST of a regulated substance for purposes of the bulk transfer or bulk transport of regulated substances and not for retail sale to the public.

"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.

"Class I Liquids" – See Flammable Liquids.

"Class II and III Liquids" – See Combustible Liquids.

"Combustible Liquids" are defined in NFPA 30 as Class II, IIIa and IIIb liquids.

"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 factory manufactured containments resistant to petroleum and chemical products that may contain system piping, electrical conduits, pumps and leak sensors.

"Contractor" is a person licensed under the Petroleum Equipment Contractor's Licensing Act [225 ILCS 729], excluding employees of the contractor, who performs any UST activity for an owner or operator.

"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

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Association of Corrosion Engineers (NACE) or be an Illinois Licensed Professional Engineer 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 calendar days unless otherwise stated.

"Dielectric Material" is a material that does not conduct direct electric current. Dielectric coatings are used to electrically isolate USTs from the surrounding soil. Dielectric bushings are used to electrically isolate portions of the UST (i.e., tank from piping).

"Dispensing" means the transfer of a regulated substance from a UST 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 transfer of a regulated substance from a UST directly into a portable container, safety can or portable fuel tank.

"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:

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; and

be checked at least every 30 days for evidence of a release.

A field-installed liner or insert does not qualify as a double-walled tank.

"Dual Purpose UST" or "Multi-purpose UST" is an underground storage tank system in compliance with the requirements of Sections 174.310 and 174.320 and 41 Ill. Adm. Code 160, 172, 174, 175, 176, 177 and 180 and is connected to one or more dispensers and a bulk load-out at the same time.

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"Emergency Shutoff Switch" means a device or switch that, when activated, will disconnect power to all dispensing devices, to all remote pumps serving the dispensing devices, to all associated power, control and signal circuits, and to other electrical equipment in the hazardous (classified) locations surrounding the fuel dispensing devices, but not including intrinsically safe electrical equipment. An emergency shutoff switch may also be known as an emergency shutoff (or stop) button or a master electrical shutoff.

"European Suction" is a piping system that draws a liquid through the system by suction pump or vacuum pump located at the dispenser. To qualify as European suction, the system shall meet the requirements set forth in 40 CFR 280.41(b)(2)(i) through (v) and 41 Ill. Adm. Code 175.640(b)(2)(A) through (E).

"Excavation Zone" is the cubic area containing the tank system and backfill material, bounded by the ground surface, walls and floor of the pit and trenches into which the UST is placed at the time of installation.

"Farm" or "Agricultural Site" 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 3501/801-10(z)), 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 nursery farm products are marketed, but not grown.

"Farm Tank" means a motor fuel UST located on a farm and used exclusively for farm purposes.

"Flammable Liquids" are defined in NFPA 30, and are divided into Class Ia, Ib and Ic liquids.

"Flow-through Process Tank" is a tank that forms an integral part of a production 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

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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 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 USC 9601(14)), but does not include any substance regulated as a hazardous waste under subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA) (42 USC 6901 et seq.) or any mixture of those substances and petroleum.

"Hazardous Substance UST" means an underground storage tank system that contains a hazardous substance or any mixture of those substances and petroleum and that is not a petroleum UST.

"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 same or contiguous property where the heating oil UST is located, for heating purposes. Thus, centralized heating units using heating oil that serve more than one building on the same property are included. 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.

"Hearing Officer" means the presiding official designated by the State Fire Marshal to conduct a hearing and preside over pre-hearing and post-hearing matters in a contested case.

"Hot Work" means operations or work on a UST capable of providing a source of ignition, such as drilling, welding, cutting, burning or heating.

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"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.

"ICC" means International Code Council.

"IEMA" means the Illinois Emergency Management Agency.

"Interior Lining" 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 or to ensure that the inside of the tank is compatible with the product stored. Interior lining is applied by a contractor licensed by OSFM to conduct interior lining.

"Interstitial Monitoring" is a release detection method used to determine the presence of a regulated substance between the inner and outer barriers of a secondary containment system of an underground tank and/or piping system 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 41 Ill. Adm. Code 175.630(g) and 40 CFR 280.43(g).

"Intrinsically Safe Electrical Equipment" means equipment and wiring that is incapable of releasing sufficient electrical or thermal energy under normal or abnormal conditions to cause ignition of a specific hazardous atmospheric mixture in its most easily ignited concentration.

"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 exist as follows:

No. 1-K (also known as "K-1") – A special low-sulfur grade kerosene suitable for use in non-flue connected kerosene burner appliances and for use in wick-fed illuminating lamps; and

No. 2-K (also known as "K-2") – A regular grade kerosene suitable for use only in flue connected burner appliances and for use in wick-fed illuminating lamps.

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"Liquid Traps or Associated Gathering Lines Directly Related to Oil or Gas Production or Gathering Operations" refers 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. 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.

"Liquefied Petroleum Gas" or "LP Gas" *means any material which is composed predominately of any of the following hydrocarbons or mixtures of the same: propane, propylene, butanes (normal butane and iso-butane) and butylenes.* [430 ILCS 10/2].

"Listed" or "Third Party Listed" means equipment, materials or services included in a list specifying the intended use and that has been published by a third party organization that:

is acceptable to OSFM and concerned with evaluation of products or services;

maintains periodic inspection of production of listed equipment or materials or periodic evaluation of services; and

for each listing states that either the equipment, material or service meets appropriate designated standards or has been tested and found suitable for its intended use.

"Maintenance" means normal operational upkeep to prevent a UST from releasing product.

"Motor Fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, whether alone or in combination with agricultural products, or any blend of petroleum and ethanol and is typically used in the operation of a motor engine.

"Motor Fuel Dispensing Facility" means that portion of a property where motor fuels are stored and dispensed from a UST, using fixed equipment, into the fuel tanks of motor vehicles, marine craft or aircraft, or into approved containers,

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including all equipment used in connection with that storage and dispensing. The term "motor fuel dispensing facility" includes the locations of emergency shutoff switches and fueling observation points, and all buildings involved with dispensing activities. Motor fuel dispensing facilities may take the following forms:

"Attended Self-Service Motor Fuel Dispensing Facility" means a motor fuel dispensing facility that has an attendant or employee on duty whenever the facility is open for business. The attendant or employee on duty does not typically dispense motor fuels into fuel tanks or containers. The customer or vehicle operator usually conducts the dispensing.

"Fleet Vehicle Motor Fuel Dispensing Facility" means a motor fuel dispensing facility at a commercial, industrial, governmental or manufacturing property where motor fuels are dispensed into the fuel tanks of motor vehicles that are used in connection with the business or operation of that property by persons within the employ of the business or operation.

"Full-Service Motor Fuel Dispensing Facility" means a motor fuel dispensing facility that has one or more attendants or supervisors on duty to dispense motor fuels into fuel tanks or containers whenever the facility is open for business. All dispensing at a full-service motor fuel dispensing facility is conducted by an attendant and no dispensing is conducted by customers.

"Marine Motor Fuel Dispensing Facility" means a motor fuel dispensing facility at or adjacent to shore, a pier, a wharf, or a floating dock where motor fuels are dispensed into the fuel tanks of marine craft.

"Motor Fuel Dispensing Facility Located Inside a Building" means that portion of a motor fuel dispensing facility having obtained written permission by OSFM to be located within the perimeter of a building or building structure that also contains other occupancies. The term also includes detached buildings separated by at least 20 feet from other buildings and used exclusively for dispensing of motor fuels in compliance with NFPA 30A, incorporated by reference in Section 174.210.

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"Unattended Self-Service Motor Fuel Dispensing Facility" means a motor fuel dispensing facility that has no attendant or employee on duty. The customer or vehicle operator conducts the dispensing operation. This includes coin, currency, membership card and credit card dispensing operations.

"NACE" means National Association of Corrosion Engineers.

"NFPA" means National Fire Protection Association.

"NLPA" means National Leak Prevention Association.

"Noncommercial Purposes", with respect to motor fuel, means not for resale.

"NOV" means a notice of violation issued by OSFM.

"NWGLDE" means National Work Group on Leak Detector Evaluations.

"Operational Maintenance Inspection" or "OMI" or "Certification Audit" means an inspection performed by an STSS to establish a facility's regulatory compliance.

"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.* [430 ILCS 15/4(b)(1)(D)]

"Operator" means any person in control of, or having responsibility for, the daily operation of the UST.

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

"OSFM Rules", unless otherwise specified, means the rules of OSFM located at 41 Ill. Adm. Code 160, 172, 174, 175, 176, 177 and 180.

"OSI" or "Operational Safety Inspection" means an inspection of any activity requiring an STSS on site.

"Owner" means:

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

In the case of any UST in use before November 8, 1984, but no longer in use on that date, any person who owned the UST immediately before the discontinuation of its use.

"Owner of Motor Fuel Dispensing Facility" means any individuals or legal entity holding title, lease, license or any interest in a motor fuel dispensing facility. The legal name, residence, address and county of any individuals who are owners shall be filed with OSFM.

"PAI" or "Performance Assurance Inspection" means an inspection for work that must be scheduled with OSFM and for which an STSS may be present.

"Party" means any individual, trust, firm, partnership, joint stock company, corporation, consortium, joint venture, commercial entity, federal government, State government, municipality, commission, unit of local government or political subdivision of the State, or any interstate body.

"Person" means any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, municipality, commission, political subdivision of a state, interstate body, or other legal entity, or their legal representative, agent or assigns. "Person" also includes any consortium, joint venture, commercial entity or the United States Government and any federal agency.

"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" means an underground storage tank system that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated

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substances. Petroleum USTs 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. Such piping includes any elbows, couplings, unions, valves or other in-line fixtures that contain and convey regulated substances from the underground tanks to the dispensers.

"Pipeline Facilities" (including gathering lines) includes 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 U.S. Secretary of Transportation) or the treatment of gas or designated hazardous liquids during the course of transportation.

"Re-certified Tank" A re-certified tank is any used tank that has been inspected and certified pursuant to the requirements of 41 Ill. Adm. Code 175.400(c).

"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.

"Repair" means to restore a UST component that has caused or may cause a release of product from the UST system.

"Reportable Quantity" means the extent of a hazardous substance release that requires notification under Section 176.320 or 176.340. The reportable quantity varies depending upon the substance involved and is determined under 40 CFR 302.1 through 302.6 and 355.40, incorporated by reference in 41 Ill. Adm. Code 174.210. A list of the reportable quantities for various hazardous substances can be found at <http://www.epa.gov/emergencies/tools.htm#lol>.

"Residence" means single-family dwelling unit or duplex, and the parcel of property each is located on, with only one unit or duplex per parcel.

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"Residential Tank" is a motor fuel underground storage tank located on residential property used for noncommercial purposes by a single family and located on property on which that family's residence is located.

"Revocation of the License of a Contractor" means termination of a contractor's license to perform any activity the contractor was licensed to perform.

"Revocation of the Registration of an Underground Storage Tank System" means termination by OSFM of the registration of a UST.

"Safety Can" means a container of not more than 5.3 gallons capacity having a spring-closing lid and spout cover, and designed so that it will safely relieve internal pressure when subjected to fire exposure, per NFPA 30 and 30A, incorporated by reference in 41 Ill. Adm. Code 174.210.

"Secondary Containment" means a release prevention and release detection system for underground storage tanks and/or piping, consisting of an inner and outer barrier with a space suitable for interstitial monitoring, 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; and

be checked at least every 30 days for evidence of a release.

Secondary containment may include double-walled tanks and piping.

"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, pursuant to 41 Ill. Adm. Code 176.330.

"STI" means Steel Tank Institute.

"Stormwater Collection System" or "Wastewater Collection System" means all piping, pumps, conduit and any other equipment necessary to collect and transport the flow of surface water runoff resulting from precipitation or domestic,

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commercial or industrial wastewater to and from retention areas or areas where treatment is designated to occur. The collection of stormwater or wastewater does not include treatment, except when incidental to conveyance.

"STSS" means a Storage Tank Safety Specialist employed by OSFM.

"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.

"Suspension of the License of a Contractor" means the prohibition of a contractor's performance of any activity the contractor was licensed to perform for a period of time not to exceed one year.

"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 Vehicle" means any tank truck, tank full-trailer, or tractor and tank semi-trailer combination.

"Tank Containment Sump" means a factory manufactured 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.

"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.

"Third Party", unless otherwise specified in the rule, when applied to a device or system, means an independent nationally recognized organization or independent professionally licensed individual that evaluates the device or system according to a nationally recognized practice. Examples include, but are not limited to, UL, UL CAN, ANSI, ASTM, NLPA, API or NWGLDE.

"UL" means Underwriters Laboratories, Inc.

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"UL Canada" or "UL CAN" means Underwriters Laboratories of Canada.

"Under-dispenser Containment" or "UDC" means factory manufactured containment underneath a dispenser that will prevent leaks from the dispenser from reaching soil or groundwater. The 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 Storage Tank System" or "UST" means any one or combination of tanks (including connected underground pipes, connected ancillary equipment and connected cathodic protection) used to contain an accumulation of regulated substances, the volume of which (including the volume of underground connected pipes) is 10 percent or more beneath the surface of the ground. A UST does include an emergency power generator tank system 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., recodified at 49 USC 60101 et seq.);

Regulated under the Hazardous Liquid Pipeline Safety Act of 1979 (49 USC 2001 et seq., recodified at 49 USC 60101 et seq.); or

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Regulated under the Illinois Gas Pipeline Safety Act [220 ILCS 20];

Any wastewater treatment tank system (including oil-water separators) that is part of a wastewater treatment facility regulated under section 402 or 307(b) of the Clean Water Act (33 USC 1342 or 1317(b));

Surface impoundment, pit, pond or lagoon;

Stormwater 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, mine working, 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 41 Ill. Adm. Code 175.840;

Tank with a capacity of 110 gallons or less;

Any UST holding hazardous wastes listed or identified under 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 the tank shall have been in that status as of April 21, 1989 and may not have been converted to a UST tank on or after that date, unless

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the tank has been re-certified and is in compliance with applicable upgrade requirements; or

Equipment or machinery that contains regulated substances for operational purposes, such as hydraulic lift tanks or electrical equipment tanks.

With the exception of release reporting, response and corrective action requirements, the following USTs (whether single- or double-wall construction) are deferred under 40 CFR 280.10(c) from UST regulatory requirements found in 41 Ill. Adm. Code 172, 174, 175, 176 and 177:

Wastewater treatment tank system (including oil-water separators, except that oil-water separators that are components of an oil processing, refining or treatment system are not wastewater treatment tanks);

Any UST containing radioactive material that is regulated under the Atomic Energy Act of 1954 (42 USC 2011 et seq.);

Any UST that is part of an emergency generation system at a nuclear power generation facility regulated by the U.S. Nuclear Regulatory Commission;

Airport hydrant fuel distribution system; and

Any field-constructed tank.

Although these systems are deferred (and therefore exempt from the requirements in 41 Ill. Adm. Code 172, 174, 175, 176 and 177) under 40 CFR 280.10(c) and 280.11, they are required to comply with release reporting, response and corrective action requirements in 41 Ill. Adm. Code 176.300 through 176.360 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;

Be cathodically protected against corrosion, constructed of non-corrodible material, steel clad with a non-corrodible material, or designed in a

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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

Have installed a method for leak detection in accordance with written directives issued by OSFM.

"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;

Tank entry;

Precision testing of one or more tanks or lines; or

Cathodic protection testing.

"UST System" means a UST.

"Upgrade" is the addition or retrofit of some portion of a UST, such as cathodic protection, leak detection, new dispenser islands, new piping, interior lining or spill and overfill controls, installation of a manway, flex connectors, or other new openings.

"Wastewater Treatment Tank" means a tank that is designed to receive and treat any influent wastewater through physical, chemical or biological methods.

SUBPART B: INCORPORATION BY REFERENCE

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Section 174.200 Incorporation of National Standards

Incorporations of standards incorporated by reference in 41 Ill. Adm. Code 174, 175, 176 and 177 do not include any later editions or amendments.

Section 174.210 Incorporations by Reference

If a UST was installed prior to adoption of these standards, the standard that shall apply to any maintenance or repair shall be the standard cited in this Section unless otherwise specified in 41 Ill. Adm. Code 174, 175, 176 or 177. If a UST or a component of the system is installed, replaced or upgraded, the installation, replacement or upgrade shall comply with the standards listed in this Section.

- a) The following publications are incorporated by reference and apply to 41 Ill. Adm. Code 174, 175, 176, and 177:

American Petroleum Institute (API). Available from the American Petroleum Institute, 1220 L Street, N.W., Washington D.C. 20005, (202)682-8000:

API Recommended Practice 1604, "Removal and Disposal of Used Underground Petroleum Storage Tanks", Third Edition, 1996.

API Recommended Practice 1631, "Interior Lining of Underground Storage Tanks", Fifth Edition, 2001.

API Standard 2015, "Requirements for Safe Entry and Cleaning of Petroleum Storage Tanks", Sixth Edition, 2001.

American Society for Testing and Materials (ASTM). Available from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken PA 19428-2959, (610) 832-9500:

ASTM F 852-08, "Standard Specification for Portable Kerosene and Diesel Containers for Consumer Use" (2008 Edition).

ASTM F 976-08, "Standard Specification for Portable Gasoline Containers for Consumer Use" (2008 Edition).

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The ICC International Building Code. Available from ICC, 4051 W. Flossmoor Rd., Country Club Hills IL 60477-5795, (708)799-2300:

ICC Building Code (2009).

NACE International. Available from NACE International, 1440 S. Creek Dr., Houston TX 77084, (281)228-6223:

NACE Standard Practice SP0169, Control of External Corrosion on Underground or Submerged Metallic Piping Systems (2007 Edition).

NACE Standard Recommended Practice RP0285, Corrosion Control of Underground Storage Tank Systems by Cathodic Protection (2002 Edition).

National Fire Protection Association (NFPA). Available from the National Fire Protection Association, 1 Batterymarch Park, Quincy MA 02269, (617)770-3000 or (800)344-3555:

NFPA 10, "Standard for Portable Fire Extinguishers" (2007).

NFPA 13, "Standard for the Installation of Sprinkler Systems" (1983).

NFPA 17, "Standard for Dry Chemical Extinguishing Systems" (2009).

NFPA 72, "National Fire Alarm Code" (2010).

NFPA 30, "Flammable and Combustible Liquids Code" (2008). Also available from ANSI.

NFPA 30A, "Automotive and Marine Service Station Code" (2008). Also available from ANSI.

NFPA 58, "Liquefied Petroleum Gas Code" (2008).

NFPA 70, "National Electrical Code" (2008). Also available from ANSI.

NFPA 101, "Life Safety Code" (2000). Also available from ANSI.

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NFPA 385, "Tank Vehicles for Flammable and Combustible Liquids" (2007). Also available from ANSI.

National Leak Prevention Association (NLPA). Available from the National Leak Prevention Association, 75-4 Main Street, Suite 300, Plymouth NH 03264, info@NLPA-online.org, (815)301-2785 (phone), (240)757-0211 (fax):

NLPA Standard 631 (Chapters A & B Only), "Entry, Cleaning, Interior Inspection, Repair and Lining of Underground Storage Tanks" (Chapter A) and "Future Internal Inspection Requirements of Lined Tanks" (Chapter B), Third Edition, 1991.

National Work Group on Leak Detector Evaluations (NWGLDE), List of Leak Detection Evaluations for Storage Tank Systems, Sixteenth Edition (January 12, 2009), available at www.nglde.org.

Steel Tank Institute (STI). Available from the Steel Tank Institute, 944 Donata Court, Lake Zurich IL 60047, (847)438-8265:

STI (F894.01) (ACT 100), "Specification for External Corrosion Protection of FRP Composite Steel Underground Storage Tanks", revised January 2009. Underwriter Laboratories, c/o COMM 2000, 151 Eastern Avenue, Bensenville IL 60106, 1-888-853-3503:

Pre-Engineered Dry Chemical Extinguishing System Units, UL 1254 (2005).

- b) The following federal regulations (Code of Federal Regulations (CFR)) are incorporated by reference and apply to 41 Ill. Adm. Code 174, 175, 176 and 177. Available from the Superintendent of Documents, U.S. Government Printing Office, Washington D.C. 20401, (202)512-1800:

29 CFR 1926 (July 15, 2002)

40 CFR 280 (September 7, 1995)

40 CFR 302.1 through 302.6 and 355.40 (December 18, 2008).

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- c) If the above-referenced publications conflict with specific provisions of 41 Ill. Adm. Code 174, 175, 176 or 177, the Illinois rules shall take precedence over the publications identified in subsection (a) and the federal rules (identified in subsection (b)) shall take precedence over the Illinois rules. However, the provisions of 41 Ill. Adm. Code 174, 175, 176, and 177 shall not be deemed to be in conflict with federal rules on the basis that the Illinois rules are more specific than, more stringent than, or impose requirements for which no similar requirements are contained in, laws and rules enforced by agencies of the federal government.
- d) The following Illinois regulations are referenced in this Part:

Pollution Control Board: 35 Ill. Adm. Code 734, 742 and 750.410

Department of Transportation: 92 Ill. Adm. Code 172

SUBPART C: BULK LOADING AND UNLOADING AND
GENERAL UNDERGROUND STORAGE TANK FACILITY REQUIREMENTS

Section 174.300 Storage, Handling and Use of Flammable and Combustible Liquids

With regard to USTs, except as otherwise provided in 41 Ill. Adm. Code 172, 174, 175, 176, 177, 160 and 180, the storage, handling and use of flammable and combustible liquids shall comply with NFPA 30 and 30A, incorporated by reference in 41 Ill. Adm. Code 174.210, as of September 1, 2010.

Section 174.310 Bulk Loading and Unloading for Railroad Tank Cars and Tank Vehicles

- a) Any kind of loading or unloading activity, either to or from railroad tank cars and tank vehicles, or any other kind of loading or unloading into or out of USTs, shall require compliance with Section 174.300 and the following minimum requirements.
- 1) All electrical installations shall comply with the Edition of NFPA 70 in force at the time of installation of the electrical equipment at all hazardous (classified) locations, such as loading and unloading docks, to include vapor-proof lighting, wiring in sealed conduit, and explosion-proof switches. Equipment and installations shall further comply with the requirements of 41 Ill. Adm. Code 175.425.

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- 2) A person shall be present to actively supervise the product transfer during loading and unloading operations.
- 3) When transferring Class I liquids, motors of tank vehicles and portable or auxiliary pumps shall be shut down during the making and breaking of hose connections. If loading or unloading is done without requiring the use of the motor of the tank vehicle, the motor shall be shut down throughout the transfer operations.
- 4) Before loading or unloading operations begin, the depositor shall determine the quantity of product that can be unloaded into each tank or tank vehicle (i.e., the tank ullage) without overflow of product. The volume shall be logged with the facility owner/operator. The log may consist of any bill of lading.
- 5) The driver, operator or attendant of any tank vehicle shall not remain in the vehicle, but shall not leave the vehicle unattended during the loading or unloading process. Delivery hose, when attached to a tank vehicle, shall be considered to be a part of the tank vehicle.
- 6) When loading or unloading product into or from underground tanks located at bulk facilities and motor fuel dispensing facilities equipped with tank vapor recovery equipment, the driver, operator or attendant of the tank truck shall ensure that all vapor return paths are effectively made liquid and vapor tight to prevent the discharge of vapors at grade level.
- 7) No fuel deliveries shall be made while tank entry work is going on at the same UST facility unless the facility can demonstrate that:
 - A) the fill port to be fueled is not connected to the UST being worked on;
 - B) no other connection directly or indirectly exists between the UST being worked on and the UST receiving the fuel; and
 - C) the conditions for delivery are safe, including the distance between the UST being worked on and the UST receiving fuel.

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- 8) Smoking on or about any tank truck while loading or unloading any flammable or combustible liquid is forbidden. Extreme care shall be taken during unloading operations to avoid deliveries where spark generating equipment is being operated nearby, to avoid other practices involving a risk of fire, to keep fire away, and to prevent persons in the vicinity from smoking, lighting matches or carrying any flame or lighted cigar, pipe or cigarette.
 - 9) Tank trucks and tank wagons used for the transport and delivery of Class I, II or III liquids shall not be parked for other than delivery purposes in residential districts, as defined in the Illinois Vehicle Code [625 ILCS 5/1-172].
 - 10) Owners, operators and delivery personnel shall ensure that releases due to spilling or overfilling do not occur and that all transfer operations are monitored constantly to prevent overfilling and spilling.
 - 11) The depositor shall report any release of a regulated substance into the environment according to the reporting requirements for owners/operators set forth in 41 Ill. Adm. Code 176.340. The depositor shall then also notify the UST owner/operator immediately. If the depositor fails to report, the facility shall report under 41 Ill. Adm. Code 176.340.
 - 12) Owners or operators shall report, investigate and clean up any spills or overfills in accordance with 41 Ill. Adm. Code 176.300 through 176.350, including the required reporting of a release when not already reported by the depositor.
- b) The unloading hose from a railroad tank car or tank vehicle into an underground tank shall have a static wire or its equivalent and shall be equipped with a non-ferrous nozzle or tight connection metal nipple.
 - c) Before unloading operations begin, the depositor shall determine the following:
 - 1) The facility has a green decal (facility operating permit), issued by OSFM, that is current and valid and in plain view.
 - 2) Any fill or remote fill that has a red tag, issued by OSFM, attached. Depositing into the associated tank is prohibited.

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- 3) The depositor shall inspect the fill device to assure that no tampering has occurred. Before unloading may begin into a remote fill, the depositor shall ensure that all fill caps are secure and tight. Any overriding or tampering with an overfill device that may result in the overfilling of any tank is prohibited (unless authorized by OSFM for the purpose of precision testing only).

Section 174.320 Locating Bulk Facilities Adjacent to a Motor Fuel Dispensing Facility; Dual Purpose USTs

- a) Dispensing from a bulk tank into the tank of a motor vehicle is prohibited.
- b) Bulk facilities (including any bulk storage, bulk plant or bulk load-out) located adjacent to or at a motor fuel dispensing facility shall be separated from public fuel dispensing areas by a fence or similar barrier from the area in which bulk operations are conducted.
- c) Installations of piping to connect bulk storage to a UST at a motor fuel dispensing facility permitted prior to July 1, 1985 shall comply with 41 Ill. Adm. Code 160.15 and the following requirements:
 - 1) Any alteration of a UST component at the bulk and motor fuel dispensing facilities shall require that UST component be upgraded to current design, operating and other technical requirements found in 41 Ill. Adm. Code 174, 175 and 176.
 - 2) Replacement of any UST piping shall require that all UST piping associated and interconnected with the bulk and motor fuel dispensing facilities and USTs be upgraded to current standards for new piping, including requirements for double-wall piping equipped with interstitial monitoring and all appropriate sumps (see 41 Ill. Adm. Code 174, 175 and 176).
 - 3) Replacement of underground storage tanks at bulk and motor fuel dispensing facilities shall require that the entire UST related to the tank replacement be upgraded to standards for newly installed USTs (see 41 Ill. Adm. Code 174, 175 and 176).

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- d) Existing Dual Purpose USTs permitted after May 1, 2003. Beginning May 1, 2003, connections between a single bulk load-out and a single UST at a motor fuel dispensing facility shall be allowed to remain if the UST and piping meets all technical standards at the time of installation. Existing dual purpose USTs shall have evidence of OSFM's written consent to operate.
- e) New Installations of and New Conversions to Dual Purpose USTs. On and after September 1, 2010, requests to connect new and existing bulk load-outs to new or existing USTs located at motor fuel dispensing facilities must be reviewed and approved by OSFM, and shall be limited to a single underground storage tank connected to one or more dispensers and a bulk load-out at the same time. Approval from OSFM shall require an OSFM permit issued under 41 Ill. Adm. Code 175.300 prior to construction or installation and shall be contingent upon, and require compliance with, subsections (a), (b) and (c) and 41 Ill. Adm. Code 160, 172, 174, 175, 176, 177 and 180 and the following requirements:
- 1) All product piping extensions at the motor fuel dispensing facility shall be underground and be equipped with automatic line leak detectors (ALLDs) and meet all other release detection requirements for UST piping;
 - 2) The UST connected to any bulk load-out shall be designed for the working pressures and volume of products to be transferred and for the specific use and location;
 - 3) Individual tanks shall not be interconnected, siphoned or manifolded when serving as a dual purpose UST; e.g., a dual purpose UST may not at the same time be connected to any other tanks or USTs;
 - 4) Product piping shall not be routed under buildings;
 - 5) Dispensers shall not be connected, directly or indirectly, to any tank that is over 30,000 gallons capacity;
 - 6) General Requirement that Dual Purpose USTs Meet Requirements for Newly Installed USTs
 - A) Dual purpose USTs shall meet all design and other UST technical requirements for newly installed USTs, including:

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- i) design requirements for tanks and piping (see 41 Ill. Adm. Code 175.Subpart D and 176.430(f));
 - ii) corrosion protection (see 41 Ill. Adm. Code 175.Subpart E); and
 - iii) release detection that also includes all underground product piping extensions (see 41 Ill. Adm. Code 175.Subpart F);
- B) Dual purpose USTs shall also be compatible with the product stored (see 41 Ill. Adm. Code 175.415), and meet all required setbacks and separation distances (see 41 Ill. Adm. Code 175.Subpart D). When an existing UST to be connected to a bulk load-out does not meet current requirements for newly installed USTs, the UST must be upgraded to standards for new installations at the time the connection to a bulk loadout is made;
- 7) Deliveries from the tank vehicle into vehicles at the motor fuel dispensing facility are prohibited;
 - 8) The service station portion must comply with all requirements of 41 Ill. Adm. Code 174, 175, 176, 177 and 180 applicable to service stations;
 - 9) The bulk facility portion shall comply with all applicable requirements of this Subpart and 41 Ill. Adm. Code 160, 174, 175, 176, 177 and 180;
 - 10) An OSFM permit shall be obtained prior to connecting a new or existing bulk load-out to a new or existing UST at a motor fuel dispensing facility.

Section 174.330 Heating Systems

Newly installed or replaced heating systems where flammable and combustible liquids are stored, handled or dispensed, and the locations of newly installed or replaced furnaces and heaters at motor fuel dispensing facilities, shall comply with NFPA 30 and 30A, incorporated by reference in Section 174.210, on and after September 1, 2010. Existing heating systems, furnaces and heaters previously approved by OSFM or in compliance with OSFM rules by August 31, 2010 shall be allowed to remain.

Section 174.340 Greasing Pits

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Newly installed greasing pits in buildings where flammable and combustible liquids are stored, handled, used or dispensed shall comply with NFPA 30 and 30A, incorporated by reference in Section 174.210, on and after September 1, 2010. Greasing pits previously approved by OSFM or in compliance with former 41 Ill. Adm. Code 170 by August 31, 2010 shall be allowed to remain.

Section 174.350 Fire Extinguishers

Every dispensing facility shall provide fire extinguishers that comply with the installation and sizing requirements of NFPA 10, incorporated by reference in Section 174.210, and the testing, maintenance and licensing requirements of 41 Ill. Adm. Code 251 (Fire Equipment Distributor and Employee Standards). Other facilities shall provide extinguishers when required to do so by NFPA 30, 30A or 10, incorporated by reference in Section 174.210.

Section 174.360 Fireworks

The storage, sale, use, explosion or handling of fireworks items that require ignition to produce an audible or visual effect or display are prohibited at all motor fuel dispensing facilities where flammable and combustible liquids are stored, handled, transferred, dispensed or used.

Section 174.370 General Requirement to Maintain All Equipment

Equipment and other items required by 41 Ill. Adm. Code 160, 172, 174, 175, 176, 177 and 180 shall be maintained in accordance with 41 Ill. Adm. Code 175 and 176 and this Part and manufacturer's instructions and otherwise shall be kept in good operating condition at all times.

SUBPART D: PORTABLE AND VEHICULAR DISPENSING

Section 174.400 Dispensing Requirements at Motor Fuel Dispensing Facilities

- a) All dispensing of motor fuels at motor fuel dispensing facilities shall only be directly into the fuel tanks of motor vehicles when the tanks are connected with the fuel systems of the vehicles, or into safety cans, or portable containers, or portable tanks in compliance with Section 174.410.
- b) With the exception of industrial or fleet facilities with no connection to any UST from which regulated products are sold at retail, the capacity of any UST installed at a motor fuel dispensing facility shall not exceed 30,000 gallons.

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Section 174.410 Portable Containers and Portable Fuel Tanks

Except as otherwise specified in OSFM rules, the storage, transfer, handling, dispensing and use of flammable and combustible liquids in portable containers and portable fuel tanks shall comply with NFPA 30 and 30A, incorporated by reference in Section 174.210, on and after September 1, 2010.

- a) All portable containers for gasoline and kerosene shall be marked or labeled in a conspicuous place with the name of the product.
- b) Any portable container into which gasoline or benzol is to be dispensed, except a tank wagon or truck, shall be red and shall be labeled "gasoline" or "benzol" as the case may be. These containers shall be labeled in letters at least ½" high. It shall be unlawful to use portable containers not complying with this Section. For purposes of the red container requirement under this Section, "portable" shall mean those containers that may be reasonably carried or wheeled by a single person by hand. Such containers would not include trailers or other wheeled devices intended to be pulled by a motor vehicle.
- c) No person shall put any liquid or oil other than gasoline or benzol in red containers that are labeled or marked for gasoline or benzol use.
- d) Safety cans and like portable containers for kerosene shall be blue with "KEROSENE" in ½" or larger letters on the container. These containers shall be metal or other material approved by OSFM. No person shall put any liquid or oil other than kerosene in blue containers labeled or marked for kerosene use.
- e) Portable containers for flammable or combustible liquids regulated under the Gasoline Storage Act shall be listed for their intended purpose. Except as otherwise provided by 41 Ill. Adm. Code 160, 174, 175, 176 and 180, portable containers for Class I and Class II liquids shall have been tested and meet the specifications and test criteria of ASTM F852 or ASTM F976 and all other ANSI-ASTM tests referred to in those standards. Documentation of compliance with ANSI-ASTM specifications must be submitted by the manufacturer to OSFM for approval, before such portable containers may be marketed or used in the State of Illinois.

Section 174.420 Deliveries from Portable Fuel Tanks and Tank Vehicles Restricted

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- a) Dispensing or delivery of flammable or combustible motor vehicle fuels from tank vehicles, tank trucks, tank wagons or other portable tanks is prohibited except as follows:
- 1) Agricultural sites for agricultural purposes (farm use);
 - 2) Construction sites for refueling construction equipment used only at the construction site (this exception does not apply to trucks or passenger cars that have license plates attached and may be driven to motor fuel dispensing facilities);
 - 3) Sites used for the refueling of police, fire or emergency medical services vehicles or other vehicles that are owned, leased or operated by (or operated under contract with) the State, a unit of local government, a school district, or any agency of the State and that are not normally accessible to the public;
 - 4) sites used for the parking, operation or maintenance of a commercial vehicle fleet, but only if the site is located in a county with 3,000,000 or more inhabitants or a county contiguous to a county with 3,000,000 or more inhabitants and the site is not normally accessible to the public; and
 - 5) Airports for fueling of aircraft as defined in, and in compliance with, 41 Ill. Adm. Code 180.
- b) Under no circumstances shall the exceptions listed in subsections (a)(1) through (a)(5) be construed to allow retail sales to the public from tank vehicles, tank trucks, tank wagons or other portable tanks. Dispensing or delivery of flammable or combustible motor vehicle fuels to or from tank vehicles for the purposes set forth in subsections (a)(1) through (a)(4) shall comply with Sections 174.440 and 174.450, except that a permit shall not be required for fueling pursuant to subsections (a)(1) through (a)(3).
- c) Additional Exception to Ban on Mobile Fueling. In addition to the fueling described in subsections (a) and (b), when Class I or II liquids are to be transported for agriculture or construction as described in subsections (a)(1) and (a)(2), the party performing the fueling may also transport 119 gallons or less per vehicle subject to the following conditions:

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- 1) Containers shall be tanks constructed of 18 gauge or heavier steel or equivalent gauge aluminum.
- 2) Tanks shall be securely fastened to prevent separation from the vehicle in the event of a collision.
- 3) Tanks shall be electrically bonded to the frame of the vehicle.
- 4) Tanks shall be protected against leakage or damage in the event of a turnover.
- 5) Tanks may not be drained by gravity. Only top mounted pumps designed and labeled for use with flammable and combustible liquids may be used to transfer Class I and II liquids from the tanks to other storage tanks or vehicle fuel tanks. No top mounted pump shall be higher than the highest point of the vehicle or permanently attached appurtenances (i.e., roll bars).
- 6) Flammable liquid petroleum products being transported on a single vehicle may not exceed 119 gallons.
- 7) Each tank is clearly labeled with the name of the product it contains in letters at least 2" in height with the letters to be white in color on a contrasting background, or placarded in accordance with Illinois Department of Transportation hazardous materials rules (92 Ill. Adm. Code 172).
- 8) Vehicles transporting regulated products under this subsection (c) shall also comply with the regulations of the Illinois Department of Transportation regarding that transport.

Section 174.430 Auxiliary Fuel Tanks for Vehicles over a Certain Size

- a) Auxiliary (additional) fuel tanks of 119 gallons aggregate capacity or less for Class I or II liquids may be added to $\frac{1}{2}$ and $\frac{3}{4}$ ton (pickup) trucks or larger vehicles to provide added fuel capacity, provided that the tank:
 - 1) is constructed of 18 gauge or heavier steel, or equivalent gauge aluminum;

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- 2) is securely fastened to either the truck bed or frame in such a manner that it will not separate from the vehicle in the event of a collision;
 - 3) is permanently connected to the fuel system of the vehicle in a manner required by any applicable USDOT rules and regulations;
 - 4) is baffled to prevent the sudden shifting of liquid when the vehicle is moving;
 - 5) is electrically bonded to the vehicle frame;
 - 6) is protected against leakage or damage in the event of a turnover;
 - 7) cannot be drained by gravity. Only top mounted pumps designed and labeled for use with flammable and combustible liquids may be used to transfer Class I and II liquids from the tanks to other storage tanks or vehicle fuel tanks. No top mounted pump shall be higher than the highest point of the vehicle or permanently attached appurtenances (i.e., roll bars).
- b) Flammable liquid petroleum products being transported on a single vehicle as allowed under this Section may not exceed 119 gallons.
 - c) Vehicles transporting regulated products under this Section shall also comply with the regulations of the Illinois Department of Transportation regarding that transport.
 - d) Each tank shall be clearly labeled with the name of the product it contains in letters at least 2" in height and a color contrasting with the background, or placarded in accordance with Illinois Department of Transportation hazardous materials rules (92 Ill. Adm. Code 172).

Section 174.440 Dispensing or Delivery of Flammable or Combustible Motor Fuels from Tank Vehicles

Dispensing or delivery of flammable or combustible motor vehicle fuels from tank vehicles is allowed at sites used for the parking, operation or maintenance of a commercial vehicle fleet under the following conditions:

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- a) The site is located in a county with 3,000,000 or more inhabitants or a county contiguous to a county with 3,000,000 or more inhabitants and:
- 1) The site is not normally accessible to the public and has been approved by OSFM.
 - 2) The vehicles being fueled are part of a fleet of commercial vehicles that are normally parked, operated or maintained at the fueling site.
 - 3) An inspection of the fueling site has been made and approval granted in the form of a permit issued by OSFM. An inspection of the facility may be made at any time. The permit application may be found at www.state.il/OSFM/FirePrevention/PDFS/AppMobileFuelingSite.pdf.
 - 4) Electrical devices and wiring in areas where fuel is dispensed are in accordance with the edition of NFPA 70 in effect at the time the mobile fueling site was constructed.
 - 5) Dispensing locations are at least 50 feet from structures or combustible storage, including structures or storage on adjacent properties.
 - 6) Signs are posted prohibiting smoking or open flames within 25 feet of the fuel tanker and the point of fueling.
- b) The tank vehicle is owned and operated by a company licensed by OSFM to perform mobile fueling.
- c) The tank vehicle complies with the requirements of NFPA 385, incorporated by reference in Section 174.210 and has been approved by OSFM.
- d) The tank vehicle displays a mobile-fueling sticker issued by OSFM.
- e) The dispensing hose does not exceed 50 feet in length.
- f) The dispensing nozzle is a listed automatic-closing type with a latch-open device.
- g) Nighttime deliveries are only be made in adequately lighted areas.
- h) The tank vehicle's flasher lights are in operation while dispensing.

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- i) Fuel expansion space is left in each fuel tank to prevent overflow in the event of temperature increase.

Section 174.450 Requirements for Permit to Fuel Motor Vehicles from Tank Vehicles

- a) The person, company or other entity proposing to deposit fuel into tanks of motor vehicles from tank vehicles must first have a permit from OSFM. The application may be found at www.state.il.us/osfm/FirePrevention/PDFS/AppMobileFuelingContractor_1.pdf. A permit will be granted under the following circumstances.
 - 1) The person must apply for a permit by providing the following information:
 - A) The name of business, proof of good standing if a corporation, proof of compliance with the Assumed Name Act if applicable, and the principal address of the business.
 - B) Proof that the vehicles used for fueling are in compliance with Section 174.440.
 - C) Evidence that employees have knowledge of the requirements contained in Section 174.440.
 - 2) An annual fee of \$500 shall be charged each person engaging in fueling from tank vehicles for the period from January 1 through December 31 of each calendar year.
 - 3) Each vehicle used for fueling must comply with Section 174.440 and:
 - A) OSFM approval shall consist of a decal or other evidence issued by OSFM attached to the vehicle. The application can be found at www.state.il.us/osfm/FirePrevention/PDFS/AppMobileFuelingVehicle.pdf. Tank vehicles shall be subject to periodic inspections.
 - B) Vehicles without a permit shall not be allowed to engage in tank vehicle fueling.

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- C) A replacement or added vehicle shall not engage in fueling until an inspection is made to determine compliance and evidence of compliance is issued.
- D) An annual fee of \$100 shall be charged for each vehicle engaged in the fueling. Replacement vehicles shall be charged at the same rate. The evidence of compliance shall be for January 1 through December 31.
- b) Each location (site) where fueling from tank vehicles is conducted shall be inspected by OSFM. No fueling from tank vehicles shall take place until the location for the fueling is approved by OSFM.
- 1) The owner/lessee or other person who has vehicles to be fueled by tank vehicle shall pay OSFM an annual fee for each location where the fueling will take place. Fees shall be as follows:

| Number of Vehicles Fueled | Fee |
|---------------------------|-------|
| 1-25 | \$100 |
| 26-50 | \$200 |
| 51-100 | \$300 |
| 101 or more | \$400 |

- 2) The locations shall be approved if they meet the requirements of Section 174.440.
- 3) The location must be approved annually.

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Section 174.APPENDIX A Derivation Table

The following table indicates the Sections of 41 Ill. Adm. Code 170 that formerly stated requirements identical or related to those now located within this Part 174.

| New Section | Old Section |
|--------------------|---|
| 174.100 | 170.10, 170.150(b), 170.400, 170.800, 170.1000 |
| 174.200 | 170.11 |
| 174.210 | 170.410, 170.705 |
| 174.300 | None |
| 174.310 | 170.80, 170.429 |
| 174.320 | 170.426(h) |
| 174.330 | 170.110, 170.115 |
| 174.340 | 170.130 |
| 174.350 | 170.145 |
| 174.360 | 170.180 |
| 174.370 | 170.200 |
| 174.400 | 170.15(a), 170.546(a) |
| 174.410 | 170.15(a), 170.91, 170.150(d)(7)(G), (I), 170.310(a)(5)(C), (D) |
| 174.420 | 170.15(c), 170.210(b) |
| 174.430 | 170.15(b) |
| 174.440 | 170.211 |
| 174.450 | 170.212 |
| APPENDIX A..... | None |

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- 1) Heading of the Part: Technical Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances
- 2) Code Citation: 41 Ill. Adm. Code 175
- 3)

| <u>Section Numbers:</u> | <u>Adopted Action:</u> |
|-------------------------|------------------------|
| 175.100 | New |
| 175.200 | New |
| 175.210 | New |
| 175.220 | New |
| 175.230 | New |
| 175.240 | New |
| 175.250 | New |
| 175.260 | New |
| 175.300 | New |
| 175.310 | New |
| 175.320 | New |
| 175.330 | New |
| 175.400 | New |
| 175.405 | New |
| 175.410 | New |
| 175.415 | New |
| 175.420 | New |
| 175.425 | New |
| 175.430 | New |
| 175.435 | New |
| 175.440 | New |
| 175.445 | New |
| 175.450 | New |
| 175.455 | New |
| 175.460 | New |
| 175.465 | New |
| 175.500 | New |
| 175.510 | New |
| 175.600 | New |
| 175.610 | New |
| 175.620 | New |
| 175.630 | New |
| 175.640 | New |

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| | |
|----------------|-----|
| 175.650 | New |
| 175.700 | New |
| 175.710 | New |
| 175.720 | New |
| 175.800 | New |
| 175.810 | New |
| 175.820 | New |
| 175.830 | New |
| 175.840 | New |
| 175.APPENDIX A | New |
| 175.APPENDIX B | New |
| 175.APPENDIX C | New |

- 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 Rules: September 2, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. A variety of codes and standards developed by independent national associations and work groups have been incorporated and are available for public inspection at:

Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield, IL 62703-4259
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the principal office of the State Fire Marshal, 1035 Stevenson Drive, Springfield, Illinois, and is available for public inspection at that location.
- 9) Notice of Proposed Rules published in the Illinois Register: 33 Ill. Reg. 16244; November 20, 2009.
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Changes made between the proposed and adopted versions: In Section 175.200(b), delete everything after the first sentence in that subsection.

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In Section 175.200(c), immediately before "No motor fuel dispensing facility", insert the following:

"Motor fuel dispensing facilities must hold a current and valid Motor Fuel Dispensing Permit for the particular type of facility involved in order to operate."

At the end of Section 175.200(c), replace "operating permit (green decal)." with the following:

"motor fuel dispensing permit issued under this Subpart and the compliance certification (green decal) issued under 41 Ill. Adm. Code 177 as required for operation of the facility. Failure to remain in compliance with UST rules may also result in OSFM's issuance of a red tag for the tanks or facility at issue, prohibiting any further operation of the facility or further deposit of regulated substances into any tank subject to a red tag. Maintenance of dispensers, hoses, emergency breakaways, electrical equipment directly tied to the UST, and emergency shutoffs and shear valves, are examples of required items subject to red tag for noncompliance."

Immediately after Section 175.200(c), insert subsection (d) and subsection (e) as shown in the adopted text.

Renumber subsection (d) to "(f)" as a result of the change immediately above.

In Section 175.210(b), delete ", equipped in such a manner that the flow of liquid fuel from all fuel dispensing units may be stopped from the control station" and then insert the following after the period: "Separate fueling areas more than 100 feet apart and designated by signage so indicating may have separate control stations if each separate fueling area complies with this Subpart B and 41 Ill. Adm. Code 174, 175, and 176."

Replace Section 175.210(d) with the following:

"d) Conspicuously marked and easily accessible emergency shutoff switches must be provided at each facility and shall be:

- 1) Located so that at least one emergency shutoff is at least 20 feet but not more than 100 feet from each dispenser;
- 2) Interconnected so that activation of one shutoff activates all the shutoffs whenever more than one emergency shutoff switch is provided.
- 3) Equipped with an additional emergency shutoff at the control station, which shall be conspicuously marked and readily accessible to the attendant, whenever the control station is less than 20 feet from any dispenser or a security booth is provided for the attendant; such emergency shutoff shall be located in a position to

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allow all dispensing devices to be readily visible to the attendant, or as approved by OSFM, and where a security booth is provided, the control station and emergency shutoff shall be inside the security booth.

- 4) Compliance retrofits shall be due to be completed by September 1, 2013."

In Section 175.210(g), replace the sentence that begins "If a closed-circuit camera" with the following:

"In lieu of the closed-circuit camera, the facility may elect to have an emergency electrical shutoff switch that shall be located at least 20 and not more than 50 feet from the dispenser that has a permanently obstructed view. Using an emergency shutoff switch in lieu of the closed-circuit camera pursuant to this subsection (g) must be approved in advance by OSFM. If a closed-circuit camera or viewing screen is inoperable and cannot provide surveillance of dispensing units to the attendant at the control station, and an emergency electrical shutoff switch has not been approved by OSFM and provided in lieu of the camera as provided in this subsection (g), self-service dispensing of fuel at these dispensers is prohibited."

Replace Section 175.210(i) with the following:

- "i) All emergency shutoff switches shall be tested, and all shear valves visually inspected, at least annually to ensure that they are functioning properly and that the dispenser is mounted properly. Documentation of annual testing shall be kept at the motor fuel dispensing facility for two years and available for examination by a representative of OSFM. If documentation of annual testing of emergency shutoff switches is not available, the facility shall be subject to demonstration of this equipment during inspection by OSFM."

In Section 175.210(o), in the second sentence, delete "rigid".

In Section 175.210(o), in the third sentence, immediately after "to the ground", insert ", or at a height as approved by OSFM,".

In Section 175.220(a), in the second sentence, immediately after "to the ground," insert ", or at a height as approved by OSFM".

Replace subsection 175.220(a)(7) with the following:

- "7) "Master electrical shutoff transmits fire alarm to fire department."

Delete the text in Section 175.220(b).

As a result of the change immediately above, renumber the remaining lettered paragraphs in that Section.

In relettered subsection (b), in the last sentence, immediately after "OSFM.", insert the following:

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"A sign shall be placed at or near each emergency shutoff switch stating that activation of the emergency shutoff switch "transmits a fire alarm to the fire department". Resetting from an emergency electrical shutoff condition shall require manual intervention by the owner or attendant and shall be accomplished only after the condition that caused it to be activated has been corrected."

Immediately after Section 175.220(b), insert subsections (c) and (d) as shown in the adopted text.

As a result of the change immediately above, renumber the remaining lettered paragraphs in that Section.

Replace Section 175.220(h) as renumbered (regarding Fire Extinguishers) with text that includes subsections (h) through (i) as shown in the adopted rule text.

Insert the following after "Section 175.220":

", except that the signs required under Subsection 175.220(a) and the fire detection and fire suppression systems required under 175.220(h) shall not be required. Fleet facilities shall comply with requirements for portable fire extinguishers found in Subsection 175.220(h)(2)(E) and 41 Ill. Adm. Code 174.350. Other signage requirements under Section 175.220 (for example, that emergency shutoffs be conspicuously marked) shall still apply, along with the remainder of the requirements of Section 175.220."

In Section 175.250(e), immediately after "SHUTOFF", insert "or "EMERGENCY SHUTOFF SWITCH", and after the period, insert:

"Resetting from an emergency electrical shutoff condition shall require manual intervention by the owner or attendant and shall be accomplished only after the condition that caused it to be activated has been corrected. A master electrical shutoff means an emergency shutoff switch.

f) All emergency shutoff switches shall be tested, and all shear valves visually inspected, at least annually to ensure that they are functioning properly and that the dispenser is mounted properly. Documentation of annual testing shall be kept at the motor fuel dispensing facility and available for examination by a representative of OSFM. If documentation of annual testing of emergency shutoff switches is not available, the facility shall be subject to demonstration of this equipment during inspection by OSFM."

Renumber the lettered paragraphs in the remainder of that Section as a result of the change immediately above.

In Section 175.250(f), immediately after "of the dispenser", insert ", or at a height as approved by OSFM,".

In subsection 175.260(f)(1), immediately after "posted", insert "on all-weather materials".

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In Section 175.300(a)(1), change "\$300" to "\$200".

Delete subsection 175.300(f)(15) and renumber the next paragraph in accordance with that change.

In subsection 175.300(g)(2), after "equipment is being installed.", insert "Copies of these notifications shall also be maintained at the site, or available within 30 minutes or before OSFM completes its inspection, whichever is later, for a period of at least 2 years."

In Section 175.300(h) and (i), change "\$300" to "\$200".

In subsection 175.300(k)(3), immediately after "is required", insert ", although at least one employee certified in the decommissioning module shall be required for the work".

In Section 175.320(b), immediately after "allowed time frame.", insert "Failure to meet the schedules also includes a failure to complete all UST work and site preparation necessary for the STSS inspection, including any necessary testing and related corrections, prior to the time the STSS is scheduled to first arrive."

In Section 175.320(f)(1), in the 6th sentence, replace "and cathodic protecting testing" with ", cathodic protection testing and the cleaning of tank and line interstitial spaces following a release".

In the second sentence of Section 175.400(a), immediately after "service", add ", the out of service period not to exceed one year".

In Section 175.400(a), replace "(See Sections 175.300(f) and" with the following:

"Although such work does not require a permit, the work must be scheduled with OSFM under Section 175.320 and the work must be done by a contractor that meets the licensing and certification requirements for a tank precision tester under 41 Ill. Adm. Code 176.470 and Part 172. (See also Section"

In Section 175.400(a), immediately after "functioning of the interstitial monitoring" add "and the tank has been out of service for at least one year".

In Section 175.400(c), immediately after "requirements of subsection (b)", insert ", and, on or after February 1, 2008 shall be double-walled with interstitial monitoring".

In Section 175.415(b), delete "(NWGLDE, for leak detection equipment)".

In Section 175.415(c), replace "incompatibility." with "release or other operational problems. Copies of these certifications provided to OSFM shall be maintained at the site or available within 30 minutes or before OSFM completes its inspection, whichever is later, for at least a 2-year period."

In subsection 175.415(d)(1), immediately after "1991", insert "if certified by the manufacturer as compatible with the product stored".

Delete subsection 175.415(d)(3).

At the end of Section 175.415(e), immediately after "tank.", insert the following:

"Existing field installed linings shall be allowed to remain but shall comply with the requirements of Section 175.500, including requirements for 5-year inspections by a certified contractor. New field-installed linings for compatibility

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purposes only are allowed after January 1, 2011 subject to the following requirements:

- 1) The lining material shall be compatible with the product stored, as established by proof of compatibility from the lining manufacturer;
- 2) All linings must comply with the requirements of Section 175.500, including requirements for lining inspections under Section 175.500(b) that must take place within 5 years after initial lining and every 5 years thereafter;
- 3) Linings that fail for any reason may not be touched up, repaired or totally relined and tanks failing any lining inspection shall be removed within 60 days; and
- 4) These provisions, allowing new linings for compatibility purposes only, shall not be used to circumvent prohibitions against lining tanks for purposes of corrosion protection or repair after January 1, 2011. A steel tank shall be deemed compatible with all motor, alternative and blended fuels in the absence of a detailed engineering evaluation by an Illinois Licensed Professional Engineer establishing that there is a compatibility issue."

In Section 175.420(b), in the 5th sentence, delete ", under an OSFM permit," and replace "(See Sections 175.300(f) and" with "Although such work does not require a permit, the work must be scheduled with OSFM under Section 175.320 and the work must be done by a contractor that meets the licensing and certification requirements for a tank precision tester under 41 Ill. Adm. Code 176.470 and Part 172. (See also Section".

At the end of Section 175.430(e), immediately after "to OSFM.", insert the following:

- "f) Except for the 20-foot clearance distance to basements, the clearances required under this Section shall not be required where both tanks and piping are double-walled with interstitial monitoring. For these USTs, the minimum clearance shall be such as to avoid projecting loads onto underground sewers, utilities, and other structures. The clearance must also be sufficient to ensure that site activity does not undermine the UST backfill materials (for example, pea gravel base) for any UST once in place."

In Section 175.445(c), delete "The cap shall be locked at all times when a filling or gauging process is not being performed."

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In subsection 175.450(e)(3), replace "Dispensers" with the following: "With the exception of industrial or fleet facilities with no connection to any UST from which regulated products are sold at retail, dispensers".

In subsection 175.450(e)(4), in the third sentence, replace "immediately removed from service:" with "replaced, with the nozzle immediately bagged if any portion of the hose or nozzle is actively leaking:".

In subsection 175.450(f)(3), replace "October 1, 1985" with "November 29, 1993" the first time it appears.

In subsection 175.450(f)(3)(A)(ii) and subsection 175.450(f)(3)(B)(v), replace "one year after the effective date of this Part" with "September 1, 2011" in both places.

In subsection 175.450(f)(3)(C), immediately after "unheated areas.", insert "Facilities in existence as of September 1, 2011 shall have the option of complying with the Edition of NFPA 72 incorporated by reference in 41 Ill. Adm. Code 174.210 or the NFPA alarm and sprinkler system requirements in effect at the time of their installation.".

In subsection 175.450(f)(3)(C)(i), replace "one year after the effective date of this Part" with "September 1, 2011".

In Section 175.455(d), replace "the effective date of this Part" with "September 1, 2010".

Immediately after Section 175.465(i), insert the following:

- "j) 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.".

Renumber the remaining paragraphs of that Section as a result of the change immediately above.

In the first sentence of Section 175.500(a), after "allowed", add "for all permit applications received on or".

In subsection 175.500(a)(2)(A), in the third sentence, replace "outside" with "located outside the tank and using a tripod with a mechanical winch adequate to lift the person and equipment working inside".

In subsection 175.500(a)(2)(G), change "10 years" to "5 years".

In subsection 175.500(a)(3)(A), change "Until" to "For all permit applications received prior to".

In Section 175.500(b), in the lead-in, change "10 years" to "5 years" and delete "prior to the effective date of these rules".

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In subsection 175.500(b)(2)(A)(ii), delete "to repair holes or patch thin areas in any part of the tank".

In subsection 175.500(b)(6), change "the 10-year" to "the initial 5-year".

In subsection 175.500(c)(8), replace "When vapor freeing" with "Except when using liquid nitrogen, when vapor freeing".

In subsection 175.510(a)(4)(A)(ii), change "3 years" to "2 years" in both places where it appears.

In subsection 175.510(a)(4)(A)(iii), replace "the effective date of these rules" with "September 1, 2010".

In Section 175.510(c), replace "Until" with "For all permit applications received prior to".

At the end of subsection 175.510(f)(2)(B), immediately after "cathodic protection.", insert "Cathodic protection shall be repaired or replaced if it fails to meet the standards provided in this subsection (f)(2)(B).".

In subsection 175.510(f)(3), immediately after "annually", insert "by a cathodic protection tester certified under the requirements of 41 Ill. Adm. Code 172".

In subsection 175.510(f)(4)(A) and subsection 175.510(f)(4)(C), change "3 years" to "2 years" wherever it appears.

In subsection 175.510(f)(4)(C), change "corrosion contractor" to "certified corrosion protection contractor".

In Section 175.600(b), change "176.340" to "176.350".

In Section 175.600(c), change "176.320" to "176.330".

In Section 175.600(d), immediately after "maintained.", insert "Self-diagnosing release detection systems may not be used to circumvent any testing required by 41 Ill. Adm. Code 174, 175, 176, and 177".

In subsection 175.630(a)(1)(H), change "3 years" to "2 years" and after "minutes" add "or before OSFM completes its inspection, whichever is later".

In subsection 175.630(b)(2)(B), replace "176.350" with "176.360".

In subsection 175.630(b)(2)(B), change "3 years" to "2 years".

In subsection 175.630(e)(5), replace "at least once every 3 years" with "by a licensed contractor at least once every 3 years and the records kept until the next test".

In subsection 175.630(f)(9), replace "the effective date of these rules" with "September 1, 2010".

In subsection 175.630(g)(2), replace "previous test" with "two previous tests" and immediately after "30 minutes" insert "or before OSFM completes its inspection, whichever is later".

In subsection 175.630(g)(3), change "3 years" to "2 years" and immediately after "30 minutes" insert "or before OSFM completes its inspection, whichever is later".

In subsection 175.640(a)(2), replace "the effective date of this Part" with "September 1, 2010".

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In subsection 175.640(a)(4), immediately after "performed annually.", insert "Self diagnosing line leak detectors are not alone sufficient to meet the requirement for an annual functionality test."

In subsection 175.640(a)(5)(B), replace "3 most recent" with "2 most recent" and immediately after "30 minutes" insert "or before OSFM completes its inspection, whichever is later".

In subsection 175.640(b)(1)(A), replace "the effective date of these rules" with "September 1, 2010".

In subsection 175.640(b)(3), replace "of this subsection (b)" with "for American suction in subsection (b)(1)".

In the second sentence of Section 175.650, replace "3 most recent" with "2 most recent" and replace "or less" with "or before OSFM completes its inspection, whichever is later,".

In the third sentence of Section 175.650, immediately after "subject to a red tag", insert "in the event that testing with corresponding documentation is not forthcoming within 30 days".

In Section 175.650(a), replace "5 years from the date of installation" with "the life of the UST release detection equipment".

In Section 175.650(b), change "3-year period" to "2-year period".

In Section 175.650(c), replace "the required 3-year period" with "5 years after the date of installation, and thereafter for 3 years".

In Section 175.650(c), replace "5 years from the date of installation" with "the life of the UST release detection equipment".

In Section 175.650(d), replace "an inspection" with "the last 2 cathodic protection total system tests".

In subsection 175.650(e)(1)(B), immediately after "maintained", insert "for the time periods required under Section 175.510".

In subsection 175.650(e)(2)(C), replace everything after "reconciliation records" with the following: "shall be maintained for 2 years and tightness test records shall be maintained until the next tightness test is conducted."

In subsection 175.650(e)(3)(A), immediately after "maintained" insert "for a period of at least 2 years".

In Section 175.700(a), immediately after "followed.", insert "No welding or cutting will be allowed inside the tank in conducting repairs."

In Section 175.700(e), line 3253, change "3 years" to "2 years".

In Section 175.700(i), change "Until" to "For permit applications received prior to".

In Section 175.800, change "176.350" to "176.360" and change "176.320" to "176.330".

In subsection 175.810(a)(1), replace ", with no more than one inch of product remaining in the tank." with the following: ". The UST is empty when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters (one

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inch) of residue, or 0.3 percent by weight of the total capacity of the UST system, remain in the system."

In subsection 175.810(a)(1), replace "the effective date of this Part" with "September 1, 2010".

In subsection 175.810(a)(6), line 3365, replace "subsection (b)" with "subsections (b) and (c)".

In subsection 175.810(a)(7), replace "176.320" with "176.330" and replace "a report" with "the report required under subsection 176.330(c)".

In Section 175.810(b), replace "the effective date of this Part" with "September 1, 2010".

In Section 175.810(b), replace "one inch of product" with "one inch of residue".

In Section 175.810(b), replace "no more than 2.5 centimeters (one inch) of product remains in the UST." with the following: "all materials have been removed using commonly employed practices so that no more than 2.5 centimeters (one inch) of residue, or 0.3 percent by weight of the total capacity of the UST system, remain in the system."

In Section 175.810(e), immediately after "conclusion of the 5-year period.", insert the following: "USTs with double-walled tanks and piping equipped with interstitial monitoring shall not be subject to the 5-year limit during the period the tank manufacturer's warranty is in place if all of the following requirements are met:

- 1) Corrosion protection has been and continues to be maintained,
- 2) A site assessment under Section 175.330 has been performed,
- 3) Any UST components found to be defective are replaced in the 45 days prior to any return to active use, and
- 4) All requirements for return to use under subsection 175.810(c) and this Section are otherwise met."

In Section 175.820(a), change "176.320" to "176.330".

Replace the text of 175.820(d) with the following:

"d) For all activity related to a change-in-service, the equipment must be compatible with the product being stored and notification of change-in-service must be provided on OSFM forms at www.state.il/OSFM/PetroChemSaf/Notify.pdf to OSFM not less than 30 days prior to the change-in-service."

In subsection 175.830(a)(8), immediately after "and bottom.", insert "A confined space entry permit shall be obtained prior to tank entry and MSDS sheets must be on site."

In subsection 175.830(a)(21), change "176.320" to "176.330".

In subsection 175.830(a)(22), immediately after "excavation", insert "and vented to 12 feet above grade".

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In subsection 175.840(d)(8), immediately after "and bottom.", insert "A confined space entry permit shall be obtained prior to tank entry and MSDS sheets must be on site."

In Appendix B, in the 4th row down, in the column under "Permit Required", immediately after "Upgrade permit", insert "(requires at least one employee certified in the decommissioning module)".

In Appendix B, in the 21st row down, in the column under "Type of UST Activity", delete "cleaning of interstitial spaces of tanks or piping following a release", and in the column under "Permit Required", delete "Repair permit".

- 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 rules currently in effect? No
- 14) Are there any amendments pending to this Part? No
- 15) Summary and purpose of rules: Reorganizes and consolidates existing underground storage tank system (UST) rules concerning self-service motor fuel dispensing, permitting of new installations and upgrades to USTs, technical requirements for USTs, corrosion protection, release detection, UST repairs, and UST closure. Requires attended, unattended, full service, fleet, and marine motor fuel dispensing facilities to comply with certain self-service and/or dispensing requirements, including now simplified rules for the location of emergency electrical shutoff switches. For motor fuel dispensing facilities, increases the maximum underground tank size from 20,000 to 30,000 gallons. Regarding UST design, replaces various requirements to meet specified national design codes or standards with a requirement that UST components be listed by a national third party organization as acceptable for the intended use. Regarding compatibility of the product with the UST materials, for petroleum products only, allows a certification by a licensed professional engineer or, for a leak detection device or dispenser only, annual inspections by a licensed contractor, to substitute for the third party listing for petroleum products only. For fleet dispensing of Class II and III motor fuels only, allows dispensing inside detached buildings separated by at least 20 feet from other buildings when done in compliance with NFPA 30A. Phases out the use of tank lining as a method of corrosion protection by terminating new field-installed linings for corrosion protection or repair after January 1, 2011, but allows existing linings to remain so long as they continue to pass routine lining inspections. Provides that linings can still be field-installed for compatibility purposes only if such linings meet certain requirements, including a requirement for post-installation inspections by a licensed contractor once every 5 years. Clarifies that placing a UST in out-of-service status is a temporary closure and requires

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USTs placed in temporary closure to be emptied to one inch or less of product. Also requires that USTs temporarily closed be inspected for compliance by the owner or operator every 6 months and that single-wall USTs over 30 years old be removed if in temporary closure for over one year. Implements newly enacted federal requirements for USTs. Makes non-substantive changes as compared to comparable text in current Part 170 text being repealed and replaced by new Parts 174, 175, and 176.

16) Information and questions regarding these adopted rules 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 Rules begins on the next page:

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TITLE 41: FIRE PROTECTION
CHAPTER I: OFFICE OF THE STATE FIRE MARSHAL

PART 175
TECHNICAL REQUIREMENTS FOR UNDERGROUND STORAGE TANKS AND THE
STORAGE, TRANSPORTATION, SALE AND USE OF PETROLEUM
AND OTHER REGULATED SUBSTANCES

SUBPART A: DEFINITIONS

Section
175.100 Definitions

SUBPART B: MOTOR FUEL DISPENSING FACILITY REQUIREMENTS

Section
175.200 General Requirements for Motor Fuel Dispensing Facilities
175.210 Attended Self-Service Motor Fuel Dispensing Facilities and Islands
175.220 Unattended Self-Service Motor Fuel Dispensing Facilities and Islands
175.230 Fleet Vehicle Motor Fuel Dispensing Facilities
175.240 Full Service Motor Fuel Dispensing Facilities and Islands
175.250 Marine Motor Fuel Dispensing Facilities
175.260 Miscellaneous General Operating Requirements

SUBPART C: PERMITS, FEES AND SCHEDULING

Section
175.300 Permitted UST Activity
175.310 Site Plans
175.320 Scheduling of UST Activity
175.330 Payment of 1988 Annual UST Fee

SUBPART D: DESIGN, INSTALLATION AND CONSTRUCTION REQUIREMENTS

Section
175.400 Design and Construction of USTs
175.405 Spill Containment and Overfill Prevention Equipment
175.410 Containment Sumps
175.415 UST Compatibility with Product Stored

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| 175.420 | Piping |
| 175.425 | UST Wiring Procedures |
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SUBPART E: CORROSION PROTECTION

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| 175.500 | Interior Lining and Lining Inspection of USTs |
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| 175.630 | Methods of and Requirements for Release Detection for Tanks |
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SUBPART G: REPAIRS TO UNDERGROUND STORAGE TANKS
AND DEFECTIVE EQUIPMENT

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- 175.820 Change-in-Service of USTs
175.830 Removal of USTs
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- 175.APPENDIX A UST Activity that Cannot Proceed Without an OSFM Inspector on Site
175.APPENDIX B The Type of OSFM Permit Required for Specific Permitted UST Activities
175.APPENDIX C Derivation Table

AUTHORITY: Implementing the Gasoline Storage Act [430 ILCS 15] and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15/2].

SOURCE: Adopted at 34 Ill. Reg. 13358, effective September 2, 2010.

SUBPART A: DEFINITIONS

Section 175.100 Definitions

Unless otherwise provided by the text in this Part, all terms in this Part shall be as defined in 41 Ill. Adm. Code 174.100.

SUBPART B: MOTOR FUEL DISPENSING FACILITY REQUIREMENTS

Section 175.200 General Requirements for Motor Fuel Dispensing Facilities

- a) Other than kerosene and except as otherwise provided in this Subpart B and 41 Ill. Adm. Code 180, all dispensing of flammable and combustible liquids at motor fuel dispensing facilities shall be from underground storage tanks.
- b) All motor fuel dispensing facilities must abide by the operating and other requirements of this Subpart B.
- c) Motor fuel dispensing facilities must hold a current and valid motor fuel dispensing permit for the particular type of facility involved in order to operate. No motor fuel dispensing facility shall open for business until inspected and approved by OSFM. Facilities operating under different classifications at any time shall meet the requirements for all respective classifications that apply to the facility. Approval for dispensing operations will be granted upon compliance with 41 Ill. Adm. Code 172, 174, 175, 176 and 177. No owner or other person or

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responsible entity shall permit any person to violate the provisions of this Subpart B. Violation of the requirements for motor fuel dispensing facilities of this Subpart B may subject the owner or operator to penalties that may include revocation of the facility motor fuel dispensing permit issued under this Subpart and the compliance certification (green decal) issued under 41 Ill. Adm. Code 177 as required for operation of the facility. Failure to remain in compliance with UST rules may also result in OSFM's issuance of a red tag for the tanks or facility at issue, prohibiting any further operation of the facility or further deposit of regulated substances into any tank subject to a red tag. Maintenance of dispensers, hoses, emergency breakaways, electrical equipment directly tied to the UST, and emergency shutoffs and shear valves are examples of required items subject to red tag for noncompliance.

- d) Applications for a Motor Fuel Dispensing Facility Permit
- 1) No construction of a motor fuel dispensing facility or modification of an existing motor fuel dispensing facility shall be commenced until applications and plans are given written approval in the form of a review letter by OSFM.
 - 2) The applications shall be those prescribed by OSFM and plans must be submitted in triplicate for each motor fuel dispensing facility showing compliance with applicable OSFM rules. The plans shall be drawn to scale and shall, at a minimum, include the following:
 - A) Lot lines and dimensions.
 - B) Building lines and dimensions.
 - C) Location and size of tanks and pump island.
 - D) Location of control station (if applicable).
 - E) Type, make, model and location of dispensing devices or equipment.
 - F) Fire extinguisher locations.

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- G) Clearances from dispensing devices to property lines and buildings both on and off the property.
- 3) After examining the submitted application and plans, OSFM shall issue a review letter valid for a period of 6 months. Submission of incomplete or illegible applications and/or plans shall be cause for denial of applications.
- 4) Motor fuel dispensing facility work of the following kinds requires application and plan submittal to OSFM prior to commencing the work:
- A) A station being newly constructed.
 - B) A station being established in a building that previously contained a different occupancy.
 - C) Making substantial modifications to an existing facility. Substantial modification would include, but not be limited to:
 - i) Installation of new dispensing islands or dispensers in new locations.
 - ii) Relocation of an emergency shutoff switch.
 - D) Changing from one facility category to another, as those categories are listed in Sections 175.210 through 175.250. The requirement to obtain a permit for the change will still apply even if only part of the facility is being changed (for example only one dispenser island) or if the facility plans to operate under a different category for only a portion of a 24-hour period.
 - E) Construction or relocation of buildings on the property, even if they are not the "primary" motor fuel dispensing facility station control buildings.
- 5) Motor fuel dispensing facility work of the following kinds does not require application and plan submittal to OSFM prior to commencing the work. This type of work or modifications will be inspected by OSFM when the facility is due for permit renewal:

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- A) Like-for-like replacement of existing equipment (e.g., replacement of existing dispensing cabinets or components not involving the shear valve or items below the shear valve; changing existing dispensing nozzles, hoses or fittings; replacing an existing emergency shutoff switch in its current location).
 - B) Replacing (or installing additional) collision protection posts or guardrails.
 - C) Changing or replacing warning or instructional signs.
 - D) Replacing or adding to the complement of portable fire extinguishers.
- 6) In addition to the requirement for a motor fuel dispensing permit pursuant to this Subpart before any dispensing can occur, work affecting UST components or equipment shall also require a separate Section 175.300 permit to be obtained via the submittal of separate applications to OSFM pursuant to that Section.
- e) Issuance and Renewal of Motor Fuel Dispensing Facility Permits
- 1) A motor fuel dispensing facility permit or permit renewal will be issued by OSFM after an on-site inspection has been conducted by OSFM to verify compliance with all applicable OSFM rules.
 - 2) No motor fuel dispensing facility shall open for business until inspected and approved by OSFM, and until OSFM issues a motor fuel dispensing facility permit, which must be prominently displayed at all times at the motor fuel dispensing facility.
 - 3) Motor fuel dispensing facility permits shall be issued on a biennial basis. These permits shall expire on December 31 of the year shown on the permit.
 - 4) Any name or ownership change shall require separate notification to OSFM within 30 days.

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- f) Storage and handling of LP gases at motor fuel dispensing facilities shall be in accordance with 41 Ill. Adm. Code 200.

Section 175.210 Attended Self-Service Motor Fuel Dispensing Facilities and Islands

All dispensing of Class I, II or III liquids at attended self-service motor fuel dispensing facilities and islands must be under the supervision and control of an attendant. The following requirements shall apply to attended self-service motor fuel dispensing facilities and islands:

- a) All electrical installations shall comply with the edition of NFPA 70 in effect at the time of installation of the electrical equipment and shall further comply with the applicable requirements of Section 175.425.
- b) Every self-service motor fuel dispensing facility shall maintain a control station in a location readily accessible to the attendant. Separate fueling areas more than 100 feet apart and designated by signage so indicating may have separate control stations if each separate fueling area complies with this Subpart B and 41 Ill. Adm. Code 174, 175 and 176.
- c) A method that does not require coins or currency to activate shall be provided for the attendant to contact the fire department.
- d) Conspicuously marked and easily accessible emergency shutoff switches must be provided at each facility and shall be:
- 1) Located so that at least one emergency shutoff is at least 20 feet but not more than 100 feet from each dispenser.
 - 2) Interconnected so that activation of one shutoff activates all the shutoffs whenever more than one emergency shutoff switch is provided.
 - 3) Equipped with an additional emergency shutoff at the control station, which shall be conspicuously marked and readily accessible to the attendant, whenever the control station is less than 20 feet from any dispenser or a security booth is provided for the attendant. The emergency shutoff shall be located in a position to allow all dispensing devices to be readily visible to the attendant, or as approved by OSFM, and where a security booth is provided, the control station and emergency shutoff shall be inside the security booth.

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- 4) Compliance retrofits shall be completed by September 1, 2013.
- e) Power for illumination of dispensing areas required by this Subpart B shall not be affected by activation of any of the electrical shutoffs when the illumination is located outside of hazardous (classified) locations or is intrinsically safe.
- f) Resetting from an emergency electrical shutoff condition shall require manual intervention by the owner or attendant and shall be accomplished only after the condition that caused it to be activated has been corrected.
- g) All dispensing units shall be readily visible from the control station without assistive devices. However, as an alternative, in the event that the attendant's view of a dispenser is permanently obstructed, or if a dispenser is located so that activity at the dispenser is not readily visible, closed-circuit cameras that provide a view of each side of the dispensing unit and project an image on a screen at least 6 inches in diagonal located at the control station may be used. The cameras shall be allowed to sweep to provide a view of multiple dispensing locations, but must provide a view on the screen of each dispensing unit at least every 30 seconds. In lieu of the closed-circuit camera, the facility may elect to have an emergency electrical shutoff switch that shall be located at least 20 and not more than 50 feet from the dispenser that has a permanently obstructed view. Using an emergency shutoff switch in lieu of the closed-circuit camera pursuant to this subsection (g) must be approved in advance by OSFM. If a closed-circuit camera or viewing screen is inoperable and cannot provide surveillance of dispensing units to the attendant at the control station, and an emergency electrical shutoff switch has not been approved by OSFM and provided in lieu of the camera as provided in this subsection (g), self-service dispensing of fuel at these dispensers is prohibited.
- h) The attendant shall at all times be able to communicate with persons in the dispensing area. For distances greater than 40 feet between the control station and the dispenser, a communication system audible to each dispensing area shall be required that allows the attendant to give instruction or warning to the customer.
- i) All emergency shutoff switches shall be tested, and all shear valves visually inspected, at least annually to ensure that they are functioning properly and that the dispenser is mounted properly. Documentation of annual testing shall be kept at the motor fuel dispensing facility for 2 years and available for examination by a representative of OSFM. If documentation of annual testing of emergency shutoff

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switches is not available, the facility shall be subject to demonstration of this equipment during inspection by OSFM.

- j) Attendants
- 1) At all times when an attended motor fuel dispensing station is open for public use, at least one attendant shall be on duty, and no motor fuel shall be dispensed at any time when the attendant is not at or near the control station or pump island. The attendant's primary duty shall be to supervise the dispensing of motor fuels, motor oils and services normally related to the dispensing.
 - 2) The attendant shall refuse service to any person who is smoking or who appears to be unable to dispense fuel safely, and shall shut off the dispensing unit if a patron fails to follow instructions in compliance with OSFM rules. It shall be the responsibility of the attendant to:
 - A) carefully observe the dispensing of liquids into vehicles and portable containers;
 - B) control or eliminate sources of ignition;
 - C) immediately notify local fire authorities of any product spilled;
 - D) take other appropriate actions to prevent ignition of accidental spills;
 - E) refuse service to any customer who appears to lack the ability to properly and safely utilize the equipment (e.g., intoxication, inability to place the nozzle in the gas tank receptacle, inability to follow written or oral instructions of the attendant, or the person is too young to be aware of the hazards and requirements for safe dispensing of motor vehicle fuels);
 - F) to inspect all portable containers for conformance with 41 Ill. Adm. Code 174.
- k) All attendants and other employees of the motor fuel dispensing facility shall be thoroughly instructed in the location, operation and proper use of the

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communication system, control station, emergency shutoff switches, fire extinguishing equipment, operation of the dispensing units, and safety regulations for the dispensing of motor fuels. Upon request, all attendants shall demonstrate to OSFM their ability to use this equipment. Facilities that fail to instruct employees in these requirements shall be in violation and subject to enforcement action.

- l) No dwelling unit or sleeping facilities of any kind for the owner, attendant or any person shall be permitted at a self-service motor fuel dispensing facility. This does not include dormitory facilities for use of drivers at truck stops, provided that the dormitories are in compliance with the applicable provisions of 41 Ill. Adm. Code 100.
- m) Fire extinguishers shall be provided in accordance with 41 Ill. Adm. Code 174.350.
- n) Signs giving instructions for the operation of dispensing equipment must be conspicuously posted on each dispensing island where self-service is offered.
- o) Minimum Signage. Signs shall be provided that are clearly visible to all self-service customers. The signs shall be made of all-weather material and the lettering shall be not less than $\frac{7}{8}$ inch high. The signs shall be mounted with not less than 4 nor more than $6\frac{1}{2}$ feet from the bottom of the sign to the ground, or at a height approved by OSFM, and shall include the following wording, at a minimum:
 - 1) "Warning";
 - 2) "Stop Engine";
 - 3) "No Smoking";
 - 4) "It is unlawful and dangerous for anyone to dispense gasoline into unapproved containers";
 - 5) "It is unlawful and dangerous to dispense gasoline without an attendant on duty".

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- p) Dispensing activity shall be limited to persons old enough to hold a valid driver's license.
- q) Collision Protection for LP Gas Storage Cabinets at Motor Fuel Dispensing Facilities. LP gas storage cabinets (including cabinets for LP gas tank exchange for gas grills) shall comply with Section 8.4 of NFPA 58, incorporated by reference in 41 Ill. Adm. Code 174.210, and shall also provide collision protection that consists of one of the following options:
 - 1) guardrails;
 - 2) steel or concrete bollards;
 - 3) raised sidewalks that are at least 5 inches tall at the face with the cabinet set up so the distance from the face of the raised sidewalk to the front of the cabinet is at least 40 inches. This measurement may also include an additional bumper guard to reach the required 40 inches. Raised sidewalks may also consist of curbs or parking bumper guards; or
 - 4) any other arrangement certified by a Licensed Professional Engineer in accordance with national codes of practice and accepted engineering practices and approved in advance by OSFM.

Section 175.220 Unattended Self-Service Motor Fuel Dispensing Facilities and Islands

Unattended self-service motor fuel dispensing facilities and islands shall comply with all of the requirements for attended motor fuel dispensing facilities and islands (see Section 175.210) with the additions and modifications provided in this Section. Requirements specific to control stations and attendants in Section 175.210 are not applicable to unattended facilities. If a motor fuel dispensing facility is to be operated as an unattended station during any portion of a day, it shall meet the standards for unattended operation.

- a) **Minimum Signage.** Signs shall be posted in all weather materials by each actuator (or at the dispenser if the actuator is an integral part of the dispenser). These instructions shall be mounted with not less than 4 feet nor more than 6½ feet from the bottom of the sign to the ground, or at a height approved by OSFM, and include, at a minimum, the following information in letters not less than ⅞ inch in height:

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- 1) "No smoking";
 - 2) "Turn off engine";
 - 3) "Containers for gasoline must be red";
 - 4) "Containers for kerosene must be blue";
 - 5) "It is dangerous and unlawful to fill unapproved containers with gasoline, diesel or kerosene";
 - 6) "In case of fire or spill use emergency shutoff (or stop) button located at..." (owner must insert the locations of the emergency shutoffs);
 - 7) "Master electrical shutoff transmits fire alarm to fire department".
- b) Conspicuously marked and easily accessible emergency shutoff switches must be provided at each dispensing island, in addition to the emergency shutoff switch that is required to be located at least 20 feet but not more than 100 feet from each dispenser. When more than one emergency shutoff switch is provided, all devices shall be interconnected. Stations with only one island may elect to utilize a single emergency shutoff switch located at least 20 feet but not more than 100 feet from each dispenser, or at a location approved by OSFM. A sign shall be placed at or near each emergency shutoff switch stating that activation of the emergency shutoff switch "transmits a fire alarm to the fire department". Resetting from an emergency electrical shutoff condition shall require manual intervention by the owner or attendant and shall be accomplished only after the condition that caused it to be activated has been corrected.
- c) Fire Alarm Systems
- 1) Activation of any emergency shutoff switch at the facility shall automatically transmit an alarm to local emergency fire services providers by sending a signal via one of the following mechanisms, which shall meet the requirements of NFPA 72:
 - A) Auxiliary alarm system;
 - B) Central station alarm connection;

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- C) Proprietary alarm receiving facility or system;
 - D) Remote station alarm connection; or
 - E) When the mechanisms in subsections (c)(1)(A) through (c)(1)(D) are not available, an alternate plan for notification of local emergency services meeting NFPA 70 and NFPA 72 and approved by OSFM in advance of the use.
- 2) The fire alarm system shall be installed, tested and maintained according to NFPA 70 and NFPA 72. The alarm system must also meet the alarm system requirements of subsections (h)(1)(C) and (h)(2)(D), including the requirement for an audible alarm when triggered.
- d) All emergency shutoff switches shall be tested, and all shear valves visually inspected, at least annually to ensure that they are functioning properly and that the dispenser is mounted properly. Documentation of annual testing shall be kept at the motor fuel dispensing facility and available for examination by a representative of OSFM. If documentation of annual testing of emergency shutoff switches is not available, the facility shall be subject to demonstration of this equipment during inspection by OSFM.
- e) Actuators may use currency, coins, keys or cards to activate dispenser and pumps.
- f) Dispensing devices or actuators must limit the delivery of product in a manner that requires reactivation of the latch open (hold-open) device for any dispensing beyond the following amounts:
- 1) Motor vehicle fuels (Class I, II and III)
 - A) Class I liquids (gasoline, gasohol, ethanol, motor fuel blends) – maximum 50 gallons.
 - B) Class II and III liquids (diesel fuel) – maximum 250 gallons.
 - 2) Kerosene (grade K-1 only) – 18 gallons.
 - 3) Other Class I, II and III liquids – 6 gallons.

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- g) Except for farms, when kerosene is to be dispensed at unattended motor fuel dispensing facilities, only grade K-1 kerosene shall be dispensed.
- h) All unattended motor fuel dispensing facilities shall have installed and maintained equipment and systems that meet the requirements of subsection (h)(1) or (h)(2), although local governments may require option (h)(1) or (h)(2):
 - 1) Unattended dispensing areas for Class I, II and III liquid motor fuels utilizing this option shall be protected by an automatic fire suppression systems meeting the standards of UL 1254 and NFPA 17. If a fire suppression system meeting these requirements is installed, no fire extinguishers are required. In the event of a fire suppression system discharge, the fuel dispensing facility shall not be returned to service until the suppression system is recharged and fully operational in the area protected by the system. The fire suppression system shall, when activated:
 - A) Automatically activate an emergency shutoff switch that is equipped so that all fuel dispensing units would be stopped by the activation.
 - B) Sound a local alarm notification device that is audible throughout the dispensing area and meets the requirements of NFPA 72.
 - C) Automatically transmit an alarm, through a system installed, tested and maintained according to NFPA 70 and 72, to local emergency fire services providers by sending a signal via one of the following mechanisms, which shall meet the requirements of NFPA 72:
 - i) Auxiliary alarm system;
 - ii) Central station alarm connection;
 - iii) Proprietary alarm receiving facility or system;
 - iv) Remote station alarm connection; or

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- v) Where the mechanisms in subsections (h)(1)(C)(i) through (iv) are not available, an alternate plan for notification of local emergency services meeting NFPA 70 and NFPA 72 and approved by OSFM in advance of the use.
 - D) Include extinguishing agent discharge nozzles mounted above dispensers and at or near ground level to discharge agent underneath vehicles being fueled.
- 2) Unattended dispensing areas for Class I, II and III motor vehicle fuels electing this option shall be equipped with portable fire extinguishers and a fire detection system located under a weather enclosure canopy (unless written documentation is submitted verifying that the detection system will operate properly without a canopy).
- A) The system shall detect a fire in the dispensing area through the use of rate compensation, rate of rise or flame sensing detectors. The installation must meet the requirements of NFPA 72.
 - B) Activation of the system shall automatically activate an emergency shutoff switch that is equipped so that all fuel dispensing units would be stopped by the activation.
 - C) Activation of the system shall cause the sounding of a local alarm notification device audible throughout the dispensing area and meeting the requirements of NFPA 72.
 - D) Activation of the system, which shall be installed, tested and maintained according to NFPA 70 and 72, shall automatically transmit an alarm to local emergency fire services providers by sending a signal via one of the following mechanisms, which shall meet the requirements of NFPA 72:
 - i) Auxiliary alarm system;
 - ii) Central station alarm connection;
 - iii) Proprietary alarm receiving facility or system;

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- iv) Remote station alarm connection; or
 - v) Where the mechanisms in subsections (h)(2)(D)(i) through (iv) are not available, an alternate plan for notification of local emergency services meeting NFPA 70 and NFPA 72 and approved by OSFM in advance of the use.
- E) Fire extinguishers meeting the requirements of 41 Ill. Adm. Code 174.350 shall be installed and maintained at each island and at the emergency shutoff switch. Cabinets, or other enclosures for extinguishers, shall not require breaking of glass or other acts that could injure users attempting to access the extinguishers, though doors, panels and local alarm systems may be provided for these enclosures at the owner's option.
- 3) The annual system testing required under NFPA 17 and NFPA 72 must be documented and the documents regarding this testing kept at the facility or available within 30 minutes or before OSFM completes its inspection, whichever is later.
 - 4) In meeting the requirements of subsections (c) and (h), facilities in existence as of September 1, 2010 shall have the option of complying with the editions of NFPA 17, NFPA 70 and NFPA 72 and UL 1254 incorporated by reference in 41 Ill. Adm. Code 174.210 or the OSFM alarm system and fire suppression and fire detection system requirements in effect at the time of their installation.
 - 5) Any changes to either fire suppression or fire detection systems and related alarms require that the facility notify OSFM in writing at least 60 days in advance of the change.
- i) At least once each year the facility shall verify that the alarm notification devices required under subsections (c) and (h) of this Section are working. The facility shall record the verification date and results on a record kept along with the other facility records.

Section 175.230 Fleet Vehicle Motor Fuel Dispensing Facilities

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Fleet vehicle motor fuel dispensing facilities shall comply with all of the requirements for unattended self-service motor fuel dispensing facilities in Section 175.220, except that the signs required under Section 175.220(a) and the fire detection and fire suppression systems required under Section 175.220(h) shall not be required. Fleet facilities shall comply with requirements for portable fire extinguishers found in Section 175.220(h)(2)(E) and 41 Ill. Adm. Code 174.350. Other signage requirements under Section 175.220 (for example, that emergency shutoffs be conspicuously marked) shall still apply, along with the remainder of the requirements of Section 175.220.

Section 175.240 Full Service Motor Fuel Dispensing Facilities and Islands

Full service motor fuel dispensing facilities and islands shall comply with all of the requirements for attended self-service motor fuel dispensing facilities in Section 175.210, with the following modifications or additions.

- a) A control station and audible communication system shall not be required at a full service motor fuel dispensing facility or island. The attendant shall, however, at all times be able to communicate with persons in the dispensing area. Facilities with dispensers that are not on a full-service island remain subject to the requirements for attended facilities under Section 175.210 for the dispensers that are not full-service.
- b) Minimum Signage. Signs shall be provided that are clearly visible to all self-service customers. The signs shall be mounted not less than 4 feet nor more than 6½ feet from the bottom of the sign to the ground and made of all-weather rigid material and the lettering shall be not less than 7/8 inch high. The signs shall, at a minimum, include the wording "No dispensing by anyone other than the attendant".

Section 175.250 Marine Motor Fuel Dispensing Facilities

- a) Marine motor fuel dispensing facilities shall be of the attended type only. Self-service is prohibited.
- b) No vessel or marine craft shall be made fast to any other vessel or marine craft occupying a berth at a fuel dispensing location during fueling operations.

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- c) Smoking materials, including matches and lighters, shall not be used within 20 feet of areas used for fueling, servicing fuel systems for internal combustion engines, or receiving or dispensing Class I liquids.
- d) The fuel delivery nozzle shall be put into contact with the vessel fill pipe before the flow of fuel commences and this bonding contact shall be continuously maintained until fuel flow has stopped to avoid possibility of electrostatic discharge.
- e) At all marinas, clearly identified emergency shutoff switches that are readily accessible in case of fire or physical damage at any dispensing unit shall be provided on each marine wharf and located at least 20 feet but not more than 100 feet from each dispenser, or at a location as approved by OSFM. The shutoffs shall be interlocked to shut off power to all pump motors from any individual location and shall be manually reset only from a master switch. Each emergency shutoff switch shall be identified by an approved sign on all-weather materials stating "MASTER ELECTRICAL SHUTOFF" or "EMERGENCY SHUTOFF SWITCH" in 2 inch red capital letters. Resetting from an emergency electrical shutoff condition shall require manual intervention by the owner or attendant and shall be accomplished only after the condition that caused it to be activated has been corrected. A master electrical shutoff means an emergency shutoff switch.
- f) All emergency shutoff switches shall be tested and all shear valves visually inspected at least annually to ensure that they are functioning properly and that the dispenser is mounted properly. Documentation of annual testing shall be kept at the motor fuel dispensing facility and available for examination by a representative of OSFM. If documentation of annual testing of emergency shutoff switches is not available, the facility shall be subject to demonstration of this equipment during inspection by OSFM.
- g) Minimum Signage. A conspicuous sign shall be mounted not less than 4 feet nor more than 6½ feet above the base of the dispenser, or at a height approved by OSFM, on all-weather materials, visible in all directions, stating in prominent letters not less than ⅞ inch in height "No dispensing by anyone other than the attendant".
- h) Fire Extinguishers. Fire extinguishers shall be provided in accordance with 41 Ill. Adm. Code 174.350.

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- i) Spill containment shall be provided on docks adjacent to dispensers to contain spills that may occur during the filling of approved portable containers. Portable containers of 12 gallons or less shall be filled on the dock where spill containment is provided.

Section 175.260 Miscellaneous General Operating Requirements

- a) No motor vehicle or other craft shall be serviced with Class I, II or III fuel until motor and ignition have been shut off. Equipment or appliances utilizing pilot lights, arcing motors or similar devices shall be shut off (in addition to motors and ignitions) before servicing the vehicle.
- b) No smoking shall be permitted in the dispensing and vehicle service areas at any time.
- c) No open lights or flames shall be permitted on the premises, except in heating devices within station buildings.
- d) Premises shall be kept neat, clean and free from rubbish or loose trash. Brush, debris, wood chips, mulch and other combustibles shall not be located within 10 feet of dispensing areas or dispensers.
- e) Cleaning of station floors or premises with gasoline, naphtha or other Class I or Class II liquids shall not be permitted.
- f) Kerosene dispensers installed after April 1, 1995 shall not be located on the same island or within 20 feet of any petroleum or hazardous substance dispensers. Labeling of kerosene dispensers shall comply with the Space Heating Safety Act [425 ILCS 65], including the following requirements:
 - 1) where kerosene is offered for sale, a conspicuous notice shall be posted on all-weather materials and visible to all purchasers at the place of sale stating that the product is kerosene, and, in letters at least 3 inches in height, stating whether it is grade K-1 or K-2; and
 - 2) where K-2 kerosene is sold, an additional notice shall be posted on all-weather materials adjacent to or immediately below any listing of prices stating the following in letters 3 inches in height: "This is grade K-2 kerosene and it is not to be used in portable unvented kerosene heaters".

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- g) All dispensing areas shall be provided with ample lighting.

SUBPART C: PERMITS, FEES AND SCHEDULING

Section 175.300 Permitted UST Activity

Any UST activity or other permitted activity under this Section must comply with the following:

- a) Permit Requirements
- 1) Prior to the onset of UST activity, a completed permit application, including fee payment of \$200 per permitted activity, shall be submitted to OSFM.
 - 2) A separate fee is required for each type of activity.
 - 3) 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 licensed contractor obtaining the permit.
 - 4) Only contractors currently licensed and certified in accordance with 41 Ill. Adm. Code 172 may obtain permits. Contractors are required to be OSFM licensed and have at least one employee doing the work who shall be certified under 41 Ill. Adm. Code 172 for the UST activity that is being performed. Contractor licensing applications and information can be found at www.state.il.us/osfm/forms/AppUSTContractorLicense.pdf and at www.state.il.us/osfm/PetroChemSaf/172%20Contractor%20Licensing%20Rules.pdf.
 - 5) Only contractors, their employees or subcontractors may perform the permitted UST activity in accordance with 41 Ill. Adm. Code 172.
 - 6) The current OSFM permit application forms for the given activity shall be submitted. Electronically reproduced forms shall be identical to the current OSFM-approved permit application forms at www.state.il.us/osfm/Techservices/application_forms.htm.

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- 7) Permit applications denied or rejected the second time will require a new permit application and submission of a new fee.
 - 8) Permit applications and issued permits are not transferable.
 - 9) The owner of the UST must be identified on the permit application.
 - 10) No permit may be issued when the current owner listed on the application owes fees pursuant to Section 175.330 or 41 Ill. Adm. Code 176.450 until the fees are paid in full.
 - 11) No permit may be issued for UST activity unrelated to correcting existing violations while the violations continue to exist on that same site.
- b) 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 175.710, and the permit shall be available to an OSFM representative, on request. For emergency repair procedures, see Section 175.710. 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 pursuant to 41 Ill. Adm. Code 172.
 - c) No UST owners or operators may perform any UST activity, unless the owner complies with the licensing and certification requirements of 41 Ill. Adm. Code 172.
 - d) UST activity performed that is not in compliance with the conditions of a permit issued to a licensed contractor, or false information supplied to obtain a permit, is cause for permit revocation, or suspension or revocation of the license of the contractor to perform any UST activity.
 - e) For purposes of this Section, the following terms shall be considered interchangeable or equivalent: "installer" and "replacer"; "install" and "replace"; "repairer" and "a person who upgrades"; "repair" and "upgrade"; "remover" and "a person who abandons-in-place"; and "remove" and "abandon-in-place".
 - f) Actions Requiring a Permit. A permit is required to do any of the following to USTs:

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- 1) install new underground tanks or piping;
- 2) remove tanks, piping or interstitial sensors;
- 3) abandon-in-place a UST or piping;
- 4) upgrade;
- 5) repair, including flex connector replacement;
- 6) line;
- 7) inspect linings;
- 8) emergency repairs;
- 9) repair or install cathodic or corrosion protection, including on flex connectors;
- 10) perform any hot work on a UST;
- 11) installation, upgrade or removal of the following (except for any like-for-like replacements listed in subsection (g)):
 - A) leak detection systems (see Section 175.630(g), providing that existing interstitial monitoring sensors and systems cannot be removed);
 - B) spill containment at the tank or remote fills; and
 - C) overfill prevention equipment;
- 12) dispenser activity that triggers the requirement to install under-dispenser containment under Section 175.410(d) and any new dispenser location;
- 13) submersible activity that triggers the requirement to install a tank containment sump under Section 175.410(b);

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- 14) electronic enhancement of an automatic tank gauge (ATG) that requires work within the ATG control module;
 - 15) connection of a new or existing bulk load-out to a new or existing UST at a motor fuel dispensing facility.
- g) Actions Not Requiring a Permit.
- 1) No permit is required to do like-for-like replacements for the following:
 - A) submersible pumps, if already equipped with a tank containment sump;
 - B) spill containment devices (replacements shall be at least 5 gallons capacity);
 - 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;
 - I) rectifiers; or
 - J) interstitial monitoring sensors.
 - 2) The exceptions listed in subsection (g)(1) 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. However, merely disconnecting a fitting, coupling or union without replacing that fitting, coupling or union to accomplish the replacement of the like-for-like equipment on the list in subsection (g)(1) will not by itself trigger the requirement for a permit.

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Although a permit is not required for like-for-like replacements, the work must still be performed by a licensed contractor. When product piping is broken or disconnected to perform a like-for-like replacement, the piping line must be precision tested as tight prior to putting the piping line back into service. Replacing any of the equipment listed in subsection (g)(1) must be reported in writing, within 24 hours after the activity, to OSFM, on forms provided by OSFM at www.state.il.us/osfm/PetroChemSaf/LikeForLike.pdf, listing the make, model and manufacturer of the equipment, and indicating where the equipment is being installed. Copies of these notifications shall also be maintained at the site or available within 30 minutes or before OSFM completes its inspection, whichever is later, for a period of at least 2 years. For a list of the types of OSFM permits required for specific permitted UST activities, see Appendix B.

- h) Expiration and Extension of Permits. Permits expire 6 months from the date they are issued. The applicant may apply for additional 6-month extensions. Permit extensions that circumvent newly adopted technical requirements will not be allowed. If a party submits evidence of non-cancelable contracts executed in reliance on the permit sought to be extended, or if work has commenced, a party will not be viewed as circumventing the technical requirement. Each extension request must be submitted in writing before the permit lapses and must be accompanied by a \$200 fee.
- i) Amended Permits. Granted permits may be amended only once without a new application fee. For all permit amendments, each change that requires a new contractor, more than minor changes to the site plan, or another engineering review to determine acceptability will require submission of a new permit application and \$200 fee. "As-built" drawings reflecting any amendment to the site plan shall be submitted to OSFM within 10 days after the amendment. Permit amendments that circumvent newly adopted technical requirements will not be allowed.
- j) Site plans showing setback distances shall be submitted in triplicate, by the contractor listed on the permit application, to OSFM. Site plans are subject to approval by OSFM before any new construction, addition or remodeling that alters building size, when encroachment on required setbacks would occur; dispenser locations; or locations or sizes of vehicle service area or storage tanks. Removals, lining and upgrades that involve replacing equipment with that of identical manufacture and model do not require submission of site plans.

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k) Miscellaneous

- 1) In the event that equipment requiring a permit is installed without a permit or in violation of the terms of the permit, the owner/operator will be required to do the following:
 - A) Hire an OSFM licensed contractor other than the person and company who did the unauthorized/non-permitted work.
 - B) Submit the proper permit application to OSFM and obtain approval from OSFM.
 - C) The work shall be uncovered as necessary to allow proper inspection of the UST installation or modification at issue and OSFM may require any changes necessary to bring the installation into compliance with 41 Ill. Adm. Code 160, 174, 175, 176, 177 and 180.
- 2) When temporarily replacing a defective electronic line leak detector with a mechanical line leak detector, the contractor must notify OSFM in writing within 8 working hours after replacement, on a form provided by OSFM at www.state.il.us/osfm/PetroChemSaf/LikeForLike.pdf. Replacement of the temporary mechanical line leak detector with the final electronic line leak detector must be completed within 10 working days, and notification of this replacement shall be submitted to OSFM on a form provided by OSFM at www.state.il.us/osfm/PetroChemSaf/LifeForLike.pdf within the same 10 day period.
- 3) When piping is removed from an existing trench and replaced with new piping installed in another location at a site, both a removal and upgrade permit are required. However, where piping is removed from an existing trench and replaced with new piping installed in the same trench, only an upgrade permit is required, although at least one employee certified in the decommissioning module shall be required for the work.
- 4) A valid permit does not remedy the technical compliance aspects of a violation until the work is completed and does not allow for any extensions of time for compliance. Completion of the work and a

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satisfactory OSFM final inspection does not preclude OSFM enforcement action against the person who illegally installed the equipment without a permit.

- 5) A permit must be obtained prior to construction of a building or structure where loading and unloading or dispensing operations will occur. However, the permit will not require the customary permit fee, nor licensing or certification of a contractor, under this Section.
- l) Permits for Marinas. Due to the unique characteristics of the site at marina locations, additional information will be required as specified in this subsection (l) and as determined to be necessary by OSFM.
 - 1) Additional statements will be required as requested by OSFM to substantiate ownership or consent from authorities having jurisdiction over the waterway.
 - 2) Site Plans and Drawings. Detailed site plans and drawings shall be supplied as requested by OSFM to show length, width, location and configuration of the dock, type of construction, dispenser location and dispensing area, along with profiles of the UST indicating differences in elevation between tanks, piping and dispensers showing all valves, manholes, sumps, location of leak detection equipment, anti-siphon devices, pressure relief valves, pipe chases, sewage lines, etc. High water, low water and normal pool elevations shall also be given in relation to tank, piping and dispensers, along with any pertinent site characteristics.
- m) Fleet mobile fueling sites and related contractors require a different permit under 41 Ill. Adm. Code 174.440 and 174.450.
- n) In the event there is a delegation of authority to the City of Chicago to enforce UST rules and regulations, pursuant to the Gasoline Storage Act [430 ILCS 15/2], subject to the terms of that agreement, the City has the authority to modify subsections (a)(1) through (a)(10) of this Section to issue the permits and collect the fees for its own use, regarding UST activities within the jurisdiction of the City.

Section 175.310 Site Plans

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When OSFM permit application forms indicate that permit submittals must be accompanied by site plans, the following shall apply:

- a) Site plans shall be submitted simultaneously with associated permit applications and shall accurately reflect the scope and all components of the work involved.
- b) Site plans shall be submitted in triplicate, by the contractor listed on the permit application.
- c) Site plans shall be legible and sizes shall be 8½" x 11", 8½" x 14" or 11" x 17" only; blueprints are not acceptable as site plans.
- d) Site plans shall be drawn to an identified scale, or all dimensions shall be labeled to allow OSFM to determine compliance with applicable rules.
- e) Site plans shall indicate or contain the following information:
 - 1) The name of the OSFM-licensed contractor proposing the work;
 - 2) The name and address of the facility where the proposed work is to occur, including the location of the proposed work with reference to city, village or town;
 - 3) The plot to be utilized and its immediate surroundings on all sides. All property lines are to be designated and adjacent streets and highways shall be named, and legends or markings shall include a compass marking the directions of north, east, south and west;
 - 4) The components of the installation as proposed, including tanks and their capacities, name and class of liquids to be stored, piping, pumps, dispensers, buildings and all UST equipment. When partial piping is being installed or replaced, show total length of the entire piping run and identify the specific length and location of the portion of the piping that is being installed or replaced;
 - 5) Clearance from tanks and piping to property lines;
 - 6) Clearances from tanks and piping to adjacent buildings;

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- 7) Separation distance between USTs when more than one UST is present;
- 8) Location of driveways or paths for vehicle access;
- 9) Location of existing piping trenches not being reused, existing trenches being reused, and new trenches where new piping is being installed;
- 10) Location of electrical wiring and conduit, including an indication of the depth or elevation at which these components will be installed;
- 11) Location of basements, cellars or pits of buildings on the property or on adjacent properties, and location of tanks and piping to allow OSFM to ensure compliance with Section 175.430. If buildings on the property or adjacent property have no basements, cellars or pits, a notation to that effect shall be made on the site plan;
- 12) Location of sewers, manholes, catch basins, cesspools, septic tanks, wells or cisterns (whether on the property, on adjacent property or in adjoining streets, highways or alleys); whether the sewer is made of petroleum-resistant piping or material; and location of tanks and piping to allow OSFM to ensure compliance with Section 175.430. If there is no sewer, manhole or catch basin in a street or alley or no sewer, cesspool, septic tank, well or cistern on a property, a notation to that effect shall be made on the site plan;
- 13) Location of UST vent piping, vent termination points, and any other vent outlets required by Section 175.440, including a clear indication of the elevation of vent termination points;
- 14) Location of fill pipes, including remote fills, required by Section 175.445;
- 15) Ventilation methods for grease pits or other below-grade areas required by Section 175.450(f);
- 16) Location and form of all collision protection for dispensers and vent terminals; and
- 17) Any other information pertinent to the installation to ensure that OSFM plan reviewers can determine compliance with applicable rules.

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- f) In the event there is a delegation of authority to the City of Chicago to enforce UST rules and regulations, pursuant to the Gasoline Storage Act [430 ILCS 15/2], subject to the terms of the agreement, the City has the authority to modify this Section to change any reference to "Office of the State Fire Marshal" or OSFM to the appropriate City authority.

Section 175.320 Scheduling of UST Activity

- a) All permitted activity shall be scheduled with OSFM. There are 2 sets of procedures for scheduling permitted activity, Operational Safety Inspection (OSI) or Performance Assurance Inspection (PAI). The procedures for scheduling OSI Activity (Date Certain) are set forth in subsection (c) and for PAI Activity (Date and Time Certain) are set forth in subsection (d). A contractor shall have at least one employee certified for the UST activity for which the permit was issued actively supervising in person the UST activity being performed on the site, unless the contractor is personally certified in the UST activity for which the permit was issued and is actively supervising the work. At all times during permitted activity, including at all STSS inspections, including any final inspection, there shall be an employee or individual contractor certified in the work to be done on the job site. Subcontractors are not "employees" for this purpose.
- b) No permitted and scheduled OSI or PAI activity can be performed outside the schedule unless changes have been approved in advance by OSFM. No more than 2 schedule changes will be allowed, except for new tank installations, for which 2 additional schedule changes may be used for final inspection only. Notice of cancellation must be received by OSFM at least one complete work day in advance of the scheduled date and time and the revised date of the work must be at least 2 complete working days after OSFM receipt of the revised job schedule request. The day of receipt is not included in the advance notice/receipt calculation. At the discretion of OSFM, adverse natural occurrences or other emergencies will allow a shorter time frame for cancellation and rescheduling. A new permit and fee will be required when there is a failure to meet any of the schedules. This includes not being present for inspection, not being completely ready for inspection, allowing permit to expire before completing the final inspection, or not canceling the job within the allowed time frame. Failure to meet the schedules also includes a failure to complete all UST work and site preparation necessary for the STSS inspection, including any necessary testing

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and related corrections, prior to the time the STSS is scheduled to first arrive. Upon these events, the permit is considered revoked and no work may commence until a new permit is issued and the work scheduled pursuant to this Section.

- c) OSI (Date Certain) Activity. OSI activity includes removal, abandonment-in-place, and any hot work. Any additional inspection in follow-up to tank penetration via hot work, including a final lining inspection and tank precision testing, shall be scheduled as a PAI inspection. For a listing of OSI activities, see Appendix A to this Part.
- 1) For OSI activity, the contractor shall have a granted permit in his or her possession before calling OSFM between 8:30 a.m. and 3:00 p.m. on State business days to establish a mutually agreed specific date and time for the permitted activity.
 - 2) Only the contractor or an employee of the contractor (this does not include subcontractors) may schedule the work with OSFM.
 - 3) For OSI activity, the work will not be allowed to be done unless an STSS is on site.
- d) PAI (Time and Date Certain) Activity. PAI permitted activity includes installation, upgrades, flex connector activity, repairs not involving hot work, or cathodic protection activity. PAI activities will be scheduled for a period of at least 2 working hours (between 10:00 a.m. and 3:30 p.m. on State business days) and subsequent activities that interfere with the ability to inspect will not proceed until the time period is over. Regarding tank installation, scheduled OSFM inspections are required for an air test on the tank prior to installation, air test on primary lines, hydrostatic test on containments prior to backfill, tank installation, air test on secondary containment, and final inspection. For tank installation only, the completed Notification of Underground Storage Tanks form (www.state.il/OSFM/PetroChemSaf/Notify.pdf) must be ready to present to the STSS during the final inspection. For all other activity, both OSI and PAI, the appropriate OSFM notification forms at www.state.il.us/osfm/PetroChemSaf/home.htm, under "downloadable applications shall be completed and submitted to OSFM within 30 days after completion of the permitted work. Although tank and line tightness testing and cathodic protection testing and the cleaning of tank and line interstitial spaces following a release are not permitted activities, they must

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still be scheduled with OSFM pursuant to subsection (d)(2). For a listing of OSI activities, see Appendix A.

- 1) Permitted PAI Activity. The contractor shall have a granted permit in his or her possession and shall transmit to OSFM, not less than 5 working days after the approval date on the permit and not less than 2 working days before the anticipated date of work, by U.S. Mail, express mail, package service, fax, or email, a completed OSFM-prescribed job schedule form www.state.il.us/osfm/PetroChemSaf/home.htm, under "downloadable applications"). The Division of Petroleum and Chemical Safety (DPCS) will transmit a stamped acknowledgement receipt back to the contractor within one working day. A copy of this receipt, along with a copy of the permit, will be kept on the job site at all times. Work shall not commence until the contractor obtains this receipt. Only the contractor or an employee of the contractor (this does not include subcontractors) may schedule the work with OSFM.
 - 2) Non-permitted PAI Activity. The contractor or contractor's employee shall submit the OSFM-prescribed job schedule form (www.state.il.us/osfm/PetroChemSaf/home.htm, under "downloadable applications") at least 24 hours in advance of the anticipated work date. Only the contractor or an employee of the contractor (this does not include subcontractors) may schedule the work with OSFM.
 - 3) For spill or overfill prevention device final PAI (Time and Date Certain) inspections, a contractor representative is not required to be on site, but scheduling of the final inspection is required.
 - 4) Any time an emergency repair permit is issued, the contractor shall schedule and complete the final inspection within 10 days after issuance of the permit.
- e) There shall be no transfer or sale of product from a UST until the UST is in compliance with OSFM rules and any required final inspection has been completed. Any request to fill a required minimal amount of fuel necessary to perform compliance testing must be submitted in writing and approved by OSFM in advance. A depositor may make one deposit of a regulated substance to a newly installed or newly lined tank to provide ballast; that fuel shall not be sold or dispensed until the required decal is obtained.

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- f) In the event there is a delegation of authority to the City of Chicago to enforce UST rules and regulations, pursuant to the Gasoline Storage Act [430 ILCS 15/2], subject to the terms of that agreement and to the extent the City is authorized to supervise the above-referenced activities, the City is authorized to substitute, for references in this Section to OSFM or its agents or employees, comparable references to the City or its agents or employees.

Section 175.330 Payment of 1988 Annual UST Fee

The owner of any registered underground petroleum storage tank (excluding heating oil USTs for consumptive use on the premises where stored) in the ground at any time in 1988 and in operation at any time after January 1, 1974 shall pay a 1988 annual fee of \$100 per tank on or before 90 days from the date on the invoice requesting payment of the fee. The payment is to be by check or money order made payable to "Office of the State Fire Marshal".

SUBPART D: DESIGN, INSTALLATION AND CONSTRUCTION REQUIREMENTS

Section 175.400 Design and Construction of USTs

- 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 175.630(g) and 40 CFR 280.43(g) for all permits issued on February 1, 2008 and after. Any release into the interstice of any double-wall tank shall require that the interstice be cleaned under accepted engineering practices before the tank can be put back into service, the out-of-service period not to exceed one year. Although such work does not require a permit, the work must be scheduled with OSFM under Section 175.320 and the work must be done by a contractor that meets the licensing and certification requirements for a tank precision tester under 41 Ill. Adm. Code 176.470 and 41 Ill. Adm. Code 172. (See also Section 175.630(g).) If the interstice cannot be cleaned so as to allow proper functioning of the interstitial monitoring and the tank has been out-of-service for one year, then the tank shall be removed within 60 days. Third-party listed, factory manufactured, jacketed tanks having an interstitial space capable of being cleaned following any contamination shall be considered as meeting the double-wall requirement.
- b) Each newly installed, replaced and existing tank shall be properly designed, constructed and installed in accordance with a code of practice developed by a

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nationally recognized association or independent testing laboratory and third-party listed for its intended use. Any portion underground that routinely contains product shall be protected from corrosion. In addition, each tank shall meet one of the following requirements:

- 1) The tank is constructed of fiberglass-reinforced plastic.
 - 2) The tank is constructed of steel and protected in the following manner:
 - A) Metallic tanks installed on or after April 21, 1989 shall be thoroughly coated on the outside with suitable rust-resisting dielectric material; and
 - B) All steel tanks shall utilize a cathodic protection system designed by a corrosion expert certified by NACE in cathodic protection design or by an Illinois Licensed Professional Engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks. If an impressed current system is selected, it must also be designed to allow determination of the system's operating status by means of permanently installed lights and gauges as required in Section 175.510.
 - 3) The tank is constructed of a steel-fiberglass-reinforced plastic composite.
 - 4) The tank construction and corrosion protection are determined by OSFM to be designed to prevent release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than this subsection (b). Before the installation of any tank, its construction and corrosion protection shall be submitted to OSFM, in writing, and is subject to written approval by OSFM.
- c) Re-certified tanks shall satisfy the requirements of subsection (b), and, on or after February 1, 2008, shall be double-walled with interstitial monitoring; however, written proof of re-certification shall be submitted to OSFM. 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 Licensed Professional Engineer having expertise in UST design or the original tank manufacturer.

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Section 175.405 Spill Containment and Overfill Prevention Equipment

- a) To prevent spilling and overfilling associated with product transfer to the UST, owners or operators shall use the following spill containment and overfill prevention equipment:
 - 1) Both:
 - A) Spill containment 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). As of May 1, 2003, new or replaced spill containment equipment must have a minimum 5 gallon capacity and be maintained in a dry, clean state; and
 - B) Overfill prevention equipment that:
 - i) Automatically shuts off flow into the tank when the tank is no more than 95 percent full; or
 - 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
 - 2) Provides alternative methods that are no less restrictive than subsections (a)(1) and (a)(2) and no less protective of human health or the environment, as approved in writing by OSFM.
- b) Float vent valves for overfill prevention shall not be allowed on any type of suction system.
- c) A UST that is filled by transfers of no more than 25 gallons at one time shall require spill containment but does not require overfill prevention.
- d) In addition to the requirements of subsections (a), (b) and (c), waste oil tanks shall be equipped with spill containment devices at all fill and retrieval points.

Section 175.410 Containment Sumps

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- a) On or after May 1, 2003, a tank containment sump must be installed at the tank on all new tanks with submersible pumps or American suction piping systems. All tank containment sumps must consist of a factory manufactured containment that is liquid-tight on its sides, bottom and at any penetrations and is compatible with the substance conveyed by the piping. European suction systems are not required to have this containment.
- b) When an existing submersible is removed and replaced with another submersible, or when piping, flex connectors or other transitional components at the submersible are replaced, a tank containment sump must be installed.
- c) On or after May 1, 2003, under-dispenser containment must be installed on all new dispenser installations where there previously was no dispenser. European suction systems are not exempt from the requirement for under-dispenser containment.
- d) When an existing dispenser is removed and replaced with another dispenser and equipment at or below the shear valve 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.
- e) If more than 20 feet or 50% of a pipe run is replaced, the appropriate containment required to make the associated interstitial monitoring functional (e.g., a tank containment sump, under-dispenser containment, or a junction sump) shall also be installed.
- f) Water in Sumps
 - 1) Sumps Without Monitoring Sensors. If water is in a sump and it is in contact with bare metal piping or metal, including flex connectors, then corrosion protection, using impressed current, spike anodes, or wristband anodes with proper electrolyte, must be installed on the metal piping in accordance with Section 175.510.
 - 2) Sumps with Monitoring Sensors. Water that could interfere with the operation of double-wall interstitial monitoring systems or that is in contact with bare metal piping or metal, including flex connectors, shall be permanently removed and the source of ingress repaired. The sump shall

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be maintained so that, other than internal condensation, there is no water in contact with bare metal.

- 3) Requirement for All Sumps. In all cases, sumps shall be maintained and repaired using petroleum compatible materials as necessary so that, in the event of a release, product will not be leaked out of sumps via cracks, broken seals or other openings.
- g) Field-installed Spray-on or Pour-on Materials in UST Containment Sumps. All required containments shall be factory manufactured containments resistant to petroleum and chemical products. 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 submersible pumps.
- h) A hydrostatic test will be performed on all containment installations (including all submersible, piping and fill sumps) as follows:
 - 1) All penetrations, including electrical, must be completed prior to testing.
 - 2) Containment is to be filled with water to a height that covers the highest penetration by 2 inches.
 - 3) Minimal backfilling that may be necessary for support of the containment sump is allowed prior to the test.
 - 4) Test duration is 30 minutes and performed under PAI Time and Date Certain requirements with no drop in water level.

Section 175.415 UST Compatibility with Product Stored

- a) Owners and operators shall use a UST compatible with the product stored in the UST.
- b) All UST components shall be listed for compatibility with the product being stored by a nationally recognized independent third party organization. In the event the third party listing is unattainable for a UST component, for petroleum products only, OSFM may accept certification of the non-listed component by a Licensed Professional Engineer that the non-listed component is compatible with the product that will be stored.

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- c) In the event third party listing and certification by a Licensed Professional Engineer are both unattainable for a leak detection device or dispenser, for petroleum products only, OSFM may permit the use of the non-listed and non-certified component if a licensed installation/retrofitting contractor inspects the component on an annual or more frequent basis and, after each inspection, certifies to OSFM on forms provided by OSFM at www.state.il.us/osfm/PetroChemSaf/home.htm, under "downloadable applications", that the component has been inspected and there is no visible evidence of product leakage or release or other operational problems. Copies of these certifications provided to OSFM shall be maintained at the site or available within 30 minutes or before OSFM completes its inspection, whichever comes later, for at least a 2-year period. In the event that a listed component becomes available, facilities shall have 12 months to replace non-listed components with listed components.
- d) New installations or new conversions to blended fuel (as defined in 41 Ill. Adm. Code 174.100) shall comply with the following:
- 1) OSFM will permit a blended fuel to be stored in steel tanks, or any fiberglass tanks manufactured after 1991 if certified by the manufacturer as compatible with the product stored.
 - 2) The associated piping must be steel or fiberglass piping manufactured after 1991.
- e) Existing USTs Previously Converted to a Blended Fuel (as defined in 41 Ill. Adm. Code 174.100). In those instances in which a blended fuel is being stored in an existing tank lined at any time, the lining material must be approved by OSFM based on information supplied by the manufacturer or a Licensed Professional Engineer, in accordance with the criteria identified in Section 175.500, as compatible with the blended fuel, or the owner/operator must remove the blended fuel from the tank. Existing field installed linings shall be allowed to remain but shall comply with the requirements of Section 175.500, including requirements for 5-year inspections by a certified contractor. New field-installed linings for compatibility purposes only are allowed after January 1, 2011 subject to the following requirements:
- 1) The lining material shall be compatible with the product stored, as established by proof of compatibility from the lining manufacturer;

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- 2) All linings must comply with the requirements of Section 175.500, including requirements for lining inspections under Section 175.500(b) that must take place within 5 years after initial lining and every 5 years thereafter;
 - 3) Linings that fail for any reason may not be touched up, repaired or totally relined and tanks failing any lining inspection shall be removed within 60 days; and
 - 4) These provisions, allowing new linings for compatibility purposes only, shall not be used to circumvent prohibitions against lining tanks for purposes of corrosion protection or repair after January 1, 2011. A steel tank shall be deemed compatible with all motor, alternative and blended fuels in the absence of a detailed engineering evaluation by an Illinois Licensed Professional Engineer establishing that there is a compatibility issue.
- f) **Blended Fuels and Compatibility.** Materials and leak detection equipment that is listed as compatible with gasoline and/or petroleum diesel will be permitted to be used with gasoline/ethanol or diesel/biodiesel blends that are less than 21% ethanol or biodiesel blend, respectively. Materials and leak detection equipment that is listed as compatible with a certain percentage of product (i.e., E85, B30, B50) may be used with blends that are less than the blended fuel percentage listed. As an example, line leak detection equipment listed as compatible with E85 may be used with all E blends of 85% or less. The same is true for B blends. Line leak detection equipment listed as compatible with B50 may be used with all B blends of 50% or less.

Section 175.420 Piping

- a) 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, shall be third party listed for its intended use, and shall also meet the requirements of subsection (a)(1), (a)(2) or (a)(3):
 - 1) The piping is constructed of fiberglass-reinforced plastic.

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- 2) The piping is constructed of steel and protected as follows:
 - A) The piping is coated with a suitable dielectric material, if installed on or after April 21, 1989; and
 - B) All steel piping utilizes a cathodic protection system designed by a corrosion expert certified by NACE in cathodic protection design or by an Illinois Licensed Professional Engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks. If an impressed current system is selected, it must also be designed to allow determination of system operating status by means of permanently installed lights, amp, volts and hour gauges as required in Section 175.510.
 - 3) The piping construction and corrosion protection are determined by OSFM to be designed to prevent 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 (a)(1) and (a)(2). Before the installation of any such piping, its construction and corrosion protection shall be submitted to OSFM, in writing, and OSFM shall issue written approval.
- b) Installed underground piping shall be of double-wall construction and equipped with interstitial monitoring that meets the applicable requirements of Section 175.630(g) and 40 CFR 280.43(g) for all permits issued February 1, 2008 and after. When required to make interstitial monitoring functional, the appropriate containment (e.g., under-dispenser containment, tank containment sumps, or junction sumps) shall be installed. 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 as required for newly installed piping. If the site has multiple distinct pipe runs, only that piping run being replaced shall be required to be double-wall construction with interstitial monitoring installed in compliance with this subsection (b). Any release into the interstice of any double-wall piping shall require that the interstice be cleaned under accepted engineering practices before the piping run can be put back into service. Although this work does not require a permit, the work must be scheduled with OSFM under Section 175.320 and the work must be done by a contractor that meets the licensing and

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certification requirements for a tank precision tester under 41 Ill. Adm. Code 176.470 and 41 Ill. Adm. Code 172. (See also Section 175.640.) If the interstice cannot be cleaned so as to allow proper functioning of the interstitial monitoring, then the piping shall be replaced. European suction systems are exempt from the requirement for having double-wall product piping, as well as from the requirement for having interstitial monitoring.

- c) Piping, valves and fittings for flammable liquids shall be designed for the working pressures and structural stresses to which they may be subjected and third party listed for 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.
- d) All piping shall be located so as to be protected from physical damage. Pipe trenches and pipe installation shall meet manufacturer's specifications for depth, width, slope, spacing and placement of pipe. Joint adhesive and thread sealant shall meet manufacturer's requirements for the regulated substance stored and/or transported by the pipe.
- e) Pressurized piping systems (including existing systems) shall also be equipped with automatic line leak detectors (see Section 175.640(a)). 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.
- f) All steel risers, vents and fills in contact with the ground, backfill or water shall be dielectrically wrapped or coated.
- g) Beginning May 1, 2003, a positive shutoff 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. An extractor valve will be accepted on European suction instead of a positive shutoff valve.
- h) 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.

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- i) 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.
- j) Any time product piping is broken for repairs, a precision line tightness test must be conducted before the piping is put back into service.
- k) Beginning May 1, 2003, 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.

Section 175.425 UST Wiring Procedures

- a) Unless otherwise specified in this Section, all wiring at UST locations shall be in accordance with the Edition of NFPA 70 in force at the time of installation of the electrical equipment.
- b) Wiring within 20 feet of tanks and product piping, dispenser pumps or product lines shall be installed in rigid metallic conduit, threaded steel conduit, or any petroleum or product resistant rigid nonmetallic conduit listed and manufacturer-approved for that use. Rigid nonmetallic conduit must have written verification of its approval for petroleum or other product use. The approval must be via manufacturer's certification or third-party listing and must be kept on site and must be submitted with any applicable permit application. Electrical conduit shall maintain at least 6 inches of separation from product piping to avoid damage from abrasion or stray electrical current and shall be routed in compliance with subsection (e) when it becomes necessary to locate electrical wiring in the same trench as product piping.
- c) A minimum of 24 inches of cover is required over all UST wiring conduit. When rigid nonmetallic conduit is used, threaded rigid metal conduit or threaded steel intermediate metal conduit shall be used for the last 2 feet of the underground run to emergence or to the point of connection to the aboveground raceway.
- d) Intrinsically safe wiring shall be in conduit when installed within Class I locations, as specified in NFPA 70. Caution shall be taken when grounding not to impair cathodic protection of metallic tanks or piping.

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- e) 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. The electrical conduit shall cross over the top of any product piping whenever a crossover is necessary, unless all fittings in the conduit run are liquid-tight. A minimum 6-inch separation shall be maintained at all times, even during a crossover. All crossovers shall be kept to a minimum.
- f) All electrical power shall be shut off at the immediate location where installations, repairs or upgrades are in progress.
- g) All electrical seal-offs are to be properly filled whether being used or for future use.

Section 175.430 Clearance Required for USTs

- a) Distance to Basements. No UST shall be less than 20 feet from any basement, cellar, pit or below-grade excavation on or off the property.
- b) Distance to Sewers. Individual tanks and piping shall be buried so that the tops of the tanks and piping are lower than the bottom level of all sewers, manholes, catch-basins, cesspools, septic tanks, septic tank clean out stations, wells or cisterns within 20 feet, on or off the property, or tanks and piping shall maintain a full clearance of 20 feet. The term "sewer" includes sanitary and storm sewer lines out of motor fuel dispensing facilities and bulk facilities. These clearances shall not be required when a sewer line is constructed throughout of petroleum resistant piping.
- c) Distance to Property Lines. Individual tanks shall be at least 20 feet to property lines; provided, however, that these clearances on the side adjacent to a public street, alley or highway are waived by consent of the authority having immediate jurisdiction over the public street, alley or highway, provided that the required sewer clearances will be maintained.
- d) Distance to Special Classes of Property. Tanks and dispensers shall maintain a clearance of not less than 300 feet to any mine shaft, air or escape shaft for any mine and 85 feet to any educational, health care or assembly occupancy, as defined in 41 Ill. Adm. Code 100. The distance shall be measured from the nearest points of tanks and pumps to the nearest points of buildings or shafts.

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- e) Tanks in service on October 1, 1985 (or after October 1, 1985 if approved by OSFM) may maintain existing underground tank clearances. Basements at motor fuel dispensing facilities existing on October 1, 1985 less than 20 feet from a UST shall be provided with mechanical ventilation. Only non-sparking explosion proof motors and compressors shall be permitted in these basements. Proof of compliance shall be submitted to OSFM.
- f) Except for the 20-foot clearance distance to basements, the clearances required under this Section shall not be required when both tanks and piping are double-walled with interstitial monitoring. For these USTs, the minimum clearance shall be such as to avoid projecting loads onto underground sewers, utilities and other structures. The clearance must also be sufficient to ensure that site activity does not undermine the UST backfill materials (for example, pea gravel base) for any UST once in place.

Section 175.435 Pressure Testing of Tanks or Lines

The use of air or non-inert gases to pressure test underground storage tanks or piping containing, or that have contained, flammable or combustible liquids is prohibited. Approved tank or line-tightness testing with inert gases (nitrogen and helium) may be utilized. Preliminary air tests may be used for tanks cleaned and vapor freed for the purposes of testing coverplates or gaskets.

Section 175.440 Venting of Tanks

- a) Normal Venting
 - 1) Each tank shall be provided with a separate normal working vent pipe, connected with the top of the tank and carried up to the outer air. Underground manifolding of normal working vents is prohibited. The pipe shall be arranged for proper drainage to the storage tank, and its lower end shall not extend through the top of the tank for a distance of more than one inch; it shall have no traps or pockets. Float vent valve overfill devices are not considered an extension of the standard vent. Manifoldd normal vents existing and previously approved by OSFM prior to April 1, 1995 may be left in place, provided that the vents can be shown, by field verification, to comply with OSFM rules at the time of approval.

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- 2) The upper end of the pipe shall be provided with an updraft vent device only, with 40 gauge screening, unless alterations are required by Stage II Vapor Recovery requirements. A pressure vacuum vent will meet this requirement.
 - 3) The vent pipe shall be of sufficient cross-sectional area to permit escape of air and vapor during the filling operation and in compliance with NFPA 30, incorporated by reference in 41 Ill. Adm. Code 174.210, and in no case less than 1¼" in diameter. If a power pump is used in filling the storage tank, and a tight connection is made to the fill pipe, the vent pipe shall not be smaller than the fill pipe.
 - 4) The vent pipe shall terminate outside buildings at a point at least one foot above the level of the highest remote fill or any fill from which the tank may be filled, not less than 12 feet above the adjacent ground level and not less than 5 feet, measured vertically and horizontally, from any window or other building opening, such as a basement, cellar, pit, ventilated soffit or air intake of any building, and in a location that will not permit pocketing of vapor or liquid. The vent piping shall project above any canopy fascia no less than 4 feet.
 - 5) No vent piping is allowed inside buildings. Existing vent piping inside buildings may remain if approved, in writing, by OSFM.
 - 6) Adequate collision protection to protect against physical damage shall be provided for vent piping.
 - 7) Hazardous substance tanks shall be vented in accordance with a nationally recognized standard for the substance contained within the tank or as approved by OSFM to be no less protective of human health or the environment.
- b) Special Purpose Vents
- 1) Manifolding of special purpose vents, such as for vapor recovery, is allowed in accordance with NFPA 30.

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- 2) Manifolding of normal working vents aboveground, for the purpose of being tied into a Stage II Recovery System, is allowed providing the following steps are followed:
 - A) Manifolding will be installed no less than 3 feet above grade and no more than 5 feet aboveground.
 - B) Each vent shall be capable of being separated and isolated from the manifold.
 - C) Class II and III products cannot be attached to a manifold that includes Class I products.
 - D) Final riser shall be of adequate sizing as specified by NFPA 30.

Section 175.445 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 5 feet from any such opening. Remote fills are subject to approval by OSFM, 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 and adequate collision protection to protect against physical damage shall be provided.
- c) For new and existing facilities, each fill pipe shall be closed by a gasketed screw cap or other tight fitting gasketed cap of a type that can be locked. It is the responsibility of the owner/operator to maintain the security of the UST.
- 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) All remote fills installed after May 1, 2003 shall be double-wall and constructed of noncorrosive material or cathodically protected, except for gravity flow waste oil.

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- f) After May 1, 2003, any new installation with a remote fill over 20 feet in length shall have interstitial monitoring and an audible and visible overfill alarm. Remote fills shall be sloped back to the tank.
- g) 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.
- h) Except for USTs holding waste oil, all tanks shall be equipped with a drop tube that extends to within 6 inches of the bottom of the tank.

Section 175.450 Pumps, Dispensers and Other Product Transfer Equipment

- a) Pumps. Petroleum and hazardous substances shall be transferred from tanks by means of fixed pumps designed and equipped to allow control of the flow and to prevent leakage or accidental discharge. Systems that employ continuous air pressure on storage tanks in connection with gauging or vending devices are prohibited, with the exception of those systems utilized in Stage II Vapor Recovery.
- b) Gravity Flow Prohibitions and Precautions
 - 1) Devices that discharge by gravity are prohibited and were to have been removed by January 1, 1986. The transfer of waste motor oil to or from USTs is not subject to the requirements for transfer by means of fixed pumps. Gravity transfer of waste motor oil is permitted. Gravity devices at motor fuel dispensing facilities, bulk facilities, motor vehicle repair shops and parking garages that are retained for their novelty or historical interest may be retained at the facility, but shall be rendered nonfunctional.
 - 2) Where tanks are at an elevation that produces a gravity head on the dispensing device, the tank outlet shall be equipped with a device, such as a solenoid valve, positioned downstream as close as possible to the tank, installed and adjusted so that liquid cannot flow by gravity from the tank.
- c) Siphon Bars. Siphon bars that are used to transfer petroleum and hazardous substances between tanks by means of gravity or negative atmospheric pressure shall be permitted subject to the following requirements:

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- 1) The height of the tops of all tanks connected by the siphon bars shall be within 6 inches of each other;
 - 2) Piping shall meet the requirements of Section 175.420; and
 - 3) Release detection methods for tanks and piping shall be of a type approved for tanks connected by siphon bars, in accordance with Section 175.630.
- d) Electrical Equipment and Requirements for Pumps and Dispensers. All pumps and dispensing devices for petroleum and hazardous substances and all connected electrical equipment shall be installed in accordance with Section 175.425. Dispenser discharge nozzles shall be constructed of nonferrous material or equipped with static wire hose.
- e) Dispensers. All dispensers shall be required to comply with the following:
- 1) Under-dispenser Containment. Under-dispenser containment is required pursuant to Section 175.410.
 - 2) Labeling. All dispensing devices used for drawing regulated substances from USTs shall be labeled in a conspicuous place with the name of the product.
 - 3) Size Limits. With the exception of industrial or fleet facilities with no connection to any UST from which regulated products are sold at retail, dispensers shall not be connected, directly or indirectly, to any tank that is over 30,000 gallons capacity.
 - 4) Hoses and Reels. Mechanical retractable devices are required on dispenser hoses in excess of 18 feet in length. Hose length on mechanical retractors shall not exceed 50 feet without written approval of OSFM. Detection of any of the following conditions indicates permanent damage and shall require that the hose be replaced with the nozzle immediately bagged if any portion of the hose or nozzle is actively leaking:
 - A) hose cuts, abrasions or cracks in the hose cover that penetrates to the reinforcement;
 - B) blisters or loose cover;

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- C) soft spots in the hose, particularly adjacent to the coupling;
 - D) indication of coupling slippage or irregular coupling alignment; or
 - E) flattened or kinked hose resulting in permanent deformation.
- 5) Third-party Listed Latch-open Devices. When dispensing liquids into motor vehicle fuel tanks, dispenser nozzles shall be either manually held open or may be held open by a latch-open device that is an integral part of the listed nozzle assembly. An automatic self-closing type nozzle with a latch hold open device must be installed as an integral part of the listed nozzle assembly.
- 6) The dispensing nozzle must be an automatic closing type that has been tested and is third party listed for its intended use.
- 7) Prohibition on Unapproved Hold-open Devices. Temporary, portable or removable hold-open devices, including, but not limited to, plastic hooks, wires, wood blocks, gas caps and similar devices, shall not be used on dispenser nozzles. No person shall market, expose for sale, sell or distribute by any means whatsoever, in the State of Illinois, any temporary, portable or readily removable device designed or intended to be used for the purpose of holding open flammable or combustible liquid dispensing nozzles during dispensing operations at motor fuel dispensing facilities.
- 8) Requirements for a Secondary Means of Control. Any dispensing devices from which the flow of product is normally stopped by means other than by the closure of the nozzle valve shall further comply with either of the following:
- A) The system shall be provided with equipment with a feature that causes or requires the closing of the nozzle valve before product flow may be resumed or before the nozzle can be replaced in its normal position in the dispenser; or
 - B) The nozzle valve latch-open device shall be removed.

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- 9) Flow Shutoff
- A) Hose nozzle valves shall be of the type that will close automatically, independent of the latch-open device, upon loss of pressure in the dispensing system. The latch-open device may only be engaged when the dispensing system is under pressure.
 - B) All dispensing devices shall be equipped with 2 methods of controlling the flow of fuel:
 - i) deactivation of the dispenser; and
 - ii) closing of the hand nozzle or some other secondary means to shut off flow.
 - C) The nozzle must be designed and maintained to cease the flow of product if the nozzle falls to the ground from the fill pipe of the motor vehicle being fueled.
 - D) A listed emergency breakaway device designed to retain liquid on both sides of the breakaway point shall be installed on each hose. If hoses are attached to a hose-retrieving mechanism, the listed emergency breakaway device shall be installed between the point of attachment of the hose-retrieving mechanism to the hose and the hose nozzle valve.
 - E) A control shall be provided that will permit the pump to operate only when a dispensing nozzle is removed from its bracket or normal position with respect to the dispensing device, and the switch on the dispensing device is manually activated. This control shall also stop the pump when all nozzles have been returned, either to their brackets or normal nondispensing position.
- 10) Rebuilt Hose Nozzles. Rebuilt hose nozzles may be used if they are listed for that purpose.
- 11) Spout Anchor Springs. Nozzles must be equipped with devices (e.g., wire or a spout anchor spring) designed to retain the nozzle spout in the vehicle fill pipe while refueling. These devices must be part of the listed

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nozzle assembly. The spout anchor spring shall be of the type recommended by the manufacturer of the hose nozzle valve and be installed and maintained in accordance with the manufacturer's recommendations. Vacuum assist and balanced type vapor recovery nozzles prohibited from having wire or spout anchor springs as the result of their design shall be exempt from this requirement.

- 12) Shear Valve. Pressurized piping systems require a listed rigidly anchored emergency shutoff (shear) valve installed in the supply line at the base of each individual dispenser. The valve shall incorporate a fusible link or other thermally activated device, designed to close automatically in the event of severe impact or fire exposure.
 - 13) Emergency Shutoff for Remote Pumps. Devices served by remote pumps shall be equipped with a listed emergency shutoff valve.
 - 14) Collision Protection for Dispensers. All fuel dispensers shall be mounted or protected against collision damage by means of islands, posts or an equivalent means.
 - 15) Secure Mounting of Dispensers. Dispensing devices shall be bolted to their mounting surface in accordance with the manufacturer's instructions.
 - 16) Under-dispenser containments shall be factory manufactured and shall comply with the design requirements of Section 175.410(g).
- f) Location of Pumps and Dispensers
- 1) Unless otherwise allowed under this Section or permitted at the time of installation, dispensers and pumps shall be located outside of buildings. Dispenser hoses shall not be able to reach to within 5 feet from any building or window or other building opening, such as a basement, cellar, pit, ventilated soffit or any air intake or exhaust of any building, and must be located to avoid pocketing of vapor or liquid. Dispensers installed after October 1, 1985 shall not be located below grade. A transfer pump is not considered a dispenser and may be located inside a pumphouse or industrial building. Bulk-load outs are not considered dispensing and shall comply with NFPA 30 (see Section 41 Ill. Adm. Code 174.310).

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- 2) However, detached buildings separated by at least 20 feet from other buildings and used exclusively for fleet dispensing of motor fuels may house dispensers and dispensing equipment for combustible liquids (Class II and III) so long as the buildings and equipment are in compliance with NFPA 30A, incorporated by reference in 41 Ill. Adm. Code 174.210.
- 3) Indoor dispensing shall otherwise be allowed only if approved by OSFM in writing prior to November 29, 1993 and if the following requirements are met:
 - A) For dispensing units existing prior to September 15, 1978:
 - i) be separated from other areas by 2 hour fire resistive construction;
 - ii) be provided with a mechanical or gravity ventilation system electrically interlocked with the dispensing units so that the dispensing units cannot be operated, unless the ventilation fan motors are energized and operating. The system shall be upgraded to meet NFPA 30A not later than September 1, 2011; and
 - iii) have all openings beneath dispenser enclosures sealed to prevent the flow of leaking fuel to lower building spaces.
 - B) For dispensers existing as of October 1, 1985 and located within repair and parking garages:
 - i) be not below grade;
 - ii) be separated from motor vehicle repair areas, pits and basements by 2 hour fire resistive construction;
 - iii) be protected against physical damage from vehicles by mounting the dispensing unit on a concrete island or by equivalent means;

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- iv) be located in a position where the dispensers and pumps cannot be struck by an out-of-control vehicle descending a ramp or other slope;
 - v) be provided with an approved mechanical or gravity ventilation system, that shall be upgraded to meet NFPA 30A by not later than September 1, 2011; and
 - vi) be provided with a clearly identified emergency shutoff switch, readily accessible in case of fire or physical damage to any dispensing units to shut off the power to dispensing units.
- C) Existing dispensing units located below grade in repair and parking garages as of October 1, 1985 shall have independent mechanical ventilation systems and the entire dispensing area shall be protected by an automatic sprinkler system conforming to the requirements of NFPA 13, incorporated by reference in 41 Ill. Adm. Code 174.210. The sprinkler system shall be interconnected to an alarm system conforming to NFPA 72, incorporated by reference in 41 Ill. Adm. Code 174.210, and the sprinkler system shall be a wet system except in unheated areas. Facilities in existence as of September 1, 2011 shall have the option of complying with the Edition of NFPA 72 incorporated by reference in 41 Ill. Adm. Code 174.210 or the NFPA alarm and sprinkler system requirements in effect at the time of their installation.
- i) The ventilation systems shall be electrically interlocked with the gasoline dispensing units so that the dispensing units cannot be operated unless the ventilation fan motors are energized and operating, and shall be upgraded to meet NFPA 30A by not later than September 1, 2011.
 - ii) Existing dispensing units located below grade within buildings shall also comply with subsection (f)(3)(B), as applicable.
- 4) Curb pumps or pumps located in any portion of a public street are prohibited, except that devices at motor fuel dispensing facilities, bulk

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facilities, vehicle repair garages and parking garages that are retained for their novelty or historical interest may be retained at the facility if rendered nonfunctional.

- 5) Dispensing devices at a motor fuel dispensing facility shall be located so that all parts of the vehicle being served will be on the premises of the facility or garage.

Section 175.455 USTs Inside or Under Buildings

- a) The floor level under which a UST is located shall be above grade to prevent the flow of liquids or vapors into buildings, and the floors shall be of concrete or other fire resistant construction.
- b) Beginning April 1, 1995, no buildings or structures shall be constructed on top of any UST, including any heating oil USTs and pre-'74 USTs. Beginning April 1, 1995, no new UST shall be installed under any building. Any existing USTs installed prior to April 1, 1995 that are located under buildings shall be located, with respect to existing building foundations and supports, so that the loads cannot be transmitted to the tank. Beginning April 1, 1995, no existing UST located under a building shall be replaced in a manner that will allow the tank or piping to be located under a building. If a building with a basement, cellar or excavation is removed, the basement, cellar or excavation shall be filled in prior to construction of any new building over the basement, cellar or excavation.
- c) No USTs or dispensers containing motor fuel shall be installed inside buildings, except as authorized under Section 175.450(f).
- d) No underground product piping connecting USTs or dispensers that contain fuel shall be installed or routed under buildings after September 1, 2010, except that used oil UST piping with an inside fill may be permitted with OSFM approval signified on the applicable permit.
- e) If OSFM determines that a release from a UST under a building or structure, including any heating oil UST and pre-'74 UST, poses a current or potential threat to human health and the environment, or any UST, including any heating oil UST and pre-'74 UST, is damaged or found damaged during excavation or other site activity, OSFM may require the UST to be removed.

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Section 175.460 Marinas

- a) Dispensing equipment at marine motor fuel dispensing facilities shall comply with the requirements of Section 175.450(e), with the additions or modifications specified in this Section. Marine motor fuel dispensing facilities shall also comply with Section 175.250.
 - 1) Dispensing devices at marine motor fuel dispensing facilities may be located on open piers, wharves or floating docks, on shore, or on piers of the solid-fill type and shall be located away from other structures to provide room for safe ingress and egress of craft to be fueled.
 - 2) Under-dispenser containment shall be required for dispensers.
 - 3) A mechanical return reel shall be required for hose lengths in excess of 18 feet. All hose shall be secured and protected from damage and shall not be permitted to lie in the water or on the ground in a manner that is unprotected from accidental damage.
 - 4) Dispenser nozzles shall be of the automatic closing type; hold-open clips or devices shall not be allowed.
- b) Piping and Shutoff Valves
 - 1) Anti-siphon devices such as solenoid valves shall be required when the piping slopes downward from the tank.
 - 2) Floating docks or structures shall require flexible lines from shore to dock. Suitable lengths of approved flexible hose may be employed between the shore piping and the piping on the floating structure, as made necessary by change in water level or shoreline. Any product supply line shall have secondary containment, and new installations must be double-wall after April 1, 1995. Flexible connectors shall be required at dock hinge points for rigid primary.
 - 3) All aboveground piping shall have proper hangers or mounts and shall be protected from physical damage.

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- 4) Where stray electrical currents are encountered, piping containing liquids at marine motor fuel dispensing facilities shall be electrically insulated from the shore piping.
 - 5) A readily accessible valve to shut off the product supply from shore shall be provided in each pipeline at or near the approach to the pier and at the shore end of each marine pipeline, adjacent to the point where a flexible hose is attached.
- c) Leak Detection
- 1) All pressurized piping systems shall be equipped with line leak detectors pursuant to Section 175.640.
 - 2) After April 1, 1995, all installations shall have double-wall piping with interstitial monitoring.

Section 175.465 Additional Requirements for Installation and Upgrade of USTs

Installation and upgrade of USTs shall be properly conducted in accordance with 41 Ill. Adm. Code 174 through 176 and manufacturer's recommended procedures and instructions. In addition, the following requirements shall be adhered to:

- a) Excavation for USTs shall be made with due care to avoid undermining of foundations of existing structures.
- b) The UST site shall be prepared to ensure safe movement and installation of equipment and materials. Sloping, benching, stepping or shoring the sides of excavations shall be performed in compliance with OSHA requirements under 29 CFR 1926.
- c) Upon delivery at the installation site, tanks and piping shall be inspected to detect any evidence of damage to coatings or structure.
- d) Upon discovery of any damage to tanks or piping, repairs shall be made in accordance with 41 Ill. Adm. Code 172, 174, 175 and 176 and manufacturer's instructions.

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- e) Equipment shall be provided with sufficient lifting capacity to unload and place USTs into the tank excavation. The tank shall be placed in the excavation with care, since dropping or rolling the tank into the excavation can break a weld, puncture or damage the tank, or scrape off the protective coating of coated tanks. Tanks shall not be rolled, dropped or dragged.
- f) Steel tanks shall be set on firm foundations and surrounded with at least 12 inches of noncorrosive inert material such as clean sand or gravel, well-tamped in place.
- g) In areas subject to flooding or high groundwater, USTs shall be installed to safeguard against movement by anchoring or ballasting in accordance with manufacturer's instructions.
- h) Unless otherwise prescribed by the manufacturer's recommended installation procedures, steel tanks shall be covered with a minimum of 3 feet of earth. USTs existing on October 1, 1985 shall be buried so that the tops of the tanks will not be less than 2 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 4 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.
- i) Tank to tank separation distance shall be a minimum of 24 inches for all tanks installed after May 1, 2003.
- j) There shall be a minimum of 2 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 2 wells for fields with more than one tank. They shall be placed at opposite ends or opposite corners one foot below the invert elevation of the lowest UST. Lids shall be securely protected against unauthorized activities. Only one well will be required if groundwater flow direction can be proven and that proof is supplied at the time of permitting and the well is then installed in the downstream location.
- k) Metallic tanks and metallic piping shall not be backfilled with cinders or other material of corrosive effect. Corrosion protection shall be provided in accordance with Section 175.510.

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- l) Any work performed in or around the excavation area must stop at sunset unless adequate lighting is provided.

SUBPART E: CORROSION PROTECTION

Section 175.500 Interior Lining and Lining Inspection of USTs

- a) Tank Lining Requirements. Lining of tanks shall no longer be allowed for all permit applications received on or after January 1, 2011. Existing lined tanks shall be allowed to use lining as a primary method of corrosion protection only if the tanks continue to pass the lining inspections as provided in this Section. Tanks failing to pass the lining inspection criteria will not be allowed to be touched up, repaired, totally relined or put back into use and shall be decommissioned immediately and removed within 60 days after the lining inspection.
 - 1) The manufacturers of materials used to line or repair leaking tanks for the storage of petroleum or hazardous substances shall register with OSFM. The manufacturers shall provide and maintain a current annual list of installers of their particular methods and materials for lining and repairing tanks. The list shall only contain the names of installers who are certified by the respective manufacturers. This manufacturer's registration shall include the submission of evidence for materials and tank specifications indicated in NLPA Standard 631, incorporated by reference in 41 Ill. Adm. Code 174.210. The manufacturer shall also certify compatibility of the lining material with products to be stored by submitting to OSFM the following data as required by Section A4.6 of NLPA 631.
 - A) Laboratory Data:
 - i) Bonded Linings: When applied to properly prepared steel, concrete, fiberglass and other tank surfaces, bonded linings shall maintain a minimum useful life of 10 years.
 - ii) Coefficient of Thermal Expansion: The coefficient of thermal expansion of the lining shall not result in loss of bonding due to normal operating temperature changes.

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- iii) Immersion Tests: Representative lining samples shall be tested to determine compatibility of the lining material with stored products. Samples shall be immersed in the liquids listed below at either 38°C (100°F) for periods of one, 3, 6 and 12 months. Upon completion of each immersion period, testing of the samples must verify that the lining and repair materials have not substantially deteriorated.
- B) Test Data: The following tests, standards and equipment shall be conducted as indicated in Section A4.6 of NLPA 631 for the following:
- i) Bonding Strength, using Elecometer 106 with rating of 0-2000 lbs. per sq. inch
 - ii) Flexural Strength
 - iii) Impact Resistance
 - iv) Barcol Hardness, using Barber Coleman GYZJ 935-1
 - v) Film Integrity Procedure 1
- C) Lining sample testing shall require lining samples to be immersed for the required timeframes specified in Section A4.6 of NLPA 631, in each of the following liquids: Unleaded Gasoline, Leaded Gasoline, ASTM Reference Fuel C, No. 2 Fuel Oil or Diesel Fuel, Toluene, Xylene, Gasohol (10% Ethanol), Oxinol-50 (90% gasoline, 5% methanol and 5% GTBA) 85% methanol, 15% gasoline and distilled water. Physical properties, after the final immersion period, shall be a minimum of 30% of the original physical properties before immersion with a stable trend indicating little or no further long-term deterioration for Toluene, Xylene and distilled water, and 50% for all other listed material.
- 2) Interior Lining Procedures. For all permit applications received prior to January 1, 2011, any tank that has not previously been internally lined may be lined only once by following the steps outlined in this Section.

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- A) Tank Entry. Before entering tanks, the procedures described in API 2015, incorporated by reference in 41 Ill. Adm. Code 174.210, shall be complied with. These requirements include checking the oxygen content inside the tank with a properly calibrated oxygen monitor. At all times, personnel entering the tank shall be equipped with positive pressure air supplied equipment with full face enclosure and safety harness connected to a safety line held by an attendant located outside the tank and using a tripod with a mechanical winch adequate to lift the person and equipment working inside the tank. Oil and water resistant rubber or neoprene boots and gloves shall be worn. Clothing shall cover the arms, legs, torso and head of tank entry personnel. Disposable clothing, impervious to product, is preferred. Clothing saturated with product shall be removed immediately upon departure from the tank. Tests with the combustible gas indicator and oxygen monitor shall be performed periodically in the tank to ascertain that the tank vapors and oxygen content are in the safe range. It shall be recognized that if the tank is perforated, product or vapors that have leaked into the soil may re-enter the tank through a perforation. The vent line shall remain clear and unobstructed to allow continuous ventilation. All other lines and openings shall be plugged or capped off to insure no liquids or vapors may enter the tank during the lining operation.
- B) Structural Criteria. Prior to the application of lining, a structural criteria inspection shall be performed and the results of that inspection documented, as to whether the tank or tanks to be lined meet each of the structural criteria to be eligible to be lined pursuant to NLPA 631, and this subsection (a)(2)(B). The records from the structural criteria inspection shall be retained by the owner/operator for the life of the tank. Lining of tanks shall not be allowed if:
- i) The shell or heads are more than 2% out of round;
 - ii) The shell or heads have one or more flat spots that have a cross measurement greater than the radius of the tank endcap;

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- iii) The shell or heads have any dent with a cross measurement greater than the radius of the tank endcap;
 - iv) The shell or heads have any dent that protrudes into the tank a distance greater than one inch for every foot of tank radius;
 - v) The shell or head has any seam split greater than $\frac{1}{2}$ inch wide or $\frac{1}{6}$ of the circumference of the tank in length;
 - vi) The unrepaired shell or head thickness is less than 75% of the original tank thickness;
 - vii) The number of perforations, not larger than $\frac{1}{2}$ inch, per 500 square feet of tank exceeds the limits in Table A10.4.2.4 of NLPA 631; or
 - viii) There are any welded repairs on the inside of the tank.
- C) Application of Lining. Prior to the application of lining material, a $\frac{1}{4}$ inch steel reinforcing plate rolled to the contour of the tank and with minimum dimensions of 8 inches by 8 inches shall be installed under the fill (drop) tube and gauging tube. This plate shall be covered with fiberglass cloth embedded in resin. The blast-cleaned surface shall be coated within 8 hours after blasting and before any visible rusting occurs. Only those lining materials meeting the specifications in API 1631 and NLPA 631 shall be used. Manufacturer's instructions are to be complied with on handling and mixing of resin compounds, and these compounds shall be applied to the entire interior surface of the tank by the manufacturer or the manufacturer's designated distributor following the specified method of application, to the designated thickness and at the recommended application temperature. If a heater is used to accelerate the curing process, all other work which might release flammable vapors shall be halted, and the heating unit shall be attended whenever it is in operation. The coating shall be cured thoroughly to the manufacturer's specifications and checked for air pockets and pinholes using a holiday detector. If any exceptions are found, they shall be repaired to manufacturer's specifications. The

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contractor shall protect the coated surfaces from contamination by foreign matter. The coating thickness shall be checked with an Elcometer Thickness Gauge or equivalent and tested for hardness using a Barcol Hardness Tester or equivalent to ensure compliance with manufacturer's specifications.

- D) Tank Closing. If a tank has been previously lined and passes its internal inspection, the following may be done in lieu of the manway requirements of subsection (a)(2)(E) of this Section:
- i) A $\frac{1}{4}$ inch thick steel cover plate, rolled to the contour of the tank, shall be made to overlap the hole at least 2 inches on each side (e.g., should measure at least 26 inches by 26 inches, if manhole was cut 22 inches by 22 inches);
 - ii) The cover shall be used as a template to locate $\frac{3}{4}$ inch diameter holes not exceeding 5 inch centers, one inch from the edge of the cover;
 - iii) The cover plate shall be sandblasted to white metal on both sides, and the entire inside surface shall be coated with coating material to act as a gasket;
 - iv) After being bolted to the tank, the cover plate and surrounding tank surface shall be properly sandblasted, coated with coating material and allowed to cure before backfilling the hole;
- E) Tank Closing after Entry Procedures. When a tank is being lined the following shall apply:
- i) Attach a manway no less than 18 inches in diameter that fits the contour of the tank. This manway shall be surrounded with self-supporting material and be accessible from surface grade.
 - ii) The manway shall be used as a template around which will be located $\frac{3}{4}$ inch diameter holes, 5 inches apart from center to center, one inch from the edge, and overlapping

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the entry hole at least 2 inches on each side, or welded in place if soil conditions will allow (no contamination is present). The lining material shall extend into the neck of the manway.

- F) Tank Lining Shall Conform to NLPA Standard 631. Original field notes documenting that the pre-lining inspection and tank lining application process complied with the requirements of NLPA Standard 631 shall be kept by the owner/operator for the life of the tank. Completion of the forms provided by OSFM for tank linings at www.state.il/OSFM/PetroChemSaf/LiningForms.htm shall be considered as equivalent to the forms required under NLPA Standard 631.
 - G) Within 5 years after lining, and every 5 years thereafter, the lined tank shall be internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications. An interior lining inspection permit under Section 175.300 must be obtained to do an internal inspection. The results and data from the lining inspection, including whether the tank passed or failed, shall be submitted to OSFM within 10 days after the lining inspection.
- 3) Internal Lining Combined with Cathodic Protection.
- A) For all applications received prior to January 1, 2011, a tank may be upgraded by both internal lining and cathodic protection if:
 - i) The lining is installed in accordance with the requirements of subsection (a)(2) above and Section 175.700; and
 - ii) The cathodic protection system meets the requirements of Section 175.400(b)(2)(B) through (C) and 175.510.
 - B) An interior inspection for an installation of internal lining combined with cathodic protection is required only once, provided the installation of both was completed within 90 days of each other and a structural criteria inspection was performed and documented.

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- b) Within 5 years after initial lining or total subsequent lining of a tank, a physical internal inspection shall be performed as follows:
- 1) The procedures for tank lining in subsection (a) shall be followed while entry is made into an existing UST for internal inspection purposes.
 - 2) Once a UST has been entered, a visual inspection of the lining shall be made. The lining shall be visually inspected for obvious evidence of peeling, blistering, surface wrinkling or roughing of the lining material. No repairs of any kind to existing linings will be allowed.
 - A) Testing shall be done to check the thickness of the shell and heads of the tank. The average metal thickness shall be at least 75% of the original tank metal thickness. Ultrasonic testing shall be done in accordance with Chapter B7 of NLPA Standard 631.
 - i) Tanks not meeting the wall thickness requirements shall be condemned and not put back into service as referenced in Section B8.1 of NLPA 631.
 - ii) No welding or cutting will be allowed inside the tank.
 - B) After a lined tank passes both the visual and the tank wall thickness test, it must be tested for holidays (air pockets) in the lining material. This test shall be performed using a holiday detector with a silicon brush electrode or other acceptable instrument to ensure the integrity of the lining material. The internal inspection holiday test shall be conducted at a rate of at least 100 volts per mil of nominal lining thickness, but in no case less than 12,500 volts or more than 35,000 volts. Tanks needing repairs shall be condemned and not put back into service.
 - C) If all previous testing ensures the integrity of the lining, it shall then be tested for hardness. Lining hardness test shall be performed using a Barcol Hardness Tester or another acceptable instrument to determine that the lining was properly cured when installed or that it has not been affected by the product stored. The overall hardness must meet the lining manufacturer's specifications for the product stored. In the event that some areas

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pass the hardness test and other areas fail the hardness test, the tank shall be condemned and not put back into service.

- D) The final test to verify that an existing lining still meets the manufacturer's original specifications shall determine the thickness of the coating. The entire interior tank lining wall surface shall be no less than 100 mils thick with a nominal (i.e., approximate) thickness of 125 mils. If any areas of the existing coating do not meet the 100 mils minimum thickness requirement, the tank shall be condemned and not put back into service.
 - E) Where applicable, interior inspections of lined fiberglass tanks shall be the same as lined steel tanks, except testing will not be required for tank thickness and for holidays in the lining material.
- 3) During the Operational Safety Inspection, the contractor will not be allowed to either cut a new access hole into the tank, nor break open an existing entrance patch until all the required testing equipment is on site. Also, a complete set of OSFM reporting forms found at www.state.il/OSFM/PetroChemSaf/LiningForms.htm must also be onsite before the entering process may begin.
 - 4) The entrance manhole, hole or patch opening shall be closed and sealed. When a bolted manway is to be installed as a new access opening for future access use, an upgrade permit will be required to make this type of improvement to the tank. No upgrade permit will be required if a manway is installed in conjunction with a lining permit or lining inspection permit, with manholes bolted to the tank top only in conjunction with an inspection, so as not to damage the existing lining.
 - 5) Written documentation generated from the lining of a tank, consisting of completed OSFM forms for tank linings found at www.state.il/OSFM/PetroChemSaf/LiningForms.htm, shall be submitted to OSFM no later than 10 days after the lining procedure completion.
 - 6) Every 5 years after the initial 5 year internal inspection, the tank must be reinspected. This can be done by a physical inspection or by another method approved by OSFM. The results and data from the lining

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inspection, including whether the tank passed or failed, shall be submitted to OSFM within 10 days after the lining inspection.

- 7) All interior inspections require an Internal Inspection Permit.
- c) UST lining and internal inspections shall meet the following OSFM requirements:
- 1) Secure proper permitting and obtain OSI schedule.
 - 2) Contractor shall present to OSFM inspector the OSHA Confined Space Entry permit for this job at the time of tank entry.
 - 3) All monitoring equipment shall be maintained according to manufacturer's specifications.
 - 4) Establish an exclusion zone, approved by the on-site STSS, within which any ignition source shall be prohibited. The use of spark producing/non-explosion proof equipment is prohibited in the vapor hazard area prior to attaining the LEL/oxygen levels required in subsection (c)(7).
 - 5) USTs to be entered shall be isolated from all distribution lines, siphons, manifolds and manifold vent systems.
 - 6) Remove all liquids from the tank using explosion proof pumps or hand pumps.
 - 7) The tank atmosphere and the excavation area shall be regularly monitored, with a combustible gas indicator, for flammable or combustible vapor concentration. Monitoring of the UST shall be done at 3 levels in the tank: top, middle and bottom. Lower explosive limits (LEL) of 5% or less, or oxygen of 5% or less, shall be attained.
 - 8) Except as otherwise provided in this Section, vapor freeing shall be done in accordance with API 1631 Section 2.4, incorporated by reference in 41 Ill. Adm. Code 174.210. Dry ice shall not be allowed as a method of inserting tanks. All inductors and diffusers must use metallic pipe. When vapor freeing the tank with compressed air or using inert gases under pressure, all devices shall be bonded to the tank, and the tank shall be grounded to a separated ground. Except when using liquid nitrogen,

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when using inert gases, the cylinder shall be equipped with a pressure gauge, so that no more than 5 psi can be discharged into the tank during vapor freeing procedures. To ensure and maintain proper grounding and bonding, the connections shall be tested by the contractor for continuity. This testing shall be done with equipment designed for continuity testing.

- 9) The STSS shall be on site before venting, cutting, cleaning or entry operations may proceed.
 - 10) If no access exists, an opening with the minimum dimensions of 18 inches by 18 inches shall be cut in the top of the UST using non-sparking equipment in preparation for a manway. All installed manways must be accessible from surface grade by way of a non-collapsible structure.
 - 11) Personal protective equipment shall be in accordance with API 1631.
 - 12) Cutting, cleaning and application of lining material shall be done in accordance with manufacturer's specifications and OSFM requirements.
 - 13) Tank owner shall file an amended Notification on OSFM forms found at www.state.il/OSFM/PetroChemSaf/Notify.pdf with OSFM within 30 days after the tank has been lined.
 - 14) For performing internal inspections, once a tank has been reclassified as a non-hazardous confined space, a positive flow of fresh air must be supplied into the tank in lieu of supplied air and continuous monitoring must be performed during the operation
- d) The following testing and records requirements shall apply to all tank lining and lining inspections activity:
- 1) It shall be the responsibility of the lining contractor to have a precision test performed within 3 days after the lining or lining inspection procedure completion and before the tank is put back into use and to submit the results to OSFM within 10 days after, or within 3 days after a failed test, on forms provided by OSFM at www.state.il/OSFM/PetroChemSaf/LiningStatementPrecisionTightnessTest.pdf and at www.state.il/OSFM/

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PetroChemSaf/FailedUST.pdf. This precision test shall be performed any time a UST is entered to install a manway, install a cover plate after lining, do an internal inspection of the tank, or penetrate the tank for any lining or lining inspections purpose.

- 2) Tank owner shall file an amended notification on OSFM forms found at www.state.il/OSFM/PetroChemSaf/Notify.pdf with OSFM within 30 days after the tank has been lined.
- 3) Lining inspections records shall be maintained for the life of the UST, and the most recent inspection record shall be kept on site pursuant to Section 175.650(e). The results and data from the lining inspection, including whether the tank passed or failed, shall be submitted to OSFM within 10 days after all lining inspections.

Section 175.510 Corrosion Protection

In all situations, no matter which method is used to assess the integrity of the tank prior to addition of cathodic protection, the cathodic protection system being field installed in Illinois must be designed by a corrosion expert who is NACE certified in cathodic protection design or by a Licensed 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. Those contractors installing the cathodic protection systems in Illinois must be licensed as cathodic protection installers. These contractors must successfully pass the International Code Council (ICC) certification exam module for cathodic protection. An installation/retrofitting ICC certified contractor may install wristband anodes or spike anodes on a flex connector without having a cathodic protection ICC certification.

- a) Cathodic Protection. A tank may be upgraded by cathodic protection if the cathodic protection system meets the requirements of 41 Ill. Adm. Code 174 through 176, and the integrity of the tank is ensured using one of the following methods:
 - 1) To be suitable for upgrading by cathodic protection, the integrity of the tank must be ensured by one of the following methods:
 - A) For tanks installed for less than 10 years, the following requirements apply:

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- i) The tank is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes prior to installing the cathodic protection system;
 - ii) The tank is monitored monthly for releases using a permanent method of leak detection as approved by OSFM. Monthly inventory control, manual tank gauging and Statistical Inventory Reconciliation (SIR) do not meet this requirement;
 - iii) Two tank precision tests must be conducted that meet the requirements of OSFM precision tank tightness testing. The first precision test shall be conducted prior to the installation of the cathodic protection system. The second precision test shall be conducted between 3 and 6 months following the first operation of the installed cathodic protection system. Both tests must indicate tightness of the tanks;
 - iv) Use of alternative methods approved by OSFM. These acceptable alternative methods are indicated in subsection (a)(1)(B) for tanks that are over 10 years old.
- B) For tanks installed for more than 10 years, the following methods apply:
- i) An invasive inspection method that ensures the tank is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes prior to installing the cathodic system. The internal inspection procedures shall follow the requirements of NLPA 631.
 - ii) An invasive remote video camera test is conducted prior to the installation of the cathodic protection system. The video system must be capable of recording a video survey of the interior surface of the tank with a suitable lighting source.
 - iii) A non-invasive tank life/corrosion model test is conducted to examine the soil environment in the immediate vicinity

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of the tank and the relationship of the metal UST to this environment. A statistical model is used to assess the relationship between the aggressiveness of the environment and the rate of corrosion and to predict the remaining life of the UST prior to corrosion failure. An example of a noninvasive test method is Mean Time to Corrosion Failure (MTCF).

- iv) The tanks are assessed for corrosion holes by other methods determined by OSFM, to prevent releases in a manner that is no less protective of human health and the environment than subsections (a)(1)(B)(i), (ii) and (iii).
- 2) OSFM requires a tank integrity assessment even if both cathodic protection and interior lining systems are being installed. If the cathodic protection and interior lining are installed at the same time, only one approved integrity assessment is required. Even if both systems have been installed, OSFM requires routine inspection and maintenance of both systems to continue.
 - 3) If one of the non-invasive methods described in this Section has been used to assess tank integrity of a tank older than 10 years, the leak detection method used on these tanks after installing the cathodic protection system may not be the monthly inventory control method, SIR, or manual tank gauging method of leak detection. Acceptable leak detection methods that can be used are as follows: automatic tank gauging, vapor monitoring, groundwater monitoring, interstitial monitoring, fiber optics or tracer elements.
 - 4) USTs equipped with both interior lining and cathodic protection (sacrificial anodes or impressed current).
 - A) The following maintenance procedures shall apply:
 - i) Sacrificial anodes must be tested according to the requirements of subsection (f).
 - ii) Impressed current records of operation must be recorded every 30 days and records kept on site for 2 years. The

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system must be tested annually and records kept on site for 3 years.

- iii) As of September 1, 2010, some facilities may exist that had been previously granted an OSFM waiver for the UST lining maintenance requirements based upon original field notes from the initial lining, of an invasive method of initial tank integrity assessment verifying that there were no holes in the tank. For these systems, only the external cathodic protection system must be maintained and tested.
- B) For those USTs where a non-invasive tank integrity assessment method was used or if there were any holes present in the tank, regular interior lining inspections must continue as described in Section 175.500.
- b) ACT-100 Tanks Installed with Sacrificial Anodes. Owners of ACT-100 tanks meeting STI F894.01, incorporated by reference in 41 Ill. Adm. Code 174.210, and able to produce ACT-100 warranty papers may choose the steel-FRP composite design as a sole method of corrosion protection instead of maintaining the sacrificial anodes.
- c) Upgrades to Combine Internal Lining with Cathodic Protection. For all permit applications received prior to January 1, 2011, a tank may be upgraded by both internal lining and cathodic protection if:
 - 1) The lining is installed in accordance with the requirements of Section 175.500; and
 - 2) The cathodic protection system meets the requirements of Section 175.400(b)(2)(B) and 175.510.
- d) Piping Corrosion Protection Requirements. All UST metal product piping that is in contact with backfill, ground or water shall be cathodically protected. All metal risers, vents and fills in contact with backfill, ground or water shall be dielectrically coated. Shrink-wrap or boots are not acceptable as a form of cathodic protection in a water environment.

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- e) Wiring of all associated electrical equipment shall conform to the requirements of Section 175.425 and shall also conform to the following requirements:
- 1) All wiring that is connected to any anode of an impressed current system shall be no less than No. 10 stranded, with jacketing that is suitable for direct burial and that is petroleum or hazard resistant for the product conveyed. Such jacketing is to have a thickness sufficient to cause the wiring to have a diameter of at least $\frac{5}{16}$ inch. Systems existing prior to May 1, 2003 may remain.
 - 2) All wiring connected to any anode of a sacrificial anode system shall be suitable for direct burial and shall be resistant to petroleum and/or hazardous substances.
 - 3) All structural lead wiring of any cathodic protection system shall be suitable for direct burial and shall be petroleum and/or hazard resistant.
 - 4) For installation of cathodic protection systems to facilities existing prior to May 1, 2003, anode wiring may be placed into pavement saw-cuts, provided that the following conditions are met:
 - A) No part of the wiring is less than one inch below the finished pavement surface, and provided that the portion of the saw-cut groove above the wiring is filled with a combination of at least $\frac{3}{8}$ inch of backerrod and at least $\frac{1}{2}$ inch of self-leveling caulk suitable as a concrete filler.
 - B) Structure lead wiring of impressed current systems shall consist of at least 2 separate leads. Such leads running from the junction box or rectifier to the UST structures must be in separate saw-cuts, jumpering from one UST structure to the next. One lead shall connect to the first structure to be protected and continue on to all structures in the UST. The second lead will connect to the last structure to be protected. Such loop is to ensure that if one lead were to become cut or disconnected, the other lead would ensure the continued connection of the UST structures and the junction box or rectifier.

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- C) All wiring from anodes shall terminate and be identified (as to location per approved site plan), in strategically located junction boxes, placed in and around the protected field. This will facilitate the testing of each anode.
- 5) Beginning May 1, 2003 for installation of cathodic protection systems, all wiring running outside of manholes or sumps shall be located at least 12 inches below the finished grade and installed in conduit approved for petroleum and/or hazardous installations.
- f) Operation and Maintenance of Cathodic Protection. Owners or operators of steel USTs with corrosion protection shall comply with the following requirements to ensure that releases due to corrosion are prevented for as long as the UST is used to store regulated substances:
 - 1) All corrosion protection systems shall be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground, backfill or water. STI-P3 tanks are to be tested every 3 years for proper corrosion protection operation.
 - 2) All USTs equipped with sacrificial anode or impressed current cathodic protection systems shall be tested and inspected for proper operation, when being put into operation, by a contractor that has successfully passed the International Code Council (ICC) certification exam module for cathodic protection. Such testing shall be in accordance with the following requirements:
 - A) Frequency. All cathodic protection systems shall be re-tested no less than 24 weeks and no more than 28 weeks from the date of installation or repairs. All sacrificial anode systems shall be tested every 3 years by a tester that meets the qualifications of this subsection (f)(2). In the event that a reading of -875 millivolts or less is recorded with testing being conducted above the structure, on any type of corrosion protection system, then annual testing will be required thereafter. In the event that upgrading of the cathodic protection system results with readings greater than -875 millivolts with readings being conducted above the structure, then testing may be conducted every 3 years, unless the 6 month test after

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upgrading produces a reading of -875 millivolts or less, then annual testing will be required.

- B) Inspection Criteria. The criteria that are used to determine that cathodic protection is adequate as required by this subsection (f)(2)(B) shall be in accordance with NACE RP0285 and SP0169, incorporated by reference in 41 Ill. Adm. Code 174.210. Subject to the technical applicability of these criteria given actual site conditions, one or more of the following criteria shall apply for adequacy of cathodic protection. Cathodic protection shall be repaired or replaced if it fails to meet the standards provided in this subsection (f)(2)(B).
- i) A negative (cathodic) potential of at least 850 millivolts with cathodic protection applied. This potential is measured with respect to a saturated copper/copper sulfate reference electrode contacting the electrolyte.
 - ii) A minimum 100 millivolt of cathodic polarization between the structure and a saturated copper/copper sulfate reference electrode contacting the electrolyte. Such polarization shall be determined from the taking of a valid "instant-off" test, that, for each testing point, determines the voltage reading at the second drop in voltage following the interruption in cathodic protection being applied, and determines if the voltage reading is at least 100 millivolts higher than either the native reading or any other reading after the structure has had time to depolarize with no cathodic protection applied.
- 3) USTs with impressed current cathodic protection systems shall also be tested and inspected, prior to being put into operation and every 30 days thereafter, to ensure the equipment is running properly and the entire system must be tested annually by a cathodic protection tester certified under the requirements of 41 Ill. Adm. Code 172.
- 4) For USTs using cathodic protection, records of the operation of the cathodic protection shall be maintained to demonstrate compliance with the

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performance standards in this Section. These records shall provide the following:

- A) The results of testing for sacrificial anode systems, the 6-month test and annual tests must be maintained on site for 2 years;
 - B) All records from the last 2 cathodic protection total system tests by a qualified cathodic protection tester pursuant to a 3-year cycle must be maintained on site; and
 - C) Impressed current systems must be inspected every 30 days and reports or a log maintained that shows date of inspection, initials of inspector, hour, volt and amp readings, and power on verification. A minimum of 2 years of records shall be kept on site. Also, a certified corrosion protection contractor must check the total system annually after the date of installation and results shall be kept on site for 2 years.
- 5) Alternative methods of corrosion protection may be used if approved in writing by OSFM, provided they are no less protective of human health or the environment.

SUBPART F: RELEASE DETECTION

Section 175.600 Owner/Operator Spill and Overfill Release Control Responsibilities

- a) Owners or operators shall ensure that releases due to spilling or overfilling do not occur. The owners or operators shall ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling.
- b) Owners or operators shall report, investigate and clean up any spills and overfills in accordance with 41 Ill. Adm. Code 176.300 through 176.350.

Section 175.610 General Release Detection Requirements for All USTs

- a) Owners or operators of new and existing USTs shall provide a method, or combination of methods, of release detection that:

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- 1) Can detect a release from the entire tank and any portion of the connected underground piping that routinely contains product;
 - 2) Is installed, calibrated, operated and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition; and
 - 3) Meets the performance requirements in Sections 175.630 and 175.640. All performance claims and the manner of determining the claims shall be described in writing by the equipment manufacturer or installer. In addition, methods used on or after December 22, 1990 (except for methods permanently installed prior to that date) shall be capable of detecting the leak rate or quantity specified for that method in Section 175.630 and 175.640 with a probability of detection of 0.95 and a probability of false alarm of 0.05. Release detection for tanks and piping permitted on or after February 1, 2008 must also meet the interstitial monitoring requirements indicated in Sections 175.400 and 175.420.
- b) All leak detection equipment must be evaluated and be listed in the NWGLDE publication "List of Leak Detection Evaluations for Storage Tank Systems", as referenced in 41 Ill. Adm. Code 174.210, or, may be utilized if approved by OSFM.
 - c) When a release detection method operated in accordance with the performance standards in Sections 175.630 and 175.640 indicates a release may have occurred, owners or operators shall notify the Illinois Emergency Management Agency in accordance with 41 Ill. Adm. Code 176.300 through 176.330.
 - d) All leak detection equipment installed on a UST, whether required or not, shall be maintained. Self-diagnosing release detection systems may not be used to circumvent any testing required by 41 Ill. Adm. Code 174, 175, 176 or 177.

Section 175.620 Release Detection Requirements for Hazardous Substance USTs

- a) Owners or operators of hazardous substance USTs, permitted prior to February 1, 2008, shall provide release detection that complies with Section 175.610 and 40 CFR 280.42, and shall be designed, constructed and installed to contain regulated substances released from the tank system until they are detected and removed,

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prevent the release of regulated substances to the environment at any time during the operational life of the UST, and be checked at least every 30 days for evidence of a release. Underground piping shall be equipped with secondary containment as allowed under subsections (a) and (b) and, if under pressure, be equipped with both an automatic line leak detector and interstitial monitoring meeting the requirements of Sections 175.640(a) and 175.630(g) and 40 CFR 280.

- b) The following existing systems installed before February 1, 2008 are allowed:
- 1) Secondary containment systems with interstitial monitoring capable of detecting a failure from the inner and outer wall.
 - 2) Double-wall tanks which are able to detect the failure of the inner or outer wall.
 - 3) External liners (including vaults) that meet the requirements of 40 CFR 280.42.
 - 4) Other methods of release detection may be used if owners or operators:
 - A) Demonstrate to OSFM that an alternate method can detect a release of the stored substance as effectively as the method allowed in Section 175.630(g); written approval is required from OSFM to use the alternate release detection method before it can be used; and
 - B) Provide written information to OSFM on effective corrective action technologies, health risks and chemical and physical properties of the stored substance, and the characteristics of the UST site.
- c) Hazardous substance USTs permitted on or after February 1, 2008 shall be double-wall and shall have interstitial monitoring in compliance with Section 175.630(g). All pressurized piping shall have automatic line leak detectors. Hazardous substance USTs shall not be permitted unless all UST components are listed by a nationally recognized independent third party organization as compatible with the product being stored.

Section 175.630 Methods of and Requirements for Release Detection for Tanks

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Owners and operators of petroleum USTs shall provide release detection on tanks. Only one approved method of primary release detection is required for each tank although multiple methods are acceptable. If present, secondary release detection systems must be maintained. No method of release detection shall be used unless that method has been approved by OSFM. USTs 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 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 $\frac{1}{8}$ 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 $\frac{1}{8}$ inch at least once a month;
 - G) All personnel involved in performing inventory control measurements, recordkeeping and related performance must be knowledgeable in that performance and activities;

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- H) Monthly inventory control records for the previous 2 years must be kept on site or available within 30 minutes or before OSFM completes its inspection, whichever is later;
- I) This method can only be used for a period of 10 years after the date cathodic protection was first 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 the 10-year point, another form of leak detection is required;
- J) No USTs installed after May 1, 2003 will be allowed to use this method.
- 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
- 1) Only tanks of 600 gallons or less nominal capacity may use the method described in this subsection as the sole method of release detection. Tanks over 2,000 gallons may not use this method of release detection. All owners or operators using manual tank gauging methods must conduct a monthly reconciliation and maintain those reconciliation records. The requirements for this type of release detection shall adhere to requirements listed in this subsection for the specific tank sizes noted:

Requirements

| Nominal tank capacity | Whether use of manual tank gauging for release detection is allowed | Time limit on use of manual tank gauging for release detection |
|------------------------------|--|---|
| 600 gallons or less | Allowed as sole method of release detection | Allowed indefinitely |

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| | | |
|--------------------|--|--|
| 601-2,000 gallons | Only in combination with annual tank precision testing | Only for the first 10 years after the date cathodic protection was first installed |
| Over 2,000 gallons | Not allowed even in combination with annual tank precision testing | Never allowed |

2) Standards

- A) In order to be eligible to continue to use manual tank gauging alone (tanks 600 gallons or less only) or in combination with other methods (tanks up to 2,000 gallons only), the following standards regarding maximum variation between beginning and ending product level measurements shall be adhered to:

Standards

| Nominal tank capacity | Weekly standard (one test) | Monthly standard (average of 4 tests taken once weekly over a 4-week period) |
|------------------------------|-----------------------------------|---|
| 600 gallons or less | 10 gallons | 5 gallons |
| 601-1,000 gallons | 13 gallons | 7 gallons |
| 1,001-2,000 gallons | 26 gallons | 13 gallons |

- B) A leak is suspected and subject to the requirements of 41 Ill. Adm. Code 176.300 through 176.360 if the variation between beginning and ending measurements exceeds the weekly or monthly standards as listed in this subsection (b). Weekly inventory records, monthly reconciliation records, annual tightness test results, and related records shall be maintained for 2 years in order to continue to be eligible to continue to use manual tank gauging.

3) Manual tank gauging shall also meet the following requirements:

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- 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 2 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 $\frac{1}{8}$ inch;
 - D) The measurement of any water level in the bottom of the tank is made to the nearest $\frac{1}{8}$ inch at least once a month; and
 - E) All personnel involved in performing manual tank gauging measurements, recordkeeping and related performance must be knowledgeable in that performance and activities.
- 4) 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.
 - 5) 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) In conjunction with monthly inventory control or manual tank gauging, precision tank tightness testing, as approved by OSFM (not a stand-alone method of release detection).
 - 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 4 types of precision testing:
 - A) 100 percent volumetric overfill;

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- B) Volumetric underfill with an approved ullage test of negative pressure or inert gas as approved by OSFM;
 - C) A negative pressure; or
 - D) Other approved methods, in accordance with subsection (i).
- 2) In the case of a suspected release, tracer elements and automatic tank gauging (ATG) are not an approved method of precision tank testing.
- d) Automatic Tank Gauging (use of an ATG). ATG equipment 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 installed, calibrated and in compliance with the protocol of the third party evaluation;
 - 3) Beginning May 1, 2003, 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 ATG systems must be equipped with printers. 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; all vapor sensors must be tested for functionality by a licensed contractor at least once every 3 years and the records kept until the next test;
 - 6) In the UST excavation zone, the site is assessed to ensure compliance with the requirements in subsections (e)(1) through (4) 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 4 inches in diameter or as approved by OSFM 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 the wells is subject to approval of OSFM on the applicable permit.
- f) Groundwater Monitoring. Testing or monitoring for liquids on the groundwater shall meet the following requirements:

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- 1) The regulated substance stored is immiscible in water and has a specific 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 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 $\frac{1}{8}$ 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 $\frac{1}{8}$ 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;
- 7) Within and immediately below the UST excavation zone, the site is assessed to ensure compliance with the requirements in subsections (f)(1) through (5) and to establish the number and positioning of monitoring wells

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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) As of September 1, 2010, the minimum diameter of newly installed groundwater monitoring wells shall be 8 inches; 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 based upon the direction of groundwater flow and the tank placement. Adequacy of the wells is subject to approval of OSFM on the applicable permit. Beginning May 1, 2003, an adequate number of monitoring wells shall require a minimum of 2 8-inch diameter monitoring wells for the first tank and one 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 and a secondary barrier immediately around or beneath it, or interstitial monitoring as required by Sections 175.400(a) and 175.420(b) and meeting the requirements of this Section, 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. All tanks permitted on or after February 1, 2008 must be equipped with interstitial monitoring sensors. When required to make tank or piping interstitial monitoring functional, the appropriate containment (e.g., under-dispenser containment, tank containment sumps or junction sumps) shall be installed. All existing interstitial monitoring systems and sensors shall be maintained and, beginning September 8, 2008, may not be removed irrespective of whether the leak detection is secondary or redundant to other forms of leak detection. If the interstitial monitoring is not functional or not operating properly it shall promptly be repaired or replaced and any necessary measures to prevent false positive and false negative readings shall be implemented.
- 1) Interstitial monitoring must also meet one of the following requirements:

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- A) For double-wall USTs, the sampling or testing method can detect a release through the inner wall in any portion of the tank that routinely contains product;
- B) For USTs existing prior to February 1, 2008 and with a secondary barrier within the excavation zone, the sampling or testing method used can detect a release between the underground storage tank system and the secondary barrier.
 - i) The secondary barrier around or beneath the UST consists of artificially constructed material that is sufficiently thick and 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;
 - ii) The barrier is compatible with the regulated substance stored so that a release from the UST will not cause a deterioration of the barrier allowing a release to pass through undetected;
 - iii) 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;
 - iv) 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;
 - v) 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 those conditions;
 - vi) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering; and
 - vii) An adequate number of monitoring wells shall be provided to ensure that a release can be detected from any

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portion of the tank. Adequacy of the number of the wells is subject to the approval of OSFM.

- C) 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.
- 2) The interstitial monitoring system must be tested every year to verify its operation and records from the 2 previous tests must be kept on site, or available within 30 minutes or before OSFM completes its inspection, whichever is later. Testing of the system sensors shall be done in such a way as to verify their function but not damage the sensors. This testing shall be done by a licensed contractor. Interstitial monitoring must also comply with the requirements of Section 175.640.
 - 3) The operability of the interstitial monitoring sensors shall be inspected and verified by the owner/operator every 30 days. Pursuant to Section 175.650(e), records for the previous 2 years must be kept on site or available within 30 minutes or before OSFM completes its inspection, whichever is later.
- h) Statistical Inventory Reconciliation (SIR)
 - 1) The company that uses this method shall provide OSFM 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 OSFM in writing within 30 days after the commencement of the monitoring, specifying tank size, product stored, facility location and any other pertinent identification information necessary. SIR data shall be compiled and analyzed once each month to determine if a release has occurred, and the results put into a monthly report that is maintained by the facility.
 - 2) SIR methods may only be used in conjunction with precision tank tightness testing conducted annually, starting with the time that SIR is first used. An additional precision tank tightness test pursuant to subsection (c) 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.

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- 3) The measurement of any water level in the bottom of the tank is made to the nearest $\frac{1}{8}$ inch at least once a month.
 - 4) New requests to use SIR after May 1, 2003 will no longer be accepted. If SIR is discontinued on a UST, SIR will not be allowed again.
 - 5) After January 1, 2006, SIR may not be used on systems with blending pumps or siphon tanks.
- i) Other Methods. Any other type of release detection method or combination of methods, approved by OSFM, may be used if the owner or operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in subsections (c) through (g). Demonstration of any such method shall be in writing submitted to OSFM. In comparing methods, OSFM 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 OSFM on its use to ensure the protection of human health or the environment. Before the utilization of the method, OSFM 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 OSFM as part of the permit application process. Any deviation from the third-party evaluation shall be submitted to OSFM for approval with the permit application, including, but not limited to, an evaluation by a licensed professional engineer finding that the release detection system as installed meets the performance requirements of 40 CFR 280 and this Part and the performance claims established by the independent third party evaluation and its protocol. For requirements regarding listing of components used with alternative or blended fuels, see Section 175.415.

Section 175.640 Methods of and Requirements for Release Detection for Piping

Owners and operators of petroleum USTs shall provide release detection for all piping containing regulated substances. The release detection must meet the requirements specified in this Section.

- a) Pressurized piping systems shall comply with the following requirements:

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- 1) Both new and existing pressurized piping installations shall be equipped with automatic line leak detectors.
- 2) Every pressurized piping line installed after February 1, 2008 shall be equipped with interstitial monitoring sensors at all piping sumps, dispenser sumps, and piping junction sumps. As of September 1, 2010, these sensors must immediately shut off the submersible pump supplying that line upon detection of a release. Pursuant to Section 175.630(g), testing of interstitial monitoring sensors shall be conducted annually, and the sensors inspected for operability at least once per month and a record of the inspection results generated.
- 3) All new and existing sump sensors must be installed so as to detect liquid below the lowest contained entry point.
- 4) Mechanical and electronic line leak detectors that alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if they detect leaks of 3 gallons per hour at 10 pounds per square inch line pressure within one hour. All line leak detectors must have a functionality test performed annually. Self-diagnosing line leak detectors are not alone sufficient to meet the requirement for an annual functionality test.
- 5) In addition to utilizing automatic line leak detectors, pressurized piping systems shall utilize either line tightness testing pursuant to this subsection (a)(5) or monthly monitoring pursuant to subsection (c) of this Section. Line tightness testing requirements may be met by one of the following methods:
 - A) Pressurized lines must have an annual precision test that is capable of detecting a 0.1 gallon per hour leak rate at 1.5 times the operating pressure for 30 minutes. Use of an inert gas to pressurize piping is also acceptable. Use of air to pressurize piping that contains product is prohibited.
 - B) The use of electronic line leak detection that is able to detect a 0.1 gallon per hour leak at 1.5 times the operating pressure in an annual test of the line, with the records of the 2 most recent annual

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tests kept on site or available within 30 minutes or before OSFM completes its inspection, whichever is later.

- C) A method meeting the requirements of the NWGLDE publication "List of Leak Detection Evaluations for Storage Tank Systems", as referenced in 41 Ill. Adm. Code 174.210, or, if unavailable, as approved by OSFM.
- b) Suction lines and systems must comply with the following requirements:
- 1) American Suction
 - A) For all permit applications received as of September 1, 2010, every American suction piping line shall be equipped with interstitial monitoring sensors at all piping sumps, dispenser sumps and piping junction sumps that will immediately shut off the supply of product at the dispenser upon the detection of a release. Testing of interstitial monitoring sensors shall be conducted annually pursuant to the requirements of Section 175.630(g). All interstitial monitoring sensors shall be inspected for operability at least once per month and a record of the inspection results generated.
 - B) All American suction lines shall be tested annually using positive pressure of at least 7 psi for 30 minutes, or, using a monthly monitoring method as approved by OSFM.
 - 2) European suction lines do not require line leak detection or a precision line test if they are designed and constructed to meet the following:
 - A) The below grade piping operates at less than atmospheric pressure;
 - B) The below grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;
 - C) Only one check valve is included in each suction line;
 - D) The check valve is located directly below and as close as practical to the suction pump; and

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- E) A method is provided that allows compliance with subsections (b)(2)(B), (C) and (D) to be readily determined as of the time of OSFM inspection.
- 3) Suction systems that do not meet the requirements of subsections (b)(2)(A) through (E) shall be classified as American suction and subject to the requirements for American suction in subsection (b)(1). European suction piping meeting the requirements of subsections (b)(2)(A) through (E) remains subject to requirements for under-dispenser containment pursuant to Section 175.410.
- c) Any of the methods in Section 175.630(e) through (g) and (i) may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances, as approved by OSFM. SIR is not acceptable as a form of line leak detection. Precision testing is not a stand-alone method for line leak detection.
- d) Existing interstitial monitoring systems and sensors shall be maintained and, beginning September 8, 2008, may not be removed irrespective of whether the leak detection is secondary or redundant to other forms of leak detection. If the interstitial monitoring is not functional or not operating properly it shall promptly be repaired or replaced and any necessary measures to prevent false positive and false negative readings shall be implemented.
- e) One copy of an independent third-party evaluation and its protocol for each piping release detection method shall be submitted to OSFM as part of the permit application process. Any deviation from the third-party evaluation shall be submitted to OSFM for approval with the permit application, including but not limited to an evaluation by a licensed professional engineer finding that the release detection system as installed meets the performance requirements of 40 CFR 280 and this Part and the performance claims established by the independent third-party evaluation and its protocol. See also Section 175.415 regarding compatibility with product stored.

Section 175.650 Release Detection and Cathodic Protection Recordkeeping

UST owners or operators shall maintain records in accordance with 41 Ill. Adm. Code 176.430, demonstrating compliance with all applicable Sections of this Subpart F. Unless stated otherwise below, all records shall be maintained for at least the 2 most recent years and shall be kept on site

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or available within 30 minutes, or before OSFM completes its inspection, whichever is later, via fax, email or other transfer of information. The failure to maintain or produce the records required under this Section may result in OSFM's issuance of a red tag for the tank or tanks at issue pursuant to 41 Ill. Adm. Code 177 indicating non-compliance with the rules of OSFM and prohibiting any further deposit of regulated substances into the tank or tanks subject to a red tag in the event that testing with corresponding documentation is not forthcoming within 30 days. These records shall include the following:

- a) All written performance claims pertaining to any release detection system used and the manner in which these claims have been justified or tested by the equipment manufacturer or installer, shall be maintained for the life of the UST release detection equipment;
- b) The results of any sampling, testing or monitoring conducted or otherwise required shall be maintained for the required 2-year period, except that the results of tank tightness testing conducted in accordance with Section 175.630(c) shall be retained until the next test is conducted;
- c) Written documentation of all calibration, maintenance and repair of release detection equipment permanently located on site shall be maintained for 5 years after the date of installation, and thereafter for 3 years after the servicing work is completed. Any schedules of required calibration and maintenance provided by the release detection equipment manufacturer shall be retained for the life of the UST release detection equipment;
- d) All records from the last 2 cathodic protection total system tests by a qualified cathodic protection tester pursuant to a 3-year cycle must be maintained on site; and
- e) At the time of a compliance inspection/audit, the following shall be verified:
 - 1) Corrosion Protection
 - A) Lining inspections records shall be maintained for the life of the UST, and the most recent inspection record shall be kept on site pursuant to Section 175.650(e).
 - B) All corrosion protection records must be maintained for the time periods required under Section 175.510.

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- 2) Tank Leak Detection
- A) Manual Tank Gauging. Weekly inventory records, monthly reconciliation records, annual tightness test results, and related records shall be maintained.
 - B) Interstitial Monitoring. Records of interstitial monitoring of tanks and testing of interstitial monitoring systems must be maintained. The records can be from an ATG system showing the interstitial monitor's status (pass/normal/other) on a print out tape or by maintaining a log showing date of inspection, initials of inspector and status of system (pass/normal/other).
 - C) Inventory Control. Pursuant to Section 175.630(a), a precision tank tightness test must be performed at 5 years and 10 years after corrosion protection installation and prior to changing leak detection methods. Daily inventory control records and monthly reconciliation records shall be maintained for 2 years and tightness test records shall be maintained until the next tightness test is conducted.
 - D) Automatic Tank Gauge. A print out tape of the tank leak test showing one pass per tank per month must be kept. If no tape is available from the unit, a log showing date, initials of person conducting the test and leak results shall be maintained.
 - E) SIR. Annual tank tightness test results and monthly SIR monitoring reports shall be maintained. At the commencement of SIR monitoring, a lag time of 60 days is allowed for the compilation of data and the generation of the monthly report for that data.
 - F) Vapor and Groundwater Monitoring. A monthly record must be taken on a log showing date of each monthly inspection, results/status (pass or fail), and the initials of the party doing the inspection for each vapor monitoring sensor or groundwater monitoring well with records maintained.

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- 3) Line Leak Detection
 - A) Unless otherwise indicated in this Part, all line leak detection records, including any required line tightness testing results, shall be maintained for a period of at least 2 years.
 - B) Interstitial monitoring records for lines shall comply with the same requirements and be maintained in the same manner as interstitial monitoring for tanks.

SUBPART G: REPAIRS TO UNDERGROUND STORAGE TANKS
AND DEFECTIVE EQUIPMENT

Section 175.700 Repairs Allowed

Owners and operators of USTs shall ensure that repairs will prevent releases due to structural failure or corrosion as long as the UST is used to store regulated substances. Any hole or penetration made into a tank, including, but not limited to, any bung openings or any entrance way established for interior lining inspection, shall be installed and closed as per this Section.

- a) Repairs to USTs shall be properly conducted in accordance with manufacturer's recommended procedures and 41 Ill. Adm. Code 174 through 176. For repairs involving tank penetration or tank entry, the vapor freeing and inerting procedures and related requirements of Sections 175.500(a) and (c) and 175.830(a) shall be followed. No welding or cutting will be allowed inside the tank in conducting repairs.
- b) Repairs to fiberglass-reinforced plastic tanks shall be made by the manufacturer's authorized representative or a representative of any fiberglass tank manufacturer in accordance with NLPA 631, incorporated by reference in 41 Ill. Adm. Code 174.210.
- c) Metal pipe sections and fittings that have released product as a result of corrosion or other damage shall be replaced. The entire pipe run shall be replaced upon finding a second corrosion-related piping leak in the wall of the same pipe run. Fiberglass pipes and fittings may be repaired in accordance with the manufacturer's specifications. All repairs shall comply with the requirements of Section 175.420.

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- d) Repaired tanks and piping shall be tightness tested in accordance with Sections 175.630(c) and 175.640(a)(5) prior to being brought back into use and within 30 days following the date of the completion of the repair, except as provided in this subsection (d)(1) through (3).
- 1) The repaired tank is internally inspected in accordance with Section 175.500;
 - 2) The repaired portion of the UST is monitored monthly for releases in accordance with a method specified in Section 175.630(d) through (h); or
 - 3) Another test method is used that is determined by OSFM to be not less protective of human health and the environment than those listed in subsections (d)(1) and (2); before the utilization of any such method, it shall be submitted to OSFM in writing, and OSFM shall issue written approval.
- e) UST owners or operators shall maintain records of each repair for the remaining operating life of the UST that demonstrate compliance with the requirements of this Section. The last 2 years of records shall be retained on site.
- f) All materials used to make necessary repairs shall comply with Subpart D of this Part.
- g) When a tank is determined to be leaking, it can be permanently abandoned-in-place (subject to Section 175.840), removed (subject to Section 175.830), replaced (subject to Section 175.Subpart D) or repaired (subject to this Section).
- h) Removal or abandonment-in-place of a leaking tank shall be in compliance with Sections 175.830 and 175.840. Leaking piping shall be removed or abandoned-in-place in compliance with these Sections.
- i) For permit applications received prior to January 1, 2011, storage tanks may be lined if done in compliance with Section 175.500.

Section 175.710 Emergency Repairs

- a) An emergency consists of a defect in a UST that is causing or threatens to cause harm to human health or the environment, or presents a threat to fire safety, and

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contact of the regulated substance with the defect cannot be prevented. In the event of a release, release reporting, investigation and initial response shall be conducted pursuant to 41 Ill. Adm. Code 174, 175 and 176. All emergency repairs require a permit applied for after-the-fact on the next business day and require a final inspection scheduled pursuant to Section 175.320 within 10 days after issuance of the permit.

- b) If minor or temporary repairs are required to correct the defect, only the defective area can be repaired.
- c) Economic loss or the threat of economic loss does not constitute an emergency.
- d) Minor or temporary repairs, as a result of an emergency, to tanks or piping may begin on weekends, holidays and after business hours, when the repairs would otherwise require a permit prior to being performed. Permit applications are required for this UST activity and shall be submitted to OSFM after-the-fact, on the next business day. All repairs shall be inspected and tested prior to the repaired UST being put back into operation, unless otherwise directed by OSFM.
- e) When the emergency prompting the need for repairs occurs on a business day, the contractor shall contact OSFM and obtain authorization to proceed with the emergency repair. After obtaining authorization, the contractor shall fax a statement to OSFM indicating what facility and what specific repair is being requested.
- f) Repairs completed in violation of 41 Ill. Adm. Code 172, 174, 175, 176 and 177 may be required to be removed, exposed or replaced at the discretion of OSFM.

Section 175.720 Defective or Non-Compliant Equipment and Emergency Action by OSFM

- a) Pursuant to Section 6 of the Gasoline Storage Act [430 ILCS 15/6], whenever necessary or appropriate to assure that the public health or safety is not threatened, OSFM shall have the authority to undertake emergency action whenever there is a release or substantial threat of a release of petroleum or regulated substances from a UST.
- b) Failed precision tank or line tests and defective tank or piping leak detection equipment will require that particular tank system to be shut down until repaired

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and functioning properly. Another approved method of leak detection may be implemented if approved by OSFM on an interim basis.

SUBPART H: REMOVAL, ABANDONMENT AND CHANGE-IN-SERVICE

Section 175.800 Removal or Change-in-Service Records

Owners or operators shall maintain records in accordance with 41 Ill. Adm. Code 176.430 that are capable of demonstrating compliance with removal or change-in-service requirements under all applicable Sections of this Subpart H. The results of the excavation zone assessment required in 41 Ill. Adm. Code 176.360 shall be maintained for the time period specified in 41 Ill. Adm. Code 176.330 following completion of a removal or change-in-service in one of the following ways:

- a) By the owners or operators who took the UST out of service;
- b) By the current owners or operators of the UST site; or
- c) By mailing these records to OSFM if they cannot be maintained at the facility where the tank has been removed.

Section 175.810 Temporary Closure

- a) USTs may be put into a temporary closure status provided they meet the performance standards for new UST systems or the upgrading requirements specified in 41 Ill. Adm. Code 174 through 176 and 40 CFR 280, except that spill and overfill prevention equipment requirements do not have to be met. The USTs may continue in a temporary closure status for a period of 5 years from the date of last use provided they meet the following requirements:
 - 1) The tank and product lines shall be emptied immediately upon placing the UST in a temporary closure status. The UST is empty when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters (one inch) of residue, or 0.3 percent by weight of the total capacity of the UST system, remain in the system. Any UST placed in a temporary closure status, formerly known as out of service status, prior to September 1, 2010 and containing more than one inch of product may be allowed to continue in temporary closure status as long as release detection is maintained during its remaining temporary closure period.

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- 2) 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.
 - 3) OSFM must receive a written request, within 30 days after the date the tank was last used, requesting temporary closure status. The request shall be submitted on forms provided by OSFM at www.state.il.gov/OSFM/PetroChemSaf/Notify.pdf.
 - 4) Vent lines shall be left open and functioning.
 - 5) Within 7 days, the owner/operator shall cap and secure all product lines and secure all pumps, manways and ancillary equipment.
 - 6) A UST may be put back in operation any time during the first 12 months, without meeting the requirements of subsections (b) and (c), subject to the requirement that OSFM be notified in writing on OSFM forms at www.state.il.gov/OSFM/PetroChemSaf/Notify.pdf at least 10 days prior to operation.
 - 7) If there is no ongoing incident cleanup related to the tanks that are the subject of the temporary closure request, a site assessment using the procedures of 41 Ill. Adm. Code 176.330 shall be conducted prior to bringing the UST back into service, and the report required under 41 Ill. Adm. Code 176.330(c) shall be submitted to OSFM.
 - 8) The owner/operator shall inspect the UST for compliance with the temporary closure requirements of this subsection (a) every 6 months, and for each inspection, the owner/operator shall attest, under penalty of perjury and on a form provided by OSFM at www.state.il.us/osfm/PetroChemSaf/home.htm, under "downloadable applications", that the UST is in compliance with the temporary closure requirements of this subsection (a).
- b) Failure to maintain corrosion protection at any point during the remaining 4-year temporary closure period referenced in subsection (c) shall require the removal of the tanks. Failure to maintain release detection on any UST placed in a temporary closure status, formerly known as an out of service status, prior to September 1,

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2010 and containing more than one inch of residue shall require the owner/operator to provide OSFM with a site assessment and passing results for tank and line precision testing within 30 days after issuance of an NOV in order for the tanks to remain in a temporary closure status. Immediately after tank and line testing the tanks shall be emptied to one inch or less. Release detection is not required as long as all materials have been removed using commonly employed practices so that no more than 2.5 centimeters (one inch) of residue, or 0.3 percent by weight of the total capacity of the UST system, remain in the system.

- c) Systems that have been out of use for over one year but less than 5 years may be put back in service provided that the following additional requirements are met:
 - 1) Tanks and lines shall be precision tested and proven sufficient.
 - 2) Tank and line release detection is tested and proven operational.
 - 3) Cathodic protection is tested and proven sufficient.
 - 4) A site assessment is conducted prior to bringing the UST back into service.
 - 5) All tests referenced in subsections (c)(1) through (c)(3) must be performed not more than 90 days and not less than 30 days before placing the tank back in service and submitted to OSFM at least 10 days prior to reopening so that a certification audit can be performed.
- d) Single-wall USTs over 30 years old that have been in temporary closure, formerly known as out-of-service, more than one year shall be removed rather than placed back into service.
- e) If a UST is not placed back into service within 5 years from the date of last use, the tank system shall be removed within 60 days after the conclusion of the 5-year period. USTs with double-walled tanks and piping equipped with interstitial monitoring shall not be subject to the 5-year limit during the period the tank manufacturer's warranty is in place if all of the following requirements are met:
 - 1) Corrosion protection has been and continues to be maintained;
 - 2) A site assessment under Section 175.330 has been performed;

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- 3) Any UST components found to be defective are replaced in the 45 days prior to any return to active use; and
- 4) All requirements for return to use under subsection (c) and this Section are met.

Section 175.820 Change-in-Service of USTs

- a) From a Regulated Substance to a Non-Regulated Substance. Continued use of a UST to store a non-regulated substance (so that it is no longer classified as a UST) is considered a change-in-service. Before a change-in-service, owners or operators shall empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment. The minimum requirements for the site assessment will be the procedures and requirements of 41 Ill. Adm. Code 176.330. However, a change-in-service may only occur during the first 2 years, commencing with the date of installation of the tank. 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 this Section.
- b) From a Regulated Substance to a Regulated Substance. A change-in-service also consists of a conversion of a petroleum UST to a non-compatible petroleum UST or a hazardous substance UST to a non-compatible hazardous substance UST or a petroleum UST to a hazardous substance UST and vice versa. Before a change-in-service, owners or operators shall empty and clean the tank by removing all liquid and accumulated sludge in accordance with the requirements of Sections 175.500(a) and (c) and 175.830(a), including API 2015, incorporated by reference in 41 Ill. Adm. Code 174.210. The owner or operator shall verify that the UST meets the requirements of a hazardous material system if being changed over to a hazardous material substance, including requirements for secondary containment with interstitial monitoring after December 22, 1998. (See Section 175.415(c) and (d) regarding when an existing UST is converted to a blended or alternative fuel.)
- c) From a Non-Regulated Substance to a Regulated Substance. A non-UST, which is used to store a non-regulated substance, may not be converted to a UST unless the tank has been re-certified and is in compliance with all applicable upgrade requirements for newly installed USTs. A waste oil tank that is supplying fuel to a waste oil furnace and is taken out of service shall be no longer classified as a

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heating oil tank. If the tank does not meet all upgrade requirements for release detection, spill, overflow and corrosion protection, the tank shall be removed.

- d) For all activity related to a change-in-service, the equipment must be compatible with the product being stored and notification of change-in-service must be provided on OSFM forms at www.state.il/OSFM/PetroChemSaf/Notify.pdf to OSFM not less than 30 days prior to the change-in-service.

Section 175.830 Removal of USTs

- a) For tank removals, the following requirements and procedures shall be followed:
- 1) Compliance with subsections (a)(2) through (a)(18) is the responsibility of the contractor.
 - 2) Except as otherwise provided in this Section, the procedures of API 1604, incorporated by reference in 41 Ill. Adm. Code 174.210, shall be followed for vapor freeing and inerting procedures.
 - 3) Secure proper permitting and schedule removal date with OSFM. A new permit and fee will be required when there is a failure to meet the Date Certain schedule established under Section 175.320, including not showing for the inspection, not being completely ready for the inspection, allowing the permit to expire before the inspection, or not cancelling the job 24 hours prior to the scheduled activity. (See Section 175.300 for additional permit requirements.)
 - 4) Maintain all combustible gas indicator equipment according to manufacturer's specifications.
 - 5) Establish an exclusion zone within which smoking is prohibited, which shall include all hazardous (classified) locations/areas where work related to removal is being conducted. The use of spark producing/non-explosion proof equipment is prohibited in the vapor hazard area prior to removal of product and sludges and attaining the lower explosive limit (LEL)/oxygen levels required in subsection (a)(9).
 - 6) Excavate to the top of the tank. Drain product from piping into the tank or into approved drums, being careful to avoid any spillage to the excavation

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area. Safely disconnect product piping from the tank, and remove the piping. Pipe trenches shall remain open for inspection by an OSFM Storage Tank Safety Specialist (STSS). Further excavation below the top of the tank is not allowed until STSS has verified that tank conditions meet the LEL/oxygen criteria of subsection (a)(9).

- 7) Remove all liquids from the tank using explosion-proof pumps or hand pumps. When suctioning product out of tanks, plastic pipes shall not be allowed as a suction tube.
- 8) Regularly monitor the tank atmosphere and the excavation area with a combustible gas indicator for flammable or combustible vapor concentration until the tank is removed from both the excavation and the site. Monitoring the UST shall be done at 3 levels in the tank: top, middle and bottom. A confined space entry permit shall be obtained prior to tank entry and MSDS sheets must be on site.
- 9) Regularly monitor the tank to insure explosive conditions do not exist. A maximum of 5% of the LEL, or 5% or less oxygen concentration, shall be attained before the tank is considered safe for removal, instead of 20%, as required in the API 1604. Dry ice shall not be allowed as a method of inerting tanks as referred to in API 1604.
- 10) Bond all devices to the tank and ground the tank to a separate ground when vapor freeing the tank with compressed air or using inert gases under pressure. When using inert gases the cylinder shall be equipped with a pressure gauge, so that no more than 5 psi can be discharged into the tank during vapor freeing procedures. To ensure and maintain proper grounding and bonding, the connections shall be tested by the contractor for continuity. This testing shall be done with equipment designed for continuity testing. When vapor freeing of tanks, plastic pipes shall not be allowed as a vent tube on eductors.
- 11) Plug and cap all accessible tank holes. One plug should have an 1/8 inch vent hole.
- 12) Excavate around the tank to prepare for removal. This shall include excavation along one side and one end, from top to bottom.

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- 13) A STSS shall be on site before hot work can proceed.
- 14) With STSS on site, remove tank from the ground. Equipment with sufficient lifting capacity shall be used to lift the tank from the excavation and must be rated as appropriate for the particular site and excavation.
- 15) Protective Equipment and Tank Cleaning Requirements
 - A) Personal protection requirements for tank cleaning personnel shall, at a minimum, include the following;
 - i) supplied air with full face mask;
 - ii) level B personal protective equipment with body harness and tag line;
 - iii) protective booties;
 - iv) continual monitoring of LEL and oxygen during cleaning;
 - v) attendant/observer;
 - vi) positive flow of fresh air supplied during all cleaning operations.
 - B) Requirements in subsection (a)(15)(A) shall not apply in the event that no physical entry is made into the tank.
- 16) Any UST removed from the excavation zone shall be properly cleaned on site the day of the removal and removed from the site within 24 hours.
- 17) Tanks larger than 2,000 gallons in capacity shall have holes or openings no less than 3 feet x 3 feet, one on each end or side, for cleaning. Tanks less than 2,000 gallons capacity shall have one entire side removed from end to end and shall be no less than 3 feet wide.
- 18) The use of spark producing/non-explosion proof equipment is prohibited in the vapor hazard area prior to attaining the LEL/oxygen levels required in subsection (a)(9).

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- 19) The tank owner must file an amended Notification of Underground Tanks on forms provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf with OSFM within 30 days after the tank removal.
 - 20) If an STSS has observed evidence of a release, the owner, operator or designated representative of the UST must notify the Illinois Emergency Management Agency. This is to be done at the site immediately following the field determination and the incident number shall be given to the STSS prior to his/her leaving the site.
 - 21) All tank removals require a site assessment pursuant to 41 Ill. Adm. Code 176.330.
 - 22) Any tank being removed without an OSFM permit will be required to be put back in the excavation and vented to 12 feet above grade if it has not been removed from the site and covered with backfill until a permit and licensed contractor can remove it properly.
- b) Disposal of Tanks
- 1) If a tank is to be scrapped as junk, it shall be retested for combustible or flammable vapors and, if necessary, rendered gas free.
 - 2) If the tank last contained leaded gasoline, an unknown petroleum product or a hazardous substance, it may only be scrapped or junked, recertified, or discarded at a special waste or hazardous waste landfill as designated by Illinois EPA regulations. If tanks are being re-certified, the contractor must give written notice to OSFM on the removal permit as to the intent to re-certify and re-use the tanks being removed. The re-certified tank must be re-installed within 6 months from removal.
 - 3) Removed tanks may not be reused for any purpose other than those allowed by OSFM rules (proper disposal at an approved landfill, scrapped or junked after proper cleaning, or recertified pursuant to OSFM rules).
 - 4) Compliance with this subsection (b) is the responsibility of the contractor.

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Section 175.840 Abandonment-in-Place

- a) No tank or piping may be abandoned-in-place unless the permit applicant demonstrates eligibility for a waiver of the removal requirement for the tank and/or piping. The waiver shall be granted only in the following instances:
 - 1) where it would be infeasible to remove the UST due to loss of adjacent or subjacent support of nearby structures, such as railroad tracks, streets (as defined in Section 1-201 of the Illinois Vehicle Code [625 ILCS 5/1-201]), and other USTs;
 - 2) removal is infeasible because of inaccessibility, as determined by OSFM; or
 - 3) in unusual situations where removal is infeasible due to other reasons, as determined by OSFM.
- b) In the event there is a delegation of authority to the City of Chicago to enforce UST rules and regulations, pursuant to the Gasoline Storage Act [430 ILCS 15/2], subject to the terms of such agreement, the City has the authority to modify subsection (d) of this Section, to issue permits to abandon in-place USTs located within the jurisdiction of the City and request records of abandonment-in-place; however, any criteria for abandonment-in-place shall be as stringent as that of OSFM. Tanks, inside the jurisdiction of the City of Chicago, which were abandoned-in-place prior to July 28, 1989 (the date of repeal of home rule by the City over USTs) in accordance with City laws, regulations or ordinances, need not be removed so long as a condition under subsection (a) allowing abandonment continues to exist.
- c) Tanks, outside the jurisdiction of the City of Chicago, filled with inert material, as described in subsection (d)(14), prior to October 1, 1985, need not be removed so long as a condition under subsection (a) allowing abandonment exists; however, the owners shall provide documentation of fill material and date of fill, upon request by OSFM. The documentation shall be a receipt or a written statement from the contractor who did the fill, a statement from the inspector who inspected the tank or a written statement from anyone designated by the State Fire Marshal or the Director of the Division of Petroleum and Chemical Safety.

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- d) For UST abandonment-in-place, the following requirements and procedures shall be followed:
- 1) An on-site evaluation shall be done by the owner or operator, or designated representative, to prepare an accurate Certification of Site Condition with site drawings. If the ability to abandon-in-place is questioned, a third-party professional structural engineer may be used to determine the feasibility of removal in order to verify that the tank is or is not eligible to be abandoned in place pursuant to subsection (a).
 - 2) Except as otherwise provided in this Section, the procedures of API 1604 shall be followed for vapor freeing and inerting procedures.
 - 3) Proper permitting shall be obtained.
 - A) A complete plan or diagram of the area shall be provided and show the location of tanks, fill pipes, vent lines, sewers, streets, product lines and buildings;
 - B) A Certification of Site Condition shall be provided, which includes, but is not limited to, facility name and location, number and size of USTs involved and that the subject UST site is clean or contaminated. This Certification of Site Condition shall be based on a professional site assessment from soil sampling and this site assessment must accompany the site certification form (www.state.il.us/osfm/Techservices/doc/TS101-Abandonment_In_Place_032008.Doc); and
 - C) A description of the specific inert material to be used shall be indicated on the permit application.
 - 4) All health and safety monitoring equipment shall be maintained according to manufacturer's specifications.
 - 5) An exclusion zone shall be established, within which smoking is prohibited. The exclusion zone shall include all hazardous (classified) locations/areas where work related to abandonment-in-place is being conducted. The use of spark producing/non-explosion proof equipment is prohibited in the vapor hazard area prior to removal of product and

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sludges and attaining the LEL/oxygen levels required in subsection (d)(10).

- 6) Upon excavating to the top of the tank, on-site personnel shall drain product into approved drums or other approved receptacles and remove all piping except the vent line. Any associated piping to be abandoned-in-place shall be properly secured or capped and have prior approval by OSFM. Pipe trenches shall remain open for inspection by OSFM Storage Tank Safety Specialist (STSS). Further excavation below the top of the tank is not allowed until STSS is present and has verified that tank conditions meet the LEL/oxygen criteria of subsection (d)(10).
- 7) All liquids shall be removed from the tank using explosion-proof pumps or hand pumps.
- 8) The tank atmosphere and the excavation area shall be regularly monitored with a combustible gas indicator for flammable or combustible vapor concentration. Monitoring the UST shall be done at 3 levels in the tank: top, middle and bottom. A confined space entry permit shall be obtained prior to tank entry and MSDS sheets must be on site.
- 9) Vapor freeing shall be done in accordance with API 1604, except that dry ice shall not be allowed as a method of inerting tanks. When vapor freeing the tank with compressed air or using inert gases under pressure, all devices shall be bonded to the tank and the tank shall be grounded to a separate ground. When using inert gases, the cylinder shall be equipped with a pressure gauge so that no more than 5 psi can be discharged into the tank during vapor freeing procedures. To ensure and maintain proper grounding and bonding, the connections shall be tested by the contractor for continuity. This testing shall be done with equipment designed for continuity testing. When vapor freeing a tank, plastic pipes shall not be allowed as a vent tube on eductors.
- 10) The tank shall be regularly monitored to insure that explosive conditions do not exist. A maximum of 5% of the LEL, or 5% or less oxygen concentration, shall be attained before the tank is considered safe for abandonment.
- 11) An STSS shall be on site before hot work can proceed.

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- 12) A sufficient number of holes or openings shall be made in the tank for abandonment-in-place procedures if existing openings are not adequate.
 - 13) Cleaning procedures shall be in accordance with API 2015, incorporated by reference in 41 Ill. Adm. Code 174.210. Protective respiratory equipment for tank cleaning personnel shall be the type that provides positive air pressure to a full-face mask throughout the breathing cycle, in accordance with API 2015.
 - 14) After cleaning, on-site personnel shall proceed to introduce an OSFM-approved, inert material through openings in the top of the tank to minimize any surface settling subsequent to abandonment of the tank in place. Allowed inert material shall be limited to sand, gravel, clay, bentonite or inert material mixed with portland cement to increase flowability. The portland cement concentration may not exceed 50 lbs. per cubic yard of mixed material. Any other materials must be approved by OSFM during the permit process. The procedure for filling shall be in accordance with API 1604.
 - 15) After the tank is filled with inert material, all tank openings shall be plugged or capped unless it was necessary to cut open the tank top. The vent line shall be disconnected, capped and removed.
 - 16) The tank owner must file an amended Notification of Underground Tanks on OSFM forms at www.state.il/OSFM/PetroChemSaf/Notify.pdf with OSFM within 30 days after the abandonment-in-place.
 - 17) When a UST is abandoned-in-place, the owner of the UST shall keep a permanent record of the UST location, the date of abandonment-in-place and the procedure used for abandonment-in-place. Upon request by OSFM, Division of Petroleum and Chemical Safety, the owner shall forward a copy of the record to OSFM, within 14 days after receipt of a written request by OSFM sent to the last known address by U.S. registered or certified mail.
- e) When a UST is allowed to be abandoned-in-place, as specified in this Section, the abandoned-in-place UST shall be removed when the condition for issuing the abandonment permit no longer exists. The removal procedures shall be followed and a removal permit is required.

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- f) Compliance with subsections (d)(1) through (d)(15) is the responsibility of the contractor.

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Section 175.APPENDIX A UST Activity that Cannot Proceed Without an OSFM Inspector on Site

In addition to obtaining a permit pursuant to 41 Ill. Adm. Code 175.300, the UST activities listed in this Appendix A will require that the inspection be scheduled with OSFM as an OSI, meaning under circumstances where the work cannot proceed in the absence of having an STSS on site. (See Section 175.320, regarding scheduling of UST activity.) Proceeding without completion of the required OSFM inspection is a violation of OSFM rules.

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| Tank or piping removal (with the exception of piping that is repaired or replaced within the same trench) |
| Abandonment-in-place, tanks or piping |
| UST hot work (if cutting or penetration of tank shell is involved, including for tank lining or lining inspection purposes) |

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Section 175.APPENDIX B The Type of OSFM Permit Required for Specific Permitted UST Activities

Pursuant to Section 175.300 and 41 Ill. Adm. Code 174.440 and 174.450, the UST activities listed in this Appendix B will require the kinds of permits listed in this chart.

| Type of UST Activity | Permit Required |
|---|---|
| Installation of a complete UST with all components, or installation of just the tank | Installation permit |
| Installation of any portion of a UST (except corrosion protection or lining) | Upgrade permit |
| Removal of an underground tank or underground piping (with the exception of piping that is repaired or replaced within the same trench) | Removal permit |
| Removal of underground piping when the piping is replaced or repaired all within the same trench | Upgrade permit (requires at least one employee certified in the decommissioning module) |
| Abandonment-in-place of any tank or piping | Abandonment-in-place permit |
| UST repair to make an existing UST part functional, including flex connector replacement but not including lining or corrosion protection | Upgrade permit |
| Tank lining or tank lining inspections | Lining permit |
| Emergency repairs (excluding corrosion protection) | Upgrade permit (see the procedures of Section 175.710) |
| Repair or install cathodic protection or corrosion protection, including on flex connectors (but see wristband/spike anodes below) | Cathodic protection permit |
| Manway installation (no separate upgrade or entry permit for a manway is required where the original lining permit or lining inspection permit includes the installation of a manway) | Upgrade permit |
| UST activity requiring the cutting or penetration of the tank shell in any way (no separate hot work permit required where a lining, upgrade or other permit is being issued) | Hot work permit |
| Installation, upgrade or removal of leak detection systems | Upgrade permit |
| New spill containment (except that replacement of spill containment is a like-for-like) | Upgrade permit |

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| replacement that requires only notification to OSFM pursuant to Section 175.300) | |
| Installation or replacement of a remote fill | Upgrade permit |
| New or replaced overfill prevention equipment (except that replacement of drop tube valves and ball floats are like-for-like replacements that require only notification to OSFM pursuant to Section 175.300) | Upgrade permit |
| Installation or replacement of dispensers where piping or any other transitional components at or below the shear valve (including the shear valve) are replaced at the same time | Upgrade permit |
| Installation or replacement of an ATG unit (except that replacement of ATG probes are like-for-like replacements that require only notification to OSFM pursuant to Section 175.300) | Upgrade permit |
| Installation or replacement of a flex connector (only) | Upgrade permit |
| Installation of wristband anodes or spike anodes on an existing flex connector (only) | Upgrade permit |
| Installation or replacement of a flex connector and wristband anodes or spike anodes on the flex connector (only) | Upgrade permit |
| Connecting a new or existing bulk load-out to a new or existing UST at a motor fuel dispensing facility | Upgrade permit (Installation permit if an entire UST is being installed) |
| Construction of a building or structure where loading or unloading or dispensing operations will occur | Installation permit |
| Site for the mobile fueling of commercial vehicle fleets (pursuant to Section 1(d)(C) of the Gasoline Storage Act [430 ILCS 15/2(1)(d)(C)]) | Mobile fueling site permit (pursuant to 41 Ill. Adm. Code 174.440 and 174.450) |
| Tank vehicle to be used for the mobile fueling of commercial vehicle fleets (pursuant to Section 1(d)(C) of the Gasoline Storage Act [430 ILCS 15/2(1)(d)(C)]) | Mobile fueling vehicle permit (pursuant to 41 Ill. Adm. Code 174.440 and 174.450) |
| Person, company, or other entity proposing to conduct mobile fueling using tank vehicles to be | Mobile fueling contractor permit (pursuant to 41 Ill. Adm. Code 174.440 and 174.450) |

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| used for the mobile fueling of commercial vehicle fleets (pursuant to Section 1(d)(C) of the Gasoline Storage Act [430 ILCS 15/2(1)(d)(C)]) | |
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Section 175.APPENDIX C Derivation Table

The following table indicates the Sections of 41 Ill. Adm. Code 170 that formerly stated requirements identical to or related to those now located within this Part 175.

| New Section | Old Section |
|--------------------|--|
| 175.100 | 170.400 |
| 175.200 | 170.150(a), (c), (e), 170.210(a), 170.310(d), 170.426(g) |
| 175.210 | 170.150, 170.428(g) |
| 175.220 | 170.310, 170.428(g) |
| 175.230 | None |
| 175.240 | None |
| 175.250 | 170.145, 170.426(j), 170.428(e), (g), (m), 170.APPENDIX E |
| 175.260 | 170.91, 170.160, 170.310(d), 170.426(l) |
| 175.300 | 170.541, 170.APPENDIX E |
| 175.310 | 170.542 |
| 175.320 | 170.543 |
| 175.330 | 170.441 |
| 175.400 | 170.420(a), (b) |
| 175.405 | 170.420(c) |
| 175.410 | 170.420(d)(19), 170.421(i) |
| 175.415 | 170.470 |
| 175.420 | 170.420(d)(12), (13), 170.421 |
| 175.425 | 170.421(f) |
| 175.430 | 170.422 |
| 175.435 | 170.423 |
| 175.440 | 170.424 |
| 175.445 | 170.425 |
| 175.450 | 170.91, 170.150(d)(5), (6), 170.160(g), (h), 170.310(a)(1), (2), 170.426, 170.428(a), (h), (i), (j), (k), (l), 170.546(a) |
| 175.455 | 170.150(d)(2), 170.420(d)(1), 170.545, 170.672(e) |
| 175.460 | 170.426(j), 170.428(b), (c), (e), (l), 170.APPENDIX E |
| 175.465 | 170.420(b)(3), (4), 170.420(d), 170.546(b) |
| 175.500 | 170.430 |
| 175.510 | 170.460, 170.480(e) |
| 175.600 | 170.450 |
| 175.610 | 170.500 |
| 175.620 | 170.520 |
| 175.630 | 170.530 |

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| 175.640 | 170.540 |
| 175.650 | 170.550 |
| 175.700 | 170.480 |
| 175.710 | 170.481 |
| 175.720 | 170.200, 170.427 |
| 175.800 | 170.660 |
| 175.810 | 170.411 |
| 175.820 | 170.630 |
| 175.830 | 170.670(a), (b), (c) |
| 175.840 | 170.670(d) |
| 175.APPENIDX A..... | None |
| 175.APPENDIX B..... | None |
| 175.APPENDIX C..... | None |

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- 1) Heading of the Part: Administrative Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances
- 2) Code Citation: 41 Ill. Adm. Code 176
- 3)

| <u>Section Numbers:</u> | <u>Adopted Action:</u> |
|-------------------------|------------------------|
| 176.100 | New |
| 176.200 | New |
| 176.205 | New |
| 176.210 | New |
| 176.215 | New |
| 176.220 | New |
| 176.225 | New |
| 176.230 | New |
| 176.235 | New |
| 176.240 | New |
| 176.245 | New |
| 176.250 | New |
| 176.300 | New |
| 176.310 | New |
| 176.320 | New |
| 176.330 | New |
| 176.340 | New |
| 176.350 | New |
| 176.360 | New |
| 176.400 | New |
| 176.410 | New |
| 176.420 | New |
| 176.430 | New |
| 176.440 | New |
| 176.450 | New |
| 176.460 | New |
| 176.470 | New |
| 176.500 | New |
| 176.505 | New |
| 176.510 | New |
| 176.515 | New |
| 176.520 | New |
| 176.525 | New |

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|----------------|-----|
| 176.530 | New |
| 176.535 | New |
| 176.540 | New |
| 176.545 | New |
| 176.550 | New |
| 176.555 | New |
| 176.560 | New |
| 176.570 | New |
| 176.575 | New |
| 176.580 | New |
| 176.585 | New |
| 176.590 | New |
| 176.APPENDIX A | New |

- 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 Rules: September 2, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. A variety of codes and standards developed by independent national associations and work groups have been incorporated and are available for public inspection at:

Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield, IL 62703-4259
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the principal office of the State Fire Marshal, 1035 Stevenson Drive, Springfield, Illinois, and is available for public inspection at that location.
- 9) Notice of Proposed Rules published in the Illinois Register: 33 Ill. Reg. 16352; November 20, 2009
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Changes made between the proposed and adopted versions:

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Make the following changes in that portion of the table of contents that relates to Subpart C:

- Delete the line that says "176.305 Initial Response and Reporting of Confirmed and Actual Releases"
- Insert a new line immediately after the title/heading for Section 176.310, stating "176.320 Initial Response and Reporting of Confirmed Releases"
- In the next line, replace "176.320" with "176.330"
- In the next line, replace "176.330" with "176.340"
- In the next line, replace "176.340" with "176.350"
- In the next line, replace "176.350" with "176.360"

In Section 176.205(a), immediately after "1995", insert "and implements Section 6.1 of the Gasoline Storage Act, 430 ILCS 15/01], which imposes a State law financial assurance requirement of \$20,000 per owner or operator".

In Section 176.205(c), immediately after "required under" insert "Section 6.1 of the Gasoline Storage Act [430 ILCS 15/6.1] as implemented by".

In the lead-in for Section 176.215, replace the text prior to the colon with "Under Section 6.1 of the Gasoline Storage Act, only the following may be considered acceptable mechanisms for financial responsibility".

In Section 176.215(b), replace "net worth" with "tangible net worth".

In Section 176.220(b), replace "on at least an annual basis" with "that is at all times current, as reflected by copies of the same records on file with the financial institution".

Replace the text of Section 176.220(d) with the following:

- "d) An annual notification indicating the financial responsibility mechanism chosen under Section 176.215 by the owner or operator, on forms provided by OSFM (available at www.state.il.us/osfm/PetroChemSaf/home.htm, under "downloadable applications") shall be sent to OSFM on an annual basis. If a self-insurance mechanism (under 176.215 (b)) is chosen, the facility shall send copies of the required proof to OSFM on an annual basis, which shall include:
- 1) the annual notification under this subsection (d) indicating the financial responsibility mechanism chosen;
 - 2) a letter by the Chief Financial Officer which shall include the items specified for this letter as stated in 40 CFR 280.95, although it may show a tangible net worth equal to or greater than \$200,000;

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- 3) a statement prepared by an independent public accountant that meets the financial criteria and requirements of 40 CFR 280.95, except that the statement may show a tangible net worth equal to or greater than \$200,000, which statement may be on the OSFM form provided for this purpose, found at www.state.il.us/osfm/PetroChemSaf/home.htm, under "downloadable applications")."

In Section 176.220(e), replace "subsections (a) and (b)" with "subsections (a), (b) and (c)".

At the end of subsection 176.240(b)(2), immediately after "reporting year.", insert "The letter by the chief financial officer shall be accompanied by the documents identified in 176.220(d)(1) and (d)(3) and shall include the items specified for this letter as stated in 40 CFR 280.95, although it may show a tangible net worth equal to or greater than \$200,000."

In the lead-in for Section 176.300(a), replace "Sections 176.305(b) and (c) and 176.310" with "Sections 176.310, 176.320(b) and (c) and 176.350".

In subsection 176.300(a)(3)(B), replace "24-hour" with "immediate" and replace "of Section 176.310(d)(1)" with "under this Section".

In Section 176.300(b), replace "water body" with "body of water".

In Section 176.300(c), replace "identified or confirmed" with "confirmed under the procedures of Section 176.310" and replace "176.305" with "176.320".

Insert the following text into the end of Section 176.300, and delete that same text from the end of Section 176.310; then replace "176.305" with "176.320" in the text which has just been moved, so that it reads as follows:

- "d) Notification of Suspected Release at the Direction of STSS. The owner, operator or designated representative of the UST must notify IEMA and any other entities required to be notified under Section 176.320 of a suspected release, when directed to do so by the storage tank safety specialist (STSS) employed by OSFM. This is to be done at the time of discovery and the incident number shall be given to the STSS prior to leaving the site."

In the lead-in to Section 176.305, delete "or after a release from the UST is identified in any manner".

Change the Section number and title of Section 176.305 to read as follows: "**Section 176.320 Initial Response and Reporting of Confirmed Releases**"; then move the text so it immediately follows Section 176.310. In the text of that section as renumbered, make the following changes:

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- In subsection 176.320(a)(1)(B), as renumbered, replace "water body" with "body of water".
- In subsection 176.320(a)(1)(B), as renumbered, replace "confirmed and actual releases" with "confirmed releases".
- At the end of subsection 176.320(a)(1)(B), as renumbered, immediately after "Illinois).", insert "If known, the caller shall inform IEMA whether the same release had previously been called in as a suspected release."

In subsection 176.310(b)(3), change "176.320" to "176.330".

At the end of subsection 176.310(b)(3), immediately after "suspecting a release.", insert "In the event lab results are not forthcoming within 7 days, the owner/operator shall have such additional reasonable time as is necessary to receive the results, but the total time period to confirm the presence or absence of a release and report any confirmed release shall not in any event exceed 45 days."

In Section 176.310(c), change "176.320" to "176.330".

In subsection 176.310(c)(1), immediately after "abatement procedures", insert "under Sections 176.350 and 176.320(b) and (c)".

Change the section number of Section 176.320 by replacing "**176.320**" with "**176.330**".

At the end of Section 176.330(a), as renumbered, immediately after "Geologist.", insert "All site assessment work shall meet accepted engineering standards or accepted standards for the practice of professional geology and be conducted according to the best professional judgment and diligence of the supervising Licensed Professional Engineer or Licensed Professional Geologist, as the case may be."

In Section 176.330(b), as renumbered, in the first sentence, immediately after "the UST site", insert "by conducting sampling in the same manner and following the same procedures as required under the Board's Petroleum Underground Storage Tanks rules at 35 Ill. Adm. Code 734.210(h)(1) and (2)".

In Section 176.330(b), as renumbered, replace "The minimum number of samples, the sampling locations, and the measurement methods shall be determined by reference to the provisions in 35 Ill. Adm. Code 734.210 and 734.415 for early action site activity. Field observations, methods, and records for soil borings shall meet the requirements for early action in 35 Ill. Adm. Code 734.425 and 734.415." with the following:

"Samples must be analyzed for the same applicable indicator contaminants as required under 35 Ill. Adm. Code 734.405. All sampling must meet the same data quality and certification requirements as set forth in 35 Ill. Adm. Code 734.415 and 734.420. If soil borings are involved the owner or operator must follow the same requirements as set forth in 35 Ill. Adm. Code 734.425 and 734.435."

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Delete the last sentence in Section 176.330(b), as renumbered; in the second to last sentence in that subsection (b), delete the words "as specified in 35 Ill. Adm. Code 734.210 and insert a period immediately following "source of the release"; then insert the following at the end of that subsection: "Packaging for shipping or delivery should be done in a manner that will preserve the sample and prevent deterioration or dilution, as for example, putting samples in sealed containers in ice."

In Section 176.330(c), as renumbered, replace "a comparison of the lab analysis results to threshold standards for contamination, defined as Tier 1 remediation objectives for residential properties in 35 Ill. Adm. Code 742." with "an evaluation of lab results to determine whether any contamination has been found."

In Section 176.330(c), as renumbered, in the third sentence, delete "at or above thresholds".

At the end of Section 176.330(c), as renumbered, immediately after "and conditions.", insert "In the event a suspected release was previously called into IEMA and is being confirmed by site assessment, the pass/fail result form shall be provided to Illinois EPA in addition to the OSFM."

In Section 176.330(d), as renumbered, replace "evidence of a suspected release" with "evidence of a release", delete "at or above Tier 1 residential levels", replace "176.305" with "176.320", and delete "pursuant to 35 Ill. Adm. Code 734".

In Section 176.330(e), as renumbered, immediately after "30 minutes" add "or before OSFM completes its inspection, whichever is later", delete "pursuant to a completed site remediation under 35 Ill. Adm. Code 732 or 734", replace "OSFM or IEPA rules" with "this Part", delete "at or above Tier 1 residential levels", and replace "the effective date of these rules" with "September 1, 2010".

Change the section number of Section 176.330 by replacing "**176.330**" with "**176.340**".

In Section 176.340(a), as renumbered, replace "Sections 176.305, 176.310 and 176.340" with "Sections 176.310, 176.320 and 176.350".

In subsection 176.340(a)(1), as renumbered, replace "nearby surface water" with "a nearby body of water".

In subsection 176.340(a)(2), as renumbered, replace "176.305" with "176.320".

In Section 176.340(b), as renumbered, replace "176.340" with "176.350".

Change the section number of Section 176.340 by replacing "**176.340**" with "**176.350**".

Change the section number of Section 176.350 by replacing "**176.350**" with "**176.360**".

In subsection 176.360(a)(1), as renumbered, replace "176.320" with "176.330".

In subsection 176.360(a)(2), as renumbered, delete "(failure to meet Tier 1 remediation objectives found in 35 Ill. Adm. Code 742)" and replace "176.305" with "176.320".

In subsection 176.360(a)(3), as renumbered, replace "Sections 176.305, 176.310 and 176.340" with "Sections 176.310, 176.320 and 176.350".

In Section 176.360(b), as renumbered, replace "176.320" with "176.330".

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In Section 176.420, replace "incompatibility or other defect" with "release, or other operational problems or other defect", and replace "For requirements regarding listing of" with:

- "b) In addition to the requirement that all UST components be third party listed for their performance in the intended use, all UST components must also be third party listed as compatible with the product to be stored under 41 Ill. Adm. Code 175.415. This would include third party listing requirements for".

In subsection 176.430(a)(3), line 640, replace "176.330" with "176.340" and replace "176.305" with "176.320".

In subsection 176.430(a)(6), replace "176.320" with "176.330(c)".

In subsection 176.430(b)(3), replace "3 years" with "2 years".

In subsection 176.430(b)(7) replace "176.320" with "176.330".

In Section 176.430(c), change "less" to "before OSFM completes its inspection, whichever is later,".

In subsection 176.430(g)(4), replace www.state.il/OSFM/PetroChemSaf with www.state.il/OSFM/PetroChemSaf/home.htm.

In Section 176.440(c), immediately after "separate facility.", insert "The owner shall provide the proper street address for the owner and for each facility.".

In Section 176.505, change "30 calendar days" to "60 calendar days" and delete "Only one 30 day extension may be granted and only when a noncancelable contract for the permitted work has been executed and a permit for the required work has been applied for prior to the deadline for compliance with the NOV. For all other matters, compliance shall be achieved within the 30 calendar days after the issuance of the NOV.".

In Section 176.505, immediately after "time of inspection", insert "or may be mailed or served by other legal process as in the case of a closed or unattended facility".

In Section 176.545, replace "any national technical code of practice" with "any practice, standard or code".

In the 13th line of Appendix B, in the column under "Old Section", immediately after "170.560", insert "and 170.580(e)".

In the 14th line of Appendix B, in the column under "New Section", replace "176.305" with "176.320".

In the 16th line of Appendix B, in the column under "New Section", replace "176.320" with "176.330".

In the 17th line of Appendix B, in the column under "New Section", replace "176.330" with "176.340".

In the 18th line of Appendix B, in the column under "New Section", replace "176.340" with "176.350".

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In the 19th line of Appendix B, in the column under "New Section", replace "176.350" with "176.360".

- 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 rules: Reorganizes and consolidates existing underground storage tank system (UST) rules concerning State financial assurance requirements for USTs, release reporting and site assessment, UST recordkeeping, UST registration and notification, and hearing and enforcement procedures. Implements newly enacted federal requirements for USTs. Requires a call to 911 when reporting certain spills and overfills and certain releases and to call the local authority having jurisdiction when reporting the remainder of releases. Clarifies that UST site assessment procedures shall be equivalent to site assessment procedures for early action under 35 Ill. Adm. Code 734. Allows a certification from a licensed professional engineer with experience in UST installation to substitute for a certification that a UST installation or upgrade has been performed according to OSFM rules and the manufacturer's requirements. Requires that all UST components be listed by a national third party organization as acceptable for the intended use but allows a certification from an engineer with experience in UST installation or periodic inspections by qualified personnel according to an OSFM-approved schedule to substitute for the third-party listing. Requires that violations cited in a Notice of Violation (NOV) be corrected within 30 days subject to a right to request one 30-day extension in specified circumstances. Clarifies certain hearing procedures. Makes non-substantive changes as compared to comparable text in current Part 170 text being repealed and replaced by new Parts 174, 175, and 176.
- 16) Information and questions regarding these adopted rules 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

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Facsimile: 217/524-9284

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

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TITLE 41: FIRE PROTECTION
CHAPTER I: OFFICE OF THE STATE FIRE MARSHAL

PART 176

ADMINISTRATIVE REQUIREMENTS FOR UNDERGROUND STORAGE TANKS AND
THE STORAGE, TRANSPORTATION, SALE AND USE OF PETROLEUM
AND OTHER REGULATED SUBSTANCES

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Section
176.100 Definitions

SUBPART B: FINANCIAL ASSURANCE

Section
176.200 Definitions
176.205 Applicability
176.210 Amount
176.215 Mechanisms of Financial Responsibility
176.220 Proof of Financial Responsibility
176.225 Substitution of Financial Responsibility Mechanisms by an Owner or Operator
176.230 Cancellation or Non-Renewal by a Provider of Financial Assurance
176.235 Reporting by Owner or Operator
176.240 Recordkeeping
176.245 Release from the Requirements
176.250 Bankruptcy or Other Incapacity of Owner, Operator or Provider of Financial Assurance

SUBPART C: RELEASE REPORTING AND SITE ASSESSMENT

Section
176.300 Reporting of Suspected Releases
176.310 Release Investigation Reporting and Site Assessment
176.320 Initial Response and Reporting of Confirmed Releases
176.330 Procedures for Site Assessments
176.340 Reporting and Cleanup of Spills and Overfills
176.350 Initial Release Abatement Measures
176.360 Assessing the Site at Removal of, Previously Removed, or Change-in-Service of

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SUBPART D: GENERAL TECHNICAL REQUIREMENTS,
INCLUDING REPORTING, RECORDKEEPING AND NOTIFICATION

Section

| | |
|---------|--|
| 176.400 | Delegation of Authority to Enforce UST Rules and Regulations |
| 176.410 | General Requirement to Maintain All Equipment |
| 176.420 | Requirement that UST Components Be Third Party Listed |
| 176.430 | Reporting and Recordkeeping |
| 176.440 | Notification Requirements for Purposes of UST Registration |
| 176.450 | UST Registration Fees |
| 176.460 | Pre-'74 and Heating Oil USTs |
| 176.470 | Requirements for Conducting Precision Testing of Tanks and Piping, Cathodic Protection Testing, and Testing of Other UST Equipment |

SUBPART E: HEARINGS AND ENFORCEMENT PROCEDURES

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| 176.510 | Grounds and Time for Appeal |
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| 176.525 | Appearances |
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| 176.550 | Authority of Hearing Officer |
| 176.555 | Default |
| 176.560 | Post-Hearing Submissions |
| 176.565 | Transcripts |
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| 176.575 | License Suspension or Revocation and Assessment of Fines Against a Contractor |
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| 176.590 | Paper Hearings |
| 176.APPENDIX A | Derivation Table |

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AUTHORITY: Implementing the Gasoline Storage Act [430 ILCS 15] and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15/2].

SOURCE: Adopted at 34 Ill. Reg. 13485, effective September 2, 2010.

SUBPART A: DEFINITIONS

Section 176.100 Definitions

Unless otherwise provided in this Part, all terms in this Part shall have the definitions provided by 41 Ill. Adm. Code 174.

SUBPART B: FINANCIAL ASSURANCE

Section 176.200 Definitions

"Bodily Injury" means bodily injury, sickness or disease sustained by a person, including death at any time, resulting from a release of petroleum from a UST.

"IEMA" means the Illinois Emergency Management Agency.

"Occurrence" means an accident, including continuous or repeated exposure to conditions, that results in a release of petroleum into the environment from a UST.

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

"Property Damage" means physical injury to, destruction of, or contamination of tangible property, including all resulting loss of use of that property; or loss of use of tangible property that is not physically injured, destroyed or contaminated, but has been evacuated, withdrawn from use, or rendered inaccessible because of an occurrence.

"Provider of Financial Assurance" means an entity that provides financial assurance to an owner or operator of a UST through one or more mechanisms listed in Section 176.215, including the fiduciary of a designated savings account.

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"Underground Storage Tank Trust Fund" or "UST Fund" means the fund created as a special fund in the Illinois State Treasury at 415 ILCS 5/57.11.

"UST" means underground storage tank system.

Section 176.205 Applicability

- a) This Subpart B applies to all owners or operators of USTs in the ground as of April 1, 1995 and implements Section 6.1 of the Gasoline Storage Act [430 ILCS 15/6.1], which imposes a State law financial assurance requirement of \$20,000 per owner or operator.
- b) All owners or operators of hazardous substance USTs are excluded from regulation under this Subpart B.
- c) Although the UST Fund assists certain petroleum UST owners in paying for corrective action or third-party liability (see 415 ILCS 5/57.9), for purposes of this Subpart the UST Fund is not considered a mechanism for the financial responsibility compliance required under Section 6.1 of the Gasoline Storage Act as implemented by this Subpart.
- d) None of the financial responsibility mechanisms specified in Section 176.215 are required by OSFM to include a standby trust.

Section 176.210 Amount

Each owner or operator shall maintain financial responsibility in the sum of \$20,000, regardless of the number of USTs or facilities owned or operated. This \$20,000 shall be comprised as follows:

- a) \$10,000 per occurrence for corrective action; and
- b) \$10,000 per occurrence for third-party liability for bodily injury or property damage.

Section 176.215 Mechanisms of Financial Responsibility

Under Section 6.1 of the Gasoline Storage Act, only the following may be considered acceptable mechanisms for financial responsibility:

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- a) Commercial or private insurance, including risk retention groups (40 CFR 280.97, incorporated by reference in 41 Ill. Adm. Code 174.210);
- b) Self-insurance (40 CFR 280.95, incorporated by reference in 41 Ill. Adm. Code 174.210), if there is a tangible net worth of at least \$200,000;
- c) Guarantee (40 CFR 280.96, incorporated by reference in 41 Ill. Adm. Code 174.210);
- d) Surety bond (40 CFR 280.98, incorporated by reference in 41 Ill. Adm. Code 174.210);
- e) Letter of credit (40 CFR 280.99, incorporated by reference in 41 Ill. Adm. Code 174.210);
- f) Certificate of deposit;
- g) Designated savings account; or
- h) Any combination of the mechanisms listed in this Section.

Section 176.220 Proof of Financial Responsibility

- a) Proof of financial responsibility for Section 176.215(a), (b), (c), (d) or (e) shall be maintained on the respective forms located in 40 CFR 280, incorporated by reference in 41 Ill. Adm. Code 174.210. These forms shall be modified to comply with Section 176.210. It is the responsibility of tank owners or operators to modify the forms.
- b) Proof of financial responsibility for Section 176.215(f) or (g) shall be documented by written proof from the appropriate financial institution that is at all times current, as reflected by copies of the same records on file with the financial institution.
- c) The forms referenced in subsection (a) of this Section shall be renewed on an annual basis.

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- d) An annual notification indicating the financial responsibility mechanism chosen under Section 176.215 by the owner or operator, on forms provided by OSFM (available at www.state.il.us/osfm/PetroChemSaf/home.htm, under "downloadable applications") shall be sent to OSFM on an annual basis. If a self-insurance mechanism (under Section 176.215(b)) is chosen, the facility shall send copies of the required proof to OSFM on an annual basis, which shall include:
- 1) the annual notification under this subsection (d) indicating the financial responsibility mechanism chosen;
 - 2) a letter by the Chief Financial Officer that shall include the items specified for this letter as stated in 40 CFR 280.95, although it may show a tangible net worth equal to or greater than \$200,000;
 - 3) a statement prepared by an independent public accountant that meets the financial criteria and requirements of 40 CFR 280.95, except that the statement may show a tangible net worth equal to or greater than \$200,000, which statement may be on the OSFM form provided for this purpose, found at www.state.il.us/osfm/PetroChemSaf/home.htm, under "downloadable applications").
- e) The forms referenced in subsections (a), (b) and (c) of this Section shall include the name, address and facility identification number for each facility, as applicable.

Section 176.225 Substitution of Financial Responsibility Mechanisms by an Owner or Operator

- a) An owner or operator may substitute any alternative financial responsibility mechanism specified in Section 176.215, provided that at all times the owner or operator maintains an effective financial responsibility mechanism or combination of mechanisms that satisfies the requirements of this Subpart.
- b) After obtaining alternative financial responsibility as specified in Section 176.215, an owner or operator may cancel the replaced financial responsibility mechanism by providing notice to the provider of financial assurance.

Section 176.230 Cancellation or Non-Renewal by a Provider of Financial Assurance

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- a) Except as otherwise provided, a provider of financial assurance may cancel or fail to renew an assurance mechanism by sending notice of termination by certified mail to the owner or operator.
- 1) Termination of a guarantee, surety bond or letter of credit may not occur until 120 days after the date on which the owner or operator receives the notice of termination as evidenced by the return receipt.
 - 2) Termination of commercial or private insurance or risk retention group coverage may not occur until 60 days after the date on which the owner or operator receives the notice of termination as evidenced by the return receipt.
- b) If a provider of financial assurance cancels or fails to renew an assurance mechanism, for reasons specified in Section 176.250(c), the owner or operator must obtain alternative coverage, in a form allowed by Section 176.215, within 60 days after receipt of the notice of termination. When the owner or operator fails to obtain alternative coverage within 60 days after receipt of the notice of termination, the owner or operator shall notify OSFM of that failure, in writing, by certified mail, within 10 days. The notification to OSFM shall include:
- 1) Name and address of the provider of financial assurance;
 - 2) Effective date of termination;
 - 3) Evidence of the financial responsibility mechanism subject to the termination, maintained in accordance with Section 176.240(b); and
 - 4) Name, address and facility identification number for each affected facility.

Section 176.235 Reporting by Owner or Operator

- a) An owner or operator shall certify compliance with the financial responsibility requirements in Section 176.215, as specified in the notification form provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf, when notifying OSFM of any new or existing UST, in accordance with Section 176.440.

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- b) An owner or operator shall notify OSFM on an amended notification form when there is a change in status of financial responsibility, in accordance with Section 176.440(g).
- c) OSFM may require an owner or operator to submit evidence of financial responsibility as described in Section 176.240(b) or other information relevant to compliance with this Subpart at any time. The request shall be in writing, sent by U.S. Mail, registered or certified, to the facility or owner's address on the most recent notification form submitted to OSFM.

Section 176.240 Recordkeeping

- a) Owners or operators shall maintain evidence of all financial responsibility mechanisms used to demonstrate financial responsibility (pursuant to this Subpart) for a UST until released from the requirements of this Subpart under Section 176.245. An owner or operator shall maintain that evidence at the UST site or the owner's or operator's principal place of business. Records maintained off-site shall be made available upon written request from OSFM, sent by U.S. Mail, registered or certified, to the facility or owner's address on the most recent notification form submitted to OSFM, and the recipient shall comply within 10 days after receipt.
- b) An owner or operator shall maintain a copy of the following types of evidence of financial responsibility:
 - 1) An owner or operator using a financial responsibility mechanism as specified in Section 176.215 shall maintain a copy of the instrument required under Section 176.220.
 - 2) An owner or operator using a financial test or guarantee shall maintain a copy of the chief financial officer's letter based on year-end financial statements for the most recent completed financial reporting year. This evidence shall be on file no later than 120 days after the close of the financial reporting year. The letter by the Chief Financial Officer shall be accompanied by the documents identified in Section 176.220(d)(1) and (d)(3) and shall include the items specified for this letter in 40 CFR 280.95, although it may show a tangible net worth equal to or greater than \$200,000.

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- 3) An owner or operator using a commercial or private insurance policy or risk retention group coverage shall maintain a copy of the signed insurance policy or risk retention group coverage policy, with the endorsement or certificate of insurance and any amendments to the agreement.
- 4) An owner or operator using a financial responsibility mechanism as specified in Section 176.215 shall maintain an updated copy of a certification of financial responsibility (see 40 CFR 280.111(b)(11), incorporated by reference in 41 Ill. Adm. Code 174.210).

Section 176.245 Release from the Requirements

An owner or operator is no longer required to maintain financial responsibility pursuant to this Subpart for a UST after the UST has been removed or abandoned-in-place, in accordance with 41 Ill. Adm. Code 175.830 and 175.840.

Section 176.250 Bankruptcy or Other Incapacity of Owner, Operator or Provider of Financial Assurance

- a) Within 10 days after commencement of a voluntary or involuntary proceeding for relief under the United States Bankruptcy Code (11 USC 101 et seq.) naming an owner or operator as debtor, the owner or operator must notify OSFM by certified mail of that commencement and submit the appropriate forms listed in Section 176.240(b), documenting current financial responsibility.
- b) Within 10 days after commencement of a voluntary or involuntary proceeding for relief under the United States Bankruptcy Code naming a guarantor providing financial assurance as debtor, the guarantor must notify the owner or operator by certified mail of that commencement as required under the terms of the guarantee specified in 40 CFR 280.96, incorporated by reference in 41 Ill. Adm. Code 174.210.
- c) An owner or operator who obtains financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial responsibility in the event of a bankruptcy or incapacity of its provider of financial assurance or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, commercial or private insurance policy, risk retention group coverage policy, surety bond, letter of credit

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or certificate of deposit or act as fiduciary of a designated savings account. The owner or operator must obtain alternative financial assurance as specified in Section 176.215 within 30 days after receiving notice of such an event. If the owner or operator does not obtain alternative coverage within 30 days after notification, the owner or operator shall notify OSFM in writing, sent by certified mail, within 10 days after receiving notice of the bankruptcy event.

SUBPART C: RELEASE REPORTING AND SITE ASSESSMENT

Section 176.300 Reporting of Suspected Releases

- a) Owners or operators of USTs shall immediately report to IEMA (from Illinois, 1-800-782-7860; from outside Illinois, 217/782-7860) and follow the procedures in Sections 176.310, 176.320(b) and (c) and 176.350 in any of the following situations:
 - 1) The discovery by owners, operators, product delivery drivers or others of released regulated substances at the UST site or in the surrounding area (such as the presence of free product or vapors in soils, basements, sewer or utility lines or nearby surface water);
 - 2) Unusual operating conditions observed by owners or operators (such as the erratic behavior of product dispensing equipment, the sudden loss of product from the UST or an unexplained presence of water in the tank), unless system equipment is found to be defective but not leaking and is immediately repaired or replaced; or
 - 3) Monitoring results from a release detection method required under 41 Ill. Adm. Code 175.620, 175.630 or 175.640 that indicate a release may have occurred, unless:
 - A) The monitoring device is found to be defective and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result; or
 - B) In the case of monthly inventory control, a second month of data does not confirm the initial result; however, the immediate reporting requirement under this Section remains in effect.

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- b) In addition to IEMA, the 911 call center shall immediately be called when a suspected release presents a hazard to life, for example, when observations demonstrate the presence of petroleum or hazardous substance vapors in sewers or basements or free product near utility lines, or where a sheen is present on a body of water.
- c) Once a release has been confirmed under the procedures of Section 176.310, the reporting procedures of Section 176.320 shall apply.
- d) Notification of Suspected Release at the Direction of STSS. The owner, operator or designated representative of the UST must notify IEMA and any other entities required to be notified under Section 176.320 of a suspected release, when directed to do so by the storage tank safety specialist (STSS) employed by OSFM. This is to be done at the time of discovery and the incident number shall be given to the STSS prior to leaving the site.

Section 176.310 Release Investigation Reporting and Site Assessment

- a) Investigation Due to Off-Site Impact. When required in writing by OSFM, owners or operators of USTs shall determine if the UST is the source of off-site impacts. These impacts include the discovery of regulated substances, such as the presence of free product or vapors in soils, basements, sewer or utility lines or nearby surface or drinking water that have been observed by OSFM or brought to its attention by another party.
- b) Release Investigations and Confirmation Steps. Unless corrective action is initiated, owners or operators shall immediately investigate and within 7 days shall confirm the presence or absence of all suspected releases of regulated substances requiring reporting, using the following procedures:
 - 1) System Test. Owners and operators must conduct tests (according to the requirements for tightness testing of 41 Ill. Adm. Code 175.630(c) and 175.640(a)(5)) that determine whether a leak exists in that portion of the tank that routinely contains product, or the attached delivery piping, or both. Owners or operators shall repair, replace or upgrade the UST and begin corrective action, if the test results for the system, tank or delivery piping indicate that a leak exists;

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- 2) Further investigation is not required if the test results for the tank system and delivery piping do not indicate that a leak exists and if environmental contamination is not the basis for suspecting a release; and
 - 3) Owners or operators shall conduct a site assessment (utilizing the requirements of Section 176.330) if the test results for the system, tank and delivery piping do not indicate that a leak exists, but environmental contamination is the basis for suspecting a release. In the event lab results are not forthcoming within 7 days, the owner/operator shall have such reasonable additional time as is necessary to receive the results, but the total time period to confirm the presence or absence of a release and report any confirmed release shall not in any event exceed 45 days.
- c) Initial Site Assessment. An initial site assessment shall follow the procedures and requirements identified in Section 176.330.
- 1) If the test results for the excavation zone or the UST site indicate that a release has occurred, owners or operators shall begin initial response and initial abatement procedures under Sections 176.350 and 176.320(b) and (c).
 - 2) If the test results for the excavation zone or the UST site do not indicate that a release has occurred, further investigation is not required.

Section 176.320 Initial Response and Reporting of Confirmed Releases

Initial Response. Upon confirmation of a release of a regulated substance, owners or operators shall perform the following initial response actions:

- a) Immediately report the release.
 - 1) The release shall be reported by calling the 911 call center and then IEMA in the following situations:
 - A) Spills and overfills of petroleum products over 25 gallons and spills and overfills of hazardous substances over a reportable quantity as defined in 41 Ill. Adm. Code 174.100.

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- B) Spills, overfills or confirmed releases that present a hazard to life, for example, when observations demonstrate the presence of petroleum or hazardous substance vapors in sewers or basements or free product near utility lines, or where a sheen is present on a body of water.
- 2) All other confirmed releases shall be reported to the local authority having jurisdiction and to IEMA. A call to the fire department in whose jurisdiction the release occurred may be done in the absence of an available 911 emergency telephone number. IEMA may be reached at 1-800-782-7860 (from inside Illinois) or 217-782-7860 (from outside Illinois). If known, the caller shall inform IEMA whether the same release had previously been called in as a suspected release.
 - 3) A release of a hazardous substance equal to or in excess of the reportable quantity shall be reported to the following entities in addition to those identified in subsection (a)(1):
 - A) to the Local Emergency Planning Committee (LEPC) that is likely to be affected by the release (found at <http://www.state.il.us/iema/disaster/LEPCCContactList.xls>); and
 - B) the National Response Center (800-424-8802);
 - b) Take immediate action to prevent any further release of the regulated substance into the environment; and
 - c) Immediately identify and mitigate fire, explosion and vapor hazards.

Section 176.330 Procedures for Site Assessments

- a) All site assessments and related reports must be conducted or prepared under the supervision of a Licensed Professional Engineer or Licensed Professional Geologist. All site assessment work shall meet accepted engineering standards or accepted standards for the practice of professional geology and be conducted according to the best professional judgment and diligence of the supervising Licensed Professional Engineer or Licensed Professional Geologist, as the case may be.

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- b) Owners or operators shall measure for the presence of a release where contamination is most likely to be present at the UST site by conducting sampling in the same manner and following the same procedures as required under the Board's Petroleum Underground Storage Tanks rules at 35 Ill. Adm. Code 734.210(h)(1) and (2). Samples must be analyzed for the same applicable indicator contaminants as required under 35 Ill. Adm. Code 734.405. All sampling must meet the same data quality and certification requirements as set forth in 35 Ill. Adm. Code 734.415 and 734.420. If soil borings are involved the owner or operator must follow the same requirements as set forth in 35 Ill. Adm. Code 734.425 and 734.435. For UST removals, samples shall be taken in native soil within 24 hours after removal of the tanks and piping. In selecting sample types, locations and measurement methods, owners or operators shall also consider the nature of the stored substance, the type of initial alarm or cause for suspicion, if any, the method of tank removal, the types of backfill, the depth of groundwater and other factors appropriate for identifying the presence and source of the release. Packaging for shipping or delivery should be done in a manner that will preserve the sample and prevent deterioration or dilution, as for example, putting samples in sealed containers in ice.
- c) Within 45 days after receipt of lab results, owners or operators must designate and provide to OSFM, on OSFM forms (entitled "site assessments results form" and found at www.state.il.us/osfm/PetroChemSaf/home.htm, under "downloadable applications"), a pass/fail result indicating whether a release has occurred. This determination shall be based upon an evaluation of lab results to determine whether any contamination has been found. A pass result for the UST (finding no contamination and, therefore, no need to report to IEMA) must be certified by a licensed environmental engineer or licensed environmental geologist, competent and experienced in performing site assessments, using accepted practices for these assessments, consistent with the site characteristics and conditions. In the event a suspected release was previously called into IEMA and is being confirmed by site assessment, the pass/fail result form shall be provided to IEPA in addition to OSFM.
- d) In the event that sampling or other site observations disclose evidence of a release or site assessment lab results show site contamination, the owner or operator shall immediately cease site assessment work and shall immediately notify IEMA and any other required entities of a suspected release, as required by Section 176.320, and begin corrective action.

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- e) Records generated from site assessments and related activity shall be kept at the site (or available within 30 minutes or before OSFM completes its inspection, whichever is later) and may not be discarded or destroyed unless and until a No Further Remediation (NFR) letter is issued by IEPA or until the site permanently ceases the activity involved in using the USTs and any site assessments required under this Part are completed and show no evidence of contamination. Owners or operators claiming that required records were destroyed, discarded or lost prior to September 1, 2010 or by a prior owner of the subject UST property shall conduct a new site assessment when the assessment is required by OSFM rules for continued or future use of the USTs.

Section 176.340 Reporting and Cleanup of Spills and Overfills

- a) Owners or operators of USTs shall contain and immediately clean up a spill or overfill, immediately report either release to the 911 call center and then to IEMA, and begin initial response and initial abatement in accordance with Sections 176.310, 176.320 and 176.350, in the following situations:
- 1) Spill or overfill of petroleum that results in a release to the environment that exceeds 25 gallons or that causes a sheen on a nearby body of water; or
 - 2) Spill or overfill of a hazardous substance that results in a release to the environment that equals or exceeds the reportable quantity (see 41 Ill. Adm. Code 174.100). Under Section 176.320, this kind of release shall also be immediately reported to the Local Emergency Planning Committee and to the National Response Center.
- b) Owners or operators of USTs shall contain and immediately clean up a spill or overfill of petroleum that is 25 gallons or less and a spill or overfill of a hazardous substance that is less than the reportable quantity. In doing so, the owner or operator shall comply with procedures specified in Section 176.350. If cleanup cannot be accomplished within 24 hours, owners or operators shall immediately notify IEMA and the local authority having jurisdiction of the release.

Section 176.350 Initial Release Abatement Measures

Unless directed in writing to do otherwise by OSFM, owners or operators shall perform the following release abatement measures:

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- a) Remove as much of the regulated substance from the UST as is necessary to prevent further release to the environment;
- b) Visually inspect any aboveground release or exposed belowground release and prevent further migration of the released substance into surrounding soils and groundwater;
- c) Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the UST excavation zone and entered into subsurface structures (such as sewers or basements); and
- d) Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement or corrective action activities. If these remedies include treatment or disposal of soils, the owner or operator shall comply with applicable State and local requirements.

Section 176.360 Assessing the Site at Removal of, Previously Removed, or Change-in-Service of USTs

- a) Within 24 hours after removal is completed, or prior to a change in service from a regulated product to an unregulated product, the following procedures shall be conducted.
 - 1) The owner or operator shall perform a site assessment using the procedures and requirements of Section 176.330;
 - 2) The owner or operator, or his or her designated representative, shall immediately report a release or suspected release, based upon a visual observation by STSS or upon a site assessment showing the existence of a release, to IEMA and any other entities required under Section 176.320 and secure an incident number. If confirmation of the release is via a visual observation by STSS or otherwise confirmed while STSS is still on site, the incident number shall be provided to STSS at the conclusion of the removal and prior to the departure of STSS.
 - 3) If contaminated soils, groundwater or free product as a liquid or vapor, resulting from a UST release is discovered, the owner or operator shall

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begin initial response and initial abatement procedures in accordance with Sections 176.310, 176.320 and 176.350.

- b) When directed in writing by OSFM, the owner or operator of a UST previously removed shall assess the excavation zone (including, if so ordered, re-excavating and assessing the site where the tank had been located) in accordance with Section 176.330.

SUBPART D: GENERAL TECHNICAL REQUIREMENTS,
INCLUDING REPORTING, RECORDKEEPING AND NOTIFICATION

Section 176.400 Delegation of Authority to Enforce UST Rules and Regulations

Pursuant to 430 ILCS 15/2, OSFM has authority to delegate to the City of Chicago enforcement of its UST rules and regulations.

- a) The methods and procedures of this enforcement do not have to be identical with those of OSFM; however, OSFM has oversight concerning this enforcement.
- b) Subject to the terms of a delegation agreement, when OSFM is expressly authorized to initiate enforcement action, the City of Chicago has concurrent authority.
- c) The rules and regulations of the City of Chicago shall not be less stringent than 41 Ill. Adm. Code 174 through 177.

Section 176.410 General Requirement to Maintain All Equipment

All equipment and other items shall be maintained in accordance with 41 Ill. Adm. Code 174 through 176 and manufacturer's instructions and otherwise shall be kept in good operating condition at all times.

Section 176.420 Requirement that UST Components Be Third Party Listed

- a) All installed UST components and ancillary equipment shall be third party listed (see 41 Ill. Adm. Code 174.100) for their performance in the intended use, as well as installed and maintained according to the manufacturer's instructions. Replaceable subcomponents shall be of a type recommended by the manufacturer. In the event the third party listing is unattainable, OSFM may accept, from a

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Licensed Professional Engineer, certification that the non-listed component will perform as intended and will meet performance requirements under 40 CFR 280 and this Part when used as intended. In the event third party listing and certification by a licensed professional engineer are both unattainable, OSFM may permit use of the component if a licensed installation/retrofitting contractor inspects the component on an annual or more frequent basis and, after each inspection, certifies to OSFM on forms provided by OSFM (available at www.state.il.us/osfm/PetroChemSaf/home.htm, under "downloadable applications"), that the component has been inspected and there is no visible evidence of product leakage, release, or other operational problems or other defect in performance. In the event a listed component becomes available, facilities shall have 12 months to replace non-listed components with listed components.

- b) In addition to the requirement that all UST components be third party listed for their performance in the intended use, all UST components must also be third party listed as compatible with the product to be stored under 41 Ill. Adm. Code 175.415. This would include third party listing requirements for components used with alternative or blended fuels and product compatibility requirements for hazardous substance USTs, see 41 Ill. Adm. Code 175.415 and 175.620.

Section 176.430 Reporting and Recordkeeping

- a) Reporting. Owners and operators must submit the following information to OSFM:
- 1) Notification for all USTs (Section 176.440);
 - 2) Certification of installation for USTs (Section 176.430(f));
 - 3) Reports of all releases, including suspected releases (Section 176.300), spills and overfills (Section 176.340), and confirmed releases (Section 176.320);
 - 4) Initial response, including leak abatement, site characterization, and fire and explosion mitigation (40 CFR 280, subpart F, incorporated by reference in 41 Ill. Adm. Code 174.210) when requested by OSFM;

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- 5) A notification related to removal or change-in-service (41 Ill. Adm. Code 175.820(d) and 175.830(a)(19));
 - 6) A pass/fail determination and notification (Section 176.330(c)) (to be submitted to OSFM within 45 days after the receipt of laboratory data in connection with a site assessment); and
 - 7) Proof of financial responsibility on an annual basis (Section 176.220).
- b) Recordkeeping. Owners and operators must maintain the following information for the life of the UST (unless a shorter or longer period is provided in this subsection (b) or by the applicable Section cited or by other OSFM rule):
- 1) Documentation of operation of corrosion protection equipment and methods (41 Ill. Adm. Code 175.500 and 175.510).
 - 2) Documentation of UST repairs (41 Ill. Adm. Code 175.700 and 175.710).
 - 3) All records required to show compliance with release detection requirements (41 Ill. Adm. Code 175.600 through 175.650), with all tank and piping precision test results kept for 2 years or at least until the next precision test, whichever is longer.
 - 4) All written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer.
 - 5) Written documentation of all calibration, maintenance and repair of release detection equipment permanently located on site, including schedules of required calibration and maintenance provided by the release detection equipment manufacturer.
 - 6) The results of any sampling, testing or monitoring not specified in subsections (a), (b), (f) and (g) of this Section.
 - 7) Results of the site assessment conducted at removal or change-in-service (41 Ill. Adm. Code 175.800) and copies of the results of any other site assessment conducted pursuant to OSFM rules with all pass/fail

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determinations and notifications submitted to OSFM pursuant to Section 176.330.

- 8) Proof of financial responsibility submitted under Section 176.220.
 - 9) Copies of all records submitted to OSFM under subsections (a), (f) and (g) of this Section.
- c) Availability and Maintenance of Records. Owners or operators shall keep the records required in subsection (b) at the UST site or available to the OSFM inspector within 30 minutes or before OSFM completes its inspection, whichever is later, via fax, email or other transfer of information. Financial responsibility records may be maintained at the owner or operator's principal place of business and shall be produced within 10 days after OSFM request.
- d) Owners or operators of unmanned sites will be given prior notification of inspection/audit of those sites.
- e) Failure to maintain or produce the records required under this Section may result in OSFM's issuance of a red tag or revocation of a facility operating permit (green decal) for the tank or tanks or facility at issue (see 41 Ill. Adm. Code 177), prohibiting any further operation of the facility or further deposit of regulated substances into a tank subject to a red tag.
- f) Certification of UST Installation or Upgrade and Related Documentation
- 1) Contractors shall certify, on the form provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf, that:
 - A) The installer has been certified or licensed by OSFM. If applicable, the contractor shall also certify that the installer has been certified by the tank and piping manufacturers.
 - B) The installation and/or upgrade has been performed in accordance with 41 Ill. Adm. Code 172 through 176.
 - C) All work listed in the manufacturer's installation checklist has been completed and submitted in accordance with this subsection (f), 41 Ill. Adm. Code 175.400 and 175.465, Section 176.420 (or

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compliance with applicable third-party standards or codes cited in OSFM rules as of the date of installation), and Section 176.440(f), if applicable.

- 2) Contractors shall complete the manufacturer's installation checklist for USTs, which shall be available at the time of final inspection. The owner and operator shall maintain a copy of the checklist on-site for the life of the UST.
 - 3) In lieu of the contractor's certification, an owner or operator may provide OSFM with a certification from a licensed professional engineer with education and experience in UST installation stating that the UST installation or upgrade was inspected by that engineer and that the UST installation or upgrade was properly installed in accordance with manufacturer's recommendations and OSFM rules.
 - 4) OSFM shall not issue a green decal pursuant to 41 Ill. Adm. Code 177.115 for the UST until OSFM has received the completed certification of UST installation or upgrade by the licensed contractor or the certification of proper installation or upgrade from a licensed professional engineer.
- g) Results from precision tank and piping testing, cathodic protection testing, and interior lining testing shall be handled as follows:
- 1) All test results are to be issued to the facility and owner.
 - 2) Test results that fail must be reported to OSFM within 3 working days.
 - 3) All test results required due to Notice of Violation must be reported to OSFM within 3 working days.
 - 4) All test results required to be submitted to OSFM must be submitted with a form provided by OSFM at www.state.il/OSFM/PetroChemSaf/home.htm, under "downloadable applications".

Section 176.440 Notification Requirements for Purposes of UST Registration

- a) For any UST, with the exception of a UST containing heating oil for consumptive use on the premises where stored:

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- 1) Any owner of a UST in operation at any time after January 1, 1974, and in the ground as of September 24, 1987, shall submit immediately a notice of existence of the tank system to OSFM, on the form provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf.
 - 2) Where no owner/operator can be determined and a non-owner elects to voluntarily undertake responsibility for removal and cleanup, the party electing to proceed under this Part and 35 Ill. Adm. Code 734.105 shall submit a written verification of the election to proceed as a third party.
 - 3) Any owner of a UST brought into operation on or after April 21, 1989 shall submit, within 30 days before bringing the tank into operation, a notice of existence of the tank system to OSFM, on the form provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf. This applies even if the UST was subject to a change-in-service under 41 Ill. Adm. Code 175.820(a) or (b) within the 30-day time period.
 - 4) OSFM shall use the information required to be submitted under subsection (a) to determine whether a UST must be registered.
- b) For a UST containing heating oil for consumptive use on the premises where stored:
- 1) Any owner of a heating oil UST greater than 1,100 gallons in capacity and in the ground as of July 11, 1990 shall submit immediately a notice of existence of the tank system to OSFM, on the form provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf.
 - 2) Any owner of a heating oil UST greater than 110 gallons and less than or equal to 1,100 gallons in capacity and in the ground as of September 6, 1991 shall submit immediately a notice of existence of the tank system to OSFM, on the form provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf.
 - 3) Any owner of a heating oil UST greater than 110 gallons in capacity installed after September 6, 1991 shall submit, within 30 days after bringing the tank into operation, a notice of existence of the tank system to OSFM, on the form provided by OSFM at www.state.il/OSFM/

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PetroChemSaf/Notify.pdf. This applies even if the UST was subject to a change-in-service under 41 Ill. Adm. Code 175.820(a) or (b) within the 30-day time period.

- 4) A heating oil tank used exclusively for storing heating oil for consumptive use on a farm or residence is not classified as a UST.
 - 5) OSFM shall use the information required to be submitted by this subsection (b) to determine whether a UST must be registered.
- c) Owners required to submit notices under subsection (a) or (b) shall provide notice for each tank they own. Owners may provide notice for more than one tank using one notification form, but owners who own tanks located at more than one facility shall file a separate notification form for each separate facility. The owner shall provide the proper street address for the owner and for each facility.
- d) Owners shall provide all of the information required in subsections (a) and (b), on forms provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf including any certification required of the owner by this Part.
- e) Any owner of a UST installed on or after April 21, 1989 shall certify in the notification form found at www.state.il/OSFM/PetroChemSaf/Notify.pdf compliance with the following requirements:
- 1) Installation of tanks under 41 Ill. Adm. Code 175.400, 175.405, 175.410 and 175.465, Sections 176.420 (or compliance with applicable third-party standards or codes as cited in OSFM rules as of the date of installation) and 176.430(f) and installation of piping under 41 Ill. Adm. Code 175.420;
 - 2) Cathodic protection of steel tanks and piping under 41 Ill. Adm. Code 175.400(b), 175.420(a) and 175.510;
 - 3) Release detection under 41 Ill. Adm. Code 175.610, 175.620, 175.630 and 175.640; and
 - 4) Financial responsibility in accordance with Subpart B of this Part. The green decal (facility operating permit) shall not be issued for a new tank

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installation until the notification required by this Section has been received by OSFM.

- f) Beginning January 1, 1989, all owners and operators of USTs being installed, upgraded or lined shall ensure that the contractor certifies in the notification form that the methods used to perform the UST activity comply with the requirements of 41 Ill. Adm. Code 174 through 176, and the contractor shall complete the certification. The notification form found at www.state.il/OSFM/PetroChemSaf/Notify.pdf is to be submitted to OSFM within 30 days after completion of the activity requiring certification.
- g) Any change in information stated in the form as described in subsections (a) and (b) is to be submitted to OSFM on an amended form found at www.state.il/OSFM/PetroChemSaf/Notify.pdf, within 30 days, commencing from the date of the change. This includes, but is not limited to, removal, abandonment-in-place and temporary out-of-service status. A change in ownership is considered a change in information and each subsequent owner is required to report that change.
- h) Commencing April 1, 1995, any person who sells a new or re-certified tank intended to be used as a UST shall notify the purchaser of the owner's notification obligations under this Section. The notification form provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf shall be used to comply with this requirement.

Section 176.450 UST Registration Fees

- a) For USTs, with the exception of USTs containing heating oil for consumptive use on the premises where stored, the owner of any petroleum or hazardous substance UST required to be registered with OSFM prior to September 24, 1987, and who did not do so, shall register and pay OSFM a registration fee of \$500 per tank within 90 days after the date on the invoice requesting payment of the fee. The payment is to be by check or money order made payable to Office of the State Fire Marshal. For purposes of this subsection, "owner" refers only to the last owner as of September 23, 1987.
- b) For USTs containing heating oil greater than 110 gallons for consumptive use on the premises where stored:

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- 1) The owner of any heating oil UST in the ground as of September 6, 1991 who first registered the tank with OSFM prior to July 2, 1992 shall pay to OSFM a registration fee of \$100 per tank within 90 days after the date on the invoice requesting payment of the fee. The payment is to be by check or money order made payable to Office of the State Fire Marshal.
- 2) The owner of any heating oil UST in the ground as of September 6, 1991 who first registered the tank with OSFM on or after July 2, 1992 (never having been registered) shall pay to OSFM a registration fee of \$500 per tank within 90 days after the date on the invoice requesting payment of the fee. The payment is to be by check or money order made payable to Office of the State Fire Marshal.
- 3) The owner who first registers a heating oil UST is responsible for the fee under either subsection (b)(1) or (b)(2), whichever is applicable, but not both.
- 4) The owner of any heating oil UST in the ground as of July 11, 1990, but removed prior to September 6, 1991, although regulated, is not required to pay a registration fee.
- 5) The owner of any heating oil UST installed in the ground on or after July 2, 1992, although regulated, is not required to pay a registration fee.

Section 176.460 Pre-'74 and Heating Oil USTs

USTs not in operation at any time after January 1, 1974 (commonly referred to as "pre-'74 USTs"), and non-farm and non-residential heating oil USTs for consumptive use on the premises where stored, remain classified as USTs and require a permit to be abandoned-in-place or removed and are subject to all other applicable UST requirements, except for those requirements specifically exempted by this Section or by Section 176.440.

- a) Pursuant to Sections 2(3)(f) and 4(b)(1)(A) of the Gasoline Storage Act, pre-'74 USTs are not required to be registered and need not be removed, unless the OSFM has determined that a release from the USTs poses a current or potential threat to human health and the environment.
- b) In accordance with Section 57.5(g) of the Illinois Environmental Protection Act [415 ILCS 5/57.5(g)] and Section 4 of the Gasoline Storage Act, a heating oil

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UST for consumptive use on the premises where stored, regardless of when last in operation, is not required to be removed unless OSFM has determined that a release from the UST poses a current or potential threat to human health and the environment. However, the UST is subject to the notification requirements, as well as compliance with all other applicable Sections of 41 Ill. Adm. Code 175 and this Part.

- c) Heating oil USTs installed prior to April 1, 1995 are not required to meet the upgrade requirements for corrosion protection, spill and overflow prevention, and release detection in 41 Ill. Adm. Code 174 and 175 and this Part. Heating oil USTs installed after April 1, 1995 must meet all current upgrade requirements outlined in 41 Ill. Adm. Code 174 and 175 and this Part, including permitting.
- d) If any pre-'74 tank, heating oil or otherwise, discovered during any activity is found to be damaged or is damaged at the time of discovery, it shall be removed. No structure shall be erected over pre-'74 tanks, heating oil or otherwise, and they must be removed by an OSFM-licensed contractor. All applicable permits apply.

Section 176.470 Requirements for Conducting Precision Testing of Tanks and Piping, Cathodic Protection Testing, and Testing of Other UST Equipment

Persons conducting precision testing of tanks and piping, cathodic protection testing, and testing of other UST equipment shall be ICC certified in the appropriate module and be licensed by OSFM pursuant to 41 Ill. Adm. Code 172. All persons conducting precision testing must be certified by the manufacturer of the testing equipment being used.

- a) Tank tightness methods shall be evaluated and listed by an independent third-party. Proof of evaluation and listing shall be demonstrated by the methods being published in the NWGLDE publication "List of Leak Detection Evaluations for Storage Tank Systems", incorporated by reference in 41 Ill. Adm. Code 174.210(a). All tank tightness methods are subject to approval by OSFM.
- b) UST equipment (including all equipment other than that listed in subsections (a)(1) and (2)). To qualify as a tester under this subsection, an individual must be an employee of an OSFM-licensed contractor with at least one employee who is ICC certified in the appropriate module, with that ICC certified employee on site and actively supervising the work at all times. All testers must also be certified by the manufacturer in the testing of the equipment being evaluated for its operation in accordance with manufacturers' specifications.

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- c) For purposes of this Section, "license" (or any comparable variation of the term) is synonymous with "registration" (or any comparable variation of the term).
- d) Each tester shall also abide by any other applicable requirements found in 41 Ill. Adm. Code 172.

SUBPART E: HEARINGS AND ENFORCEMENT PROCEDURES

Section 176.500 Definitions

"NOV" means a notice of violation issued by OSFM.

"Revocation of the Registration of an Underground Storage Tank System" means termination by OSFM of the registration of a UST.

Section 176.505 Enforcement Action

All enforcement action shall begin with the issuance of an NOV by OSFM. The violations cited on the NOV shall be corrected within 60 calendar days after the issuance of the NOV. A copy of the NOV shall be left with any owner, employee or agent of the owner at the facility at the time of inspection or may be mailed or served by other legal process in the case of a closed or unattended facility.

Section 176.510 Grounds and Time for Appeal

An Administrative Order issued pursuant to the Gasoline Storage Act, the Petroleum Equipment Contractors Licensing Act [225 ILCS 729], or OSFM rules promulgated pursuant to those Acts may be appealed in accordance with this Subpart. An appeal of an Administrative Order issued pursuant to this Section may only be requested within 10 days after receipt and must be in writing. (See Section 2(3)(e) of the Gasoline Storage Act.)

Section 176.515 Notice of Hearing

Notice of the time and place for any hearing shall be given to any party concerned at least 30 days prior to the hearing date. If an attorney, through written communication, is known to represent any party to a hearing, then notice is to be given to that attorney. Notice sent to the last known address by U.S. Mail, registered or certified, addressed to all parties concerned or their attorneys, when applicable, is sufficient.

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Section 176.520 Continuances

A hearing officer may, for good cause, grant a continuance at the request of a party or a continuance on the hearing officer's own motion. Good cause may include, but is not limited to, death or hospitalization of a party or assigned counsel, natural disasters prohibiting attendance, and other unforeseen circumstances. Requests by a party for continuances must be preceded by contacting the opposing party and asking for agreement to the continuance. At the direction of the hearing officer, a hearing may be adjourned to permit further testimony or argument when beneficial to the development of a clear and complete record. Scheduling conflicts of an attorney constitute grounds for a continuance only when the conflict is with another judicial body. Any grant by the Hearing Officer of a continuance sought by a party on less than two days notice prior to the assigned hearing date may be conditioned upon that party bearing any court reporting or other recording costs resulting from the continuance.

Section 176.525 Appearances

At hearings before OSFM, parties to a proceeding may represent themselves or may be represented by an attorney licensed to practice law in the State of Illinois. The failure of a party to be represented by an attorney does not constitute grounds for a rehearing; likewise, the choice by parties to be represented by themselves or designated individuals does not constitute such grounds. For each party to the hearing, a written appearance shall be filed at or before the start of the hearing.

Section 176.530 Service of Papers and Computation of Time

- a) Persons filing papers with OSFM shall simultaneously serve copies on all parties to the proceeding.
- b) If agreed between the parties, parties may serve copies of any filing on each other via email. Email service on the hearing officer is not permitted.
- c) Papers required to be filed with OSFM shall be accompanied by proof of service upon all those required to be served.
- d) All papers required to be filed with OSFM must be filed at its principal office at 1035 Stevenson Drive, Springfield, Illinois 62703, during business hours, or mailed to its principal office prior to the applicable deadline.

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- e) If the deadline for a filing falls on a holiday, Saturday or Sunday, the deadline for filing will automatically be extended to the next business day.

Section 176.535 Stipulations

- a) It is the policy of OSFM that the parties to a proceeding should, to the fullest extent possible, stipulate all matters that are not, or fairly should not be, in dispute.
- b) At the hearing, the parties may file a stipulation setting forth:
 - 1) All pertinent matters that are not in dispute;
 - 2) A list of all exhibits to which there are no objections;
 - 3) Matters that are in dispute.

Section 176.540 Evidence

- a) *Irrelevant, immaterial or unduly repetitious evidence shall be excluded. The rules of evidence and privilege as applied in civil cases in the circuit courts of Illinois shall be followed. However, evidence not admissible under such rules of evidence may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. [5 ILCS 100/10-40]*
- b) When objection is made to the admissibility of evidence, the Hearing Officer shall either receive the disputed evidence subject to ruling at a later time, or may exclude the evidence at that time. A party offering evidence that is ruled inadmissible shall be permitted to make a brief offer of proof.
- c) Writings shall be legible and exhibits shall be plainly marked and identified. The hearing record shall reflect the identity of the party offering an exhibit and shall indicate whether it was admitted into evidence.

Section 176.545 Official Notice

The Hearing Officer may take official notice of all facts of which judicial notice may be taken, including facts of a technical nature within the specialized knowledge and experience of OSFM.

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This notice may include any of the content of any practice, standard or code that is by reference incorporated at 41 Ill. Adm. Code 174.210.

Section 176.550 Authority of Hearing Officer

The Hearing Officer shall have all powers necessary to conduct a hearing, avoid delay, maintain order, and insure the development of a clear and complete record, including the power to:

- a) Administer oaths and affirmations;
- b) Preside over the hearings, regulate the course of hearings, set the time for filing documents, and provide for the taking of testimony by deposition, when necessary;
- c) Set the time and place for the continuance of a hearing once the hearing has commenced (Section 176.520 governs the continuance of a hearing prior to its commencement);
- d) Examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitious or cumulative testimony, and set reasonable limits on the amount of time each witness may testify and be cross-examined;
- e) Receive evidence, rule upon objections to admissibility of evidence, and rule upon offers of proof;
- f) Issue subpoenas that require attendance, testimony or the production of papers, books, documentary evidence or other tangible things;
- g) Dispose of procedural requests or similar matters;
- h) Require prior submission of testimony and exhibits in writing and set any deadlines for the filing of documents;
- i) Direct parties to appear and confer for the settlement or simplification of issues, and to otherwise conduct prehearing conferences;
- j) Reprimand or exclude from the hearing any person for indecorous or improper conduct committed in the presence of the Hearing Officer;

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- k) Order the parties to submit briefs on issues of first impression. These briefs shall be limited to 15 pages, including proposed findings of fact and conclusions of law, and shall be submitted after the close of evidence and proofs pursuant to the procedures of Section 176.560;
- l) Render findings of fact, conclusions of law, opinions and recommendations for an Order of the State Fire Marshal;
- m) Enter any Order that expedites the purpose of this Part; and
- n) Generally conduct the hearing and all pre-hearing and post-hearing matters according to this Subpart.

Section 176.555 Default

- a) Failure of a party to appear on the date set for hearing or failure to proceed as ordered by the State Fire Marshal shall constitute a default and the administrative order appealed from shall become final. Any court reporting costs incurred because of the failure to appear may be assessed against the party that failed to appear.
- b) Appeals, petitions, motions or other requests for relief that are not prosecuted diligently may be dismissed for want of prosecution.

Section 176.560 Post-Hearing Submissions

- a) Unless otherwise directed by the Hearing Officer, the parties may submit written proposed findings of fact and conclusions of law (proposed findings) to the Hearing Officer within 14 days after the close of the hearing or such other reasonable time as the Hearing Officer shall determine, consistent with the responsibility of the State Fire Marshal for an expeditious decision. Proposed findings shall not exceed 15 pages in length on regular 8½ by 11 inch paper with 1-inch margins. The proposed findings of fact and conclusions of law shall be separately stated.
- b) All parties who wish to submit proposed findings, or are ordered by the Hearing Officer to submit briefs also containing proposed findings, must submit the following by the applicable deadline:

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- 1) one original and two paper copies of the party's proposed findings of fact and conclusions of law. The two paper copies shall be identically compiled and stapled;
- 2) an electronic text version of the brief, in a format compatible with Microsoft Word, on a disc or other computer file memory storage device that is labeled with the name of the party and that does not have to be returned to that party;
- 3) a cover letter stating the party on whose behalf the brief is submitted.

Section 176.565 Transcripts

- a) The proceedings at hearings shall be recorded electronically by OSFM and transcribed at the request and expense of the requesting party.
- b) Any party can request a stenographer or court reporter at that party's expense. Upon agreement of the parties, the stenographer or court reporting costs may be divided equally. Parties who order copies of the transcript shall bear the cost of the copies.
- c) Transcripts of a hearing will not be provided by OSFM to any party.

Section 176.570 Final Order

- a) The execution of a written Order of OSFM will become effective immediately and will constitute a final administrative decision subject to the Administrative Review Law [735 ILCS 5/Art. III].
- b) The parties and their attorneys shall be notified as soon as reasonably possible by sending them a copy of the Order by U.S. Mail, registered or certified, addressed to their last known address.

Section 176.575 License Suspension or Revocation and Assessment of Fines Against a Contractor

- a) The violation by a contractor of a provision of 41 Ill. Adm. Code 175 or this Part, including standards incorporated by reference, may result in a suspension or revocation of that contractor's license for the following durations:

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- 1) For the first violation committed, the license of any contractor may be suspended or revoked for up to one year.
 - 2) For the second violation committed, the license of any contractor may be suspended for up to one year or may be revoked for up to two years.
 - 3) For the third violation, and any violation thereafter, the license of any contractor may be suspended for up to one year or revoked permanently.
- b) The violation by a contractor of a provision of 41 Ill. Adm. Code 172, including standards incorporated by reference, may result in a suspension or revocation of that contractor's license for the following durations:
- 1) For the first violation, the license of any contractor may be suspended for up to six months.
 - 2) For the second violation, the license of any contractor may be suspended or revoked for up to one year.
 - 3) For the third violation, the license of any contractor may be suspended for up to one year or revoked for up to two years.
 - 4) For the fourth violation, and any violation thereafter, the license of any contractor may be revoked for up to 5 years.
- c) Effects of Suspension or Revocation
- 1) A contractor whose license was suspended or revoked as a result of a violation involving one or more licensed activities is also prohibited, in a like manner, for a like duration, from performing any other activity the contractor was licensed to perform.
 - 2) During the period of a suspension or revocation, the contractor whose license was suspended or revoked may not be licensed to perform any other activity related to USTs.
 - 3) A contractor whose license is suspended or revoked, may not perform any activity requiring a license under a permit issued prior to the suspension or

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revocation. In such a case, the contractor is not entitled to a refund of the permit fee and is not entitled to amend the permit or permit application to list another contractor.

- 4) A contractor whose license has been suspended or revoked may not continue to perform UST work requiring a license issued by OSFM during the period of suspension or revocation.
 - 5) A contractor whose license has been suspended or revoked may not be employed as an agent or subcontractor of a licensed contractor to perform any activity for which a license is required.
 - 6) Any officer of a corporation having a suspended or revoked license, or any owner or co-owner of any other business entity having a suspended or revoked license, shall not use alternative names or licenses to continue to do UST work requiring an OSFM issued license.
 - 7) Upon conclusion of the revocation period, a contractor whose license was revoked may perform any activity the contractor was licensed to perform only by re-licensing (assuming the applicant is not otherwise prohibited from re-licensing).
 - 8) If the period of suspension ends prior to the termination of any license period, the suspended contractor may resume performing the activity the contractor was licensed to perform for the remainder of any license period. If the period of suspension ends subsequent to the termination of any license period, the suspended contractor may not perform the activity the contractor was licensed to perform until the suspension period has ended and the contractor has been re-licensed (assuming the applicant is not otherwise prohibited from re-licensing).
- d) The violation by a contractor or an employee of a contractor of a provision of 41 Ill. Adm. Code 172, 174, 175, 176, 177, 160 or 180, including standards incorporated by reference, may result in the assessment of fines against that contractor or employee.

Section 176.580 Assessment of Penalties

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Any person who violates any of the provisions of 41 Ill. Adm. Code 172, 174, 175, 176, 177, 160 and 180 shall be subject to penalties as determined by statute or OSFM.

Section 176.585 Subpoena – Fees and Mileage of Witnesses

Witness and Mileage Fees. The cost of service and witness and mileage fees shall be borne by the person requesting the subpoena. Witness and mileage fees shall be the same as are paid witnesses in the circuit courts of the State of Illinois.

Section 176.590 Paper Hearings

Parties and staff participating in a proceeding may stipulate to the waiver of any rights they have to a hearing and may stipulate to having all matters in dispute being resolved on the basis of written pleadings and submissions that are verified or supported by affidavit and to OSFM entering a final order in the matter in reliance on those documents.

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Section 176.APPENDIX A Derivation Table

The following table indicates the Sections of 41 Ill. Adm. Code 170 that formerly stated requirements identical or related to those now located within this Part 176.

| New Section | Old Section |
|--------------------|--|
| 176.100 | 170.10, 170.400 |
| 176.200 | 170.700 |
| 176.205 | 170.710 |
| 176.210 | 170.720 |
| 176.215 | 170.730 |
| 176.220 | 170.740 |
| 176.225 | 170.750 |
| 176.230 | 170.760 |
| 176.235 | 170.770 |
| 176.240 | 170.780 |
| 176.245 | 170.790 |
| 176.250 | 170.795 |
| 176.300 | 170.560 and 170.580(e) |
| 176.310 | 170.580 |
| 176.320 | 170.580 |
| 176.330 | 170.580(c), 170.610(e), 170.640(a), (c) |
| 176.340 | 170.590 |
| 176.350 | 170.610 |
| 176.360 | 170.640 |
| 176.400 | 170.412 |
| 176.410 | 170.200, 170.427 |
| 176.420 | 170.150(d)(5), (6), 170.310(a)(2), 170.420(a), 170.421(a), (b), (d), 170.500(a)(3), 170.530(j), 170.540(a), (c) |
| 176.430 | 170.420(e), 170.490, 170.544(b), 170.550, 170.660, 170.780 |
| 176.440 | 170.440 |
| 176.450 | 170.442 |
| 176.460 | 170.672 |
| 176.470 | 170.460(f), 170.480(e), 170.544 |
| 176.500 | 170.800 |
| 176.505 | None |
| 176.510 | 170.810 |
| 176.515 | 170.820(a) |
| 176.520 | 170.820(b), (c) |

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| | |
|---------------------|---------------------------|
| 176.525 | 170.830 |
| 176.530 | None |
| 176.535 | None |
| 176.540 | None |
| 176.545 | 170.840 |
| 176.550 | 170.850 |
| 176.555 | None |
| 176.560 | 170.870 |
| 176.565 | 170.880 |
| 176.570 | 170.890 |
| 176.575 | 170.910 |
| 176.580 | 170.920, 170.930, 170.940 |
| 176.585 | None |
| 176.590 | None |
| 176.APPENDIX A..... | None |

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NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Compliance Certification for Underground Storage Tanks
- 2) Code Citation: 41 Ill. Adm. Code 177
- 3)

| <u>Section Numbers</u> : | <u>Adopted Action</u> : |
|--------------------------|-------------------------|
| 177.100 | New |
| 177.105 | New |
| 177.110 | New |
| 177.115 | New |
| 177.120 | New |
| 177.125 | New |
| 177.130 | New |
| 177.APPENDIX A | New |
- 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 Rules: September 2, 2010
- 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 rules, including any material incorporated by reference, is on file in the principal office of the State Fire Marshal, 1035 Stevenson Drive, Springfield, Illinois, and is available for public inspection at that location.
- 9) Notice of Proposed Rules published in the Illinois Register: 33 Ill. Reg. 16392; November 20, 2009
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Changes made between the proposed and adopted versions:

In Section 177.105(b), immediately after "ballast", insert ", or to conduct tank or line tightness testing if approved by OSFM".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

OFFICE OF THE STATE FIRE MARSHAL

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- 13) Will these rules replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending to this Part? No
- 15) Summary and purpose of rules: Reorganizes and consolidates existing underground storage tank system (UST) rules concerning the compliance certification required to be issued by OSFM under Section 3.5 of the Gasoline Storage Act. Clarifies that a depositor may, prior to issuance of the green decal for a newly installed UST, make one deposit of a regulated substance to provide ballast, which fuel shall not be sold or dispensed until the required decal is obtained. Makes non-substantive changes as compared to comparable text in current Part 171 text being repealed and replaced by new Part 177.
- 16) Information and questions regarding these adopted rules 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 Rules begins on the next page:

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED RULES

TITLE 41: FIRE PROTECTION
CHAPTER I: OFFICE OF THE STATE FIRE MARSHAL

PART 177

COMPLIANCE CERTIFICATION FOR UNDERGROUND STORAGE TANKS

Section

| | |
|----------------|---|
| 177.100 | Definitions |
| 177.105 | Deposit Prohibited |
| 177.110 | Inspection of UST Facilities |
| 177.115 | Evidence of Compliance Status for UST Facilities |
| 177.120 | Certificate of Exemption |
| 177.125 | Missing, Damaged or Destroyed Evidence of Compliance Status |
| 177.130 | Expiration of Certificates |
| 177.APPENDIX A | Derivation Table |

AUTHORITY: Implementing the Gasoline Storage Act [430 ILCS 15] and authorized by Sections 2 and 3.5 of the Gasoline Storage Act [430 ILCS 15/2 and 3.5].

SOURCE: Adopted at 34 Ill. Reg. 13531, effective September 2, 2010.

Section 177.100 Definitions

"Deposit" means the act of placing in or filling of a UST or directing the act of placing in or filling of a UST with a regulated substance.

"Evidence of Compliance Status" means a tag or decal issued by OSFM that is visible to persons making delivery of petroleum, petroleum product, hazardous substances or regulated substances under to this Part.

"Non-Motor Fuel Dispensing Facility" means a location where petroleum or petroleum-based product other than motor fuel is dispensed from a UST.

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

All other terms shall have the meanings ascribed to them in 41 Ill. Adm. Code 174.100.

Section 177.105 Deposit Prohibited

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- a) Effect of Green Decal. Beginning December 22, 1998, no person shall deposit or arrange for or allow another person to deposit petroleum, petroleum product, hazardous substances or regulated substances into any UST unless evidence is displayed that the UST is in compliance with 41 Ill. Adm. Code 174, 175 and 176, except as provided in this Part.
- b) Effect of Red Tag. Beginning December 22, 1998, no person shall deposit or arrange for or allow another person to deposit petroleum, petroleum product, hazardous substances or regulated substances into any UST that displays evidence that the UST is not in compliance with the applicable rules of OSFM. A depositor may make one deposit of a regulated substance to a newly installed or newly lined tank to provide ballast, or to conduct tank or line tightness testing if approved by OSFM. That regulated substance shall not be sold or dispensed until the required decal is obtained.

Section 177.110 Inspection of UST Facilities

OSFM shall inspect UST facilities for compliance with 41 Ill. Adm. Code 174, 175 and 176 and this Part and issue an evidence of compliance status.

Section 177.115 Evidence of Compliance Status for UST Facilities

- a) Evidence of compliance status for UST facilities shall consist of a tag or decal issued by OSFM. The tag or decal shall be either:
 - 1) Red: indicating non-compliance; or
 - 2) Green: indicating compliance; or
 - 3) Yellow: indicating exempt (see Section 177.120).
- b) Evidence of compliance status (green decal) shall be affixed as follows:
 - 1) for motor fuel dispensing facilities, to the window closest to the main entry of the motor fuel dispensing facility or, if such a window is not available, to the inside window of the dispenser cabinet;
 - 2) for non-motor fuel dispensing facilities, to the fill pipe of the UST or near the fill pipe at a location agreed to by the representative of OSFM.

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- c) If more than one UST is located at the facility, and some but not all USTs are in compliance, OSFM, in its discretion, may issue a green decal that shall be affixed as provided in subsection (b) and will issue individual red tags for each of the non-compliant USTs that shall be affixed directly onto the fill pipe of the non-compliant UST or near the fill pipe of the non-compliant UST at a location approved by OSFM.
- d) Evidence of compliance status may also be a notice or letter issued by OSFM indicating the facility status. The letter or notice shall be valid for 30 days from the date of the notice or letter.
- e) No decal or tag shall be removed by anyone other than an employee of OSFM. Upon reaching full compliance with the requirements of 41 Ill. Adm. Code 174, 175 and 176 and this Part, OSFM shall issue a green decal to a facility as soon as practicable. Upon reaching full compliance for a particular tank, OSFM shall remove any red tag prohibiting deposit into a particular UST as soon as practicable. Any request to fill a UST with a required minimal amount of fuel necessary to perform compliance testing must be submitted in writing and approved by OSFM in advance. A depositor may make one deposit of a regulated substance to a newly installed or newly lined tank to provide ballast. That regulated substance shall not be sold or dispensed until the required decal is obtained.

Section 177.120 Certificate of Exemption

- a) Owners and operators of underground and above ground tanks not defined as USTs may request a Certificate of Exemption (i.e., yellow tag) from the requirements of this Part. The yellow tag shall be affixed directly onto the fill pipe of the exempt UST or near the fill pipe of the exempt UST at a location approved by OSFM. The yellow tag shall serve to avoid any confusion as to whether evidence of compliance status is required for the UST and, therefore, avoid unintended denial of a delivery of petroleum, petroleum product, regulated substances or hazardous substances.
- b) The owner or operator must make a written request for a yellow tag to OSFM. A representative of OSFM may inspect the tank or tank system.

Section 177.125 Missing, Damaged or Destroyed Evidence of Compliance Status

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- a) The owner or operator of a UST may temporarily use a notice or letter issued pursuant to Section 177.115(d) by OSFM to establish evidence of compliance status when the green decal is missing, damaged or destroyed.
- b) If the person depositing the petroleum, petroleum product, hazardous substance or regulated substance has knowledge that the facility or UST has been issued a green decal, and the decal is missing, damaged or destroyed, the person delivering the substance should attempt to make reasonable inquiry to the owner or operator of the compliance status of the facility and UST. After making inquiry and receiving no information as to the non-compliance of the facility and UST, the person may deposit the substance but must notify OSFM, in writing, of the delivery on the next business day and make inquiry into the status of the UST receiving the delivery. Knowledge may be relied on under this subsection (b) by stating in writing that the depositor has observed a prior green decal and has no knowledge of the revocation of that decal. Examples include:
 - 1) A green decal was displayed at the time of a recent, prior delivery and a red tag was not affixed to the UST receiving the current delivery; or
 - 2) Other personal knowledge sufficient to satisfy this subsection (b), including possession of a copy of an inspection form issued by OSFM.
- c) Owners or operators of a UST shall report all missing, damaged or destroyed tags and decals on the next business day, in writing, following the discovery and shall return to OSFM the damaged tag or decal. OSFM will replace missing or damaged tags and decals as soon as practicable.

Section 177.130 Expiration of Certificates

Green decals shall be issued for a two-year period. Tanks not in compliance with 41 Ill. Adm. Code 174, 175 and 176 and this Part shall be issued red tags.

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Section 177.APPENDIX A Derivation Table

The following table indicates the Sections of 41 Ill. Adm. Code 170 or 171 that formerly stated requirements identical or related to those now located within this Part 177.

| New Section | Old Section |
|---------------------|-----------------------|
| 177.100 | 170.400, 171.10 |
| 177.110 | 171.70(a), 171.100(a) |
| 177.115 | 171.90, 171.110 |
| 177.120 | 171.150 |
| 177.125 | 171.160 |
| 177.130 | 171.180 |
| 177.APPENDIX A..... | None |

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

2011 budget, it is necessary to immediately amend the rule regarding spenddown so that the costs borne by the Department on Aging in providing medical and remedial services may be applied to meeting the spenddown obligation of persons who are otherwise eligible for medical assistance.

11) Are there any other proposed rulemakings pending on this Part? Yes

| <u>Section Numbers:</u> | <u>Proposed Action:</u> | <u>Illinois Register Citation:</u> |
|-------------------------|-------------------------|--------------------------------------|
| 120.10 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.20 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.40 | Repeal | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.60 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.61 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.62 | Repeal | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.63 | Repeal | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.65 | Repeal | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.308 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.347 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.379 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.380 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.381 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.382 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.384 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.385 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.387 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.388 | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.Table B | Amendment | 34 Ill. Reg. 11664; August 13, 2010 |
| 120.318 | Amendment | 34 Ill. Reg. 2631; February 19, 2010 |
| 120.400 | Amendment | 34 Ill. Reg. 2631; February 19, 2010 |

12) Statement of Statewide Policy Objectives: This emergency amendment neither creates nor expands any State mandate affecting units of local government.

13) Information and questions regarding this emergency amendment shall be directed to:

Jeanette Badrov
 General Counsel
 Illinois Department of Healthcare and Family Services
 201 South Grand Avenue East, 3rd Floor

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

Springfield IL 62763-0002

217/782-1233

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 120

MEDICAL ASSISTANCE PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section

120.1 Incorporation by Reference

SUBPART B: ASSISTANCE STANDARDS

Section

120.10 Eligibility For Medical Assistance
120.11 MANG(P) Eligibility
120.12 Healthy Start – Medicaid Presumptive Eligibility Program For Pregnant Women
120.14 Presumptive Eligibility for Children
120.20 MANG(AABD) Income Standard
120.30 MANG(C) Income Standard
120.31 MANG(P) Income Standard
120.32 FamilyCare Assist
120.34 FamilyCare Share and FamilyCare Premium Level 1
120.40 Exceptions To Use Of MANG Income Standard
120.50 AMI Income Standard (Repealed)

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section

120.60 Cases Other Than Long Term Care, Pregnant Women and Certain Children

EMERGENCY

120.61 Cases in Intermediate Care, Skilled Nursing Care and DMHDD –
MANG(AABD) and All Other Licensed Medical Facilities
120.62 Department of Mental Health and Developmental Disabilities (DMHDD)
Approved Home and Community Based Residential Settings Under 89 Ill. Adm.
Code 140.643
120.63 Department of Mental Health and Developmental Disabilities (DMHDD)
Approved Home and Community Based Residential Settings

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

- 120.64 MANG(P) Cases
120.65 Department of Mental Health and Developmental Disabilities (DMHDD)
Licensed Community – Integrated Living Arrangements

SUBPART D: MEDICARE PREMIUMS

- Section
120.70 Supplementary Medical Insurance Benefits (SMIB) Buy-In Program
120.72 Eligibility for Medicare Cost Sharing as a Qualified Medicare Beneficiary (QMB)
120.73 Eligibility for Medicaid Payment of Medicare Part B Premiums as a Specified
Low-Income Medicare Beneficiary (SLIB)
120.74 Qualified Medicare Beneficiary (QMB) Income Standard
120.75 Specified Low-Income Medicare Beneficiary (SLIB) Income Standards
120.76 Hospital Insurance Benefits (HIB)

SUBPART E: RECIPIENT RESTRICTION PROGRAM

- Section
120.80 Recipient Restriction Program

SUBPART F: MIGRANT MEDICAL PROGRAM

- Section
120.90 Migrant Medical Program (Repealed)
120.91 Income Standards (Repealed)

SUBPART G: AID TO THE MEDICALLY INDIGENT

- Section
120.200 Elimination Of Aid To The Medically Indigent
120.208 Client Cooperation (Repealed)
120.210 Citizenship (Repealed)
120.211 Residence (Repealed)
120.212 Age (Repealed)
120.215 Relationship (Repealed)
120.216 Living Arrangement (Repealed)
120.217 Supplemental Payments (Repealed)
120.218 Institutional Status (Repealed)
120.224 Foster Care Program (Repealed)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

| | |
|---------|--|
| 120.225 | Social Security Numbers (Repealed) |
| 120.230 | Unearned Income (Repealed) |
| 120.235 | Exempt Unearned Income (Repealed) |
| 120.236 | Education Benefits (Repealed) |
| 120.240 | Unearned Income In-Kind (Repealed) |
| 120.245 | Earmarked Income (Repealed) |
| 120.250 | Lump Sum Payments and Income Tax Refunds (Repealed) |
| 120.255 | Protected Income (Repealed) |
| 120.260 | Earned Income (Repealed) |
| 120.261 | Budgeting Earned Income (Repealed) |
| 120.262 | Exempt Earned Income (Repealed) |
| 120.270 | Recognized Employment Expenses (Repealed) |
| 120.271 | Income From Work/Study/Training Program (Repealed) |
| 120.272 | Earned Income From Self-Employment (Repealed) |
| 120.273 | Earned Income From Roomer and Boarder (Repealed) |
| 120.275 | Earned Income In-Kind (Repealed) |
| 120.276 | Payments from the Illinois Department of Children and Family Services (Repealed) |
| 120.280 | Assets (Repealed) |
| 120.281 | Exempt Assets (Repealed) |
| 120.282 | Asset Disregards (Repealed) |
| 120.283 | Deferral of Consideration of Assets (Repealed) |
| 120.284 | Spend-down of Assets (AMI) (Repealed) |
| 120.285 | Property Transfers (Repealed) |
| 120.290 | Persons Who May Be Included in the Assistance Unit (Repealed) |
| 120.295 | Payment Levels for AMI (Repealed) |

SUBPART H: MEDICAL ASSISTANCE – NO GRANT

| | |
|---------|---------------------|
| Section | |
| 120.308 | Client Cooperation |
| 120.309 | Caretaker Relative |
| 120.310 | Citizenship |
| 120.311 | Residence |
| 120.312 | Age |
| 120.313 | Blind |
| 120.314 | Disabled |
| 120.315 | Relationship |
| 120.316 | Living Arrangements |

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

| | |
|---------|--|
| 120.317 | Supplemental Payments |
| 120.318 | Institutional Status |
| 120.319 | Assignment of Rights to Medical Support and Collection of Payment |
| 120.320 | Cooperation in Establishing Paternity and Obtaining Medical Support |
| 120.321 | Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support |
| 120.322 | Proof of Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support |
| 120.323 | Suspension of Paternity Establishment and Obtaining Medical Support Upon Finding Good Cause |
| 120.324 | Health Insurance Premium Payment (HIPPP) Program |
| 120.325 | Health Insurance Premium Payment (HIPPP) Pilot Program |
| 120.326 | Foster Care Program |
| 120.327 | Social Security Numbers |
| 120.328 | Compliance with Employment and Work Activity Requirements (Suspended; Repealed) |
| 120.329 | Compliance with Non-Economic Eligibility Requirements of Article IV (Suspended; Repealed) |
| 120.330 | Unearned Income |
| 120.332 | Budgeting Unearned Income |
| 120.335 | Exempt Unearned Income |
| 120.336 | Education Benefits |
| 120.338 | Incentive Allowance |
| 120.340 | Unearned Income In-Kind |
| 120.342 | Child Support and Spousal Maintenance Payments |
| 120.345 | Earmarked Income |
| 120.346 | Medicaid Qualifying Trusts |
| 120.347 | Treatment of Trusts |
| 120.350 | Lump Sum Payments and Income Tax Refunds |
| 120.355 | Protected Income |
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AUTHORITY: Implementing Articles III, IV, V and VI and authorized by Section 12-13 of the

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Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142,

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effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 6082; amended at 7 Ill. Reg. 8256, effective July 1, 1983; amended at 7 Ill. Reg. 8264, effective July 5, 1983; amended (by adding Section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16108; amended at 8 Ill. Reg. 5253, effective April 9, 1984; amended at 8 Ill. Reg. 6770, effective April 27, 1984; amended at 8 Ill. Reg. 13328, effective July 16, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17897; amended at 8 Ill. Reg. 18903, effective September 26, 1984; peremptory amendment at 8 Ill. Reg. 20706, effective October 3, 1984; amended at 8 Ill. Reg. 25053, effective December 12, 1984; emergency amendment at 9 Ill. Reg. 830, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 4515, effective March 25, 1985; amended at 9 Ill. Reg. 5346, effective April 11, 1985; amended at 9 Ill. Reg. 7153, effective May 6, 1985; amended at 9 Ill. Reg. 11346, effective July 8, 1985; amended at 9 Ill. Reg. 12298, effective July 25, 1985; amended at 9 Ill. Reg. 12823, effective August 9, 1985; amended at 9 Ill. Reg. 15903, effective October 4, 1985; amended at 9 Ill. Reg. 16300, effective October 10, 1985; amended at 9 Ill. Reg. 16906, effective October 18, 1985; amended at 10 Ill. Reg. 1192, effective January 10, 1986; amended at 10 Ill. Reg. 3033, effective January 23, 1986; amended at 10 Ill. Reg. 4907, effective March 7, 1986; amended at 10 Ill. Reg. 6966, effective April 16, 1986; amended at 10 Ill. Reg. 10688, effective June 3, 1986; amended at 10 Ill. Reg. 12672, effective July 14, 1986; amended at 10 Ill. Reg. 15649, effective September 19, 1986; amended at 11 Ill. Reg. 3992, effective February 23, 1987; amended at 11 Ill. Reg. 7652, effective April 15, 1987; amended at 11 Ill. Reg. 8735, effective April 20, 1987; emergency amendment at 11 Ill. Reg. 12458, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14034, effective August 14, 1987; amended at 11 Ill. Reg. 14763, effective August 26, 1987; amended at 11 Ill. Reg. 20142, effective January 1, 1988; amended at 11 Ill. Reg. 20898, effective December 14, 1987; amended at 12 Ill. Reg. 904, effective January 1, 1988; amended at 12 Ill. Reg. 3516, effective January 22, 1988; amended at 12 Ill. Reg. 6234, effective March 22, 1988; amended at 12 Ill. Reg. 8672, effective May 13, 1988; amended at 12 Ill. Reg. 9132, effective May 20, 1988; amended at 12 Ill. Reg. 11483, effective June 30, 1988; emergency amendment at 12 Ill. Reg. 11632, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 11839, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12835, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 13243, effective July 29, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17867, effective October 30, 1988; amended at 12 Ill. Reg. 19704, effective November 15, 1988; amended at 12 Ill. Reg. 20188, effective November 23, 1988; amended at 13 Ill. Reg. 116, effective January 1, 1989; amended at 13 Ill. Reg. 2081, effective February 3, 1989; amended at

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13 Ill. Reg. 3908, effective March 10, 1989; emergency amendment at 13 Ill. Reg. 11929, effective June 27, 1989, for a maximum of 150 days; emergency expired November 25, 1989; emergency amendment at 13 Ill. Reg. 12137, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15404, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16586, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 17483, effective October 31, 1989; amended at 13 Ill. Reg. 17838, effective November 8, 1989; amended at 13 Ill. Reg. 18872, effective November 17, 1989; amended at 14 Ill. Reg. 760, effective January 1, 1990; emergency amendment at 14 Ill. Reg. 1494, effective January 2, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 4233, effective March 5, 1990; emergency amendment at 14 Ill. Reg. 5839, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 6372, effective April 16, 1990; amended at 14 Ill. Reg. 7637, effective May 10, 1990; amended at 14 Ill. Reg. 10396, effective June 20, 1990; amended at 14 Ill. Reg. 13227, effective August 6, 1990; amended at 14 Ill. Reg. 14814, effective September 3, 1990; amended at 14 Ill. Reg. 17004, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 348, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5302, effective April 1, 1991; amended at 15 Ill. Reg. 10101, effective June 24, 1991; amended at 15 Ill. Reg. 11973, effective August 12, 1991; amended at 15 Ill. Reg. 12747, effective August 16, 1991; amended at 15 Ill. Reg. 14105, effective September 11, 1991; amended at 15 Ill. Reg. 14240, effective September 23, 1991; amended at 16 Ill. Reg. 139, effective December 24, 1991; amended at 16 Ill. Reg. 1862, effective January 20, 1992; amended at 16 Ill. Reg. 10034, effective June 15, 1992; amended at 16 Ill. Reg. 11582, effective July 15, 1992; amended at 16 Ill. Reg. 17290, effective November 3, 1992; amended at 17 Ill. Reg. 1102, effective January 15, 1993; amended at 17 Ill. Reg. 6827, effective April 21, 1993; amended at 17 Ill. Reg. 10402, effective June 28, 1993; amended at 18 Ill. Reg. 2051, effective January 21, 1994; amended at 18 Ill. Reg. 5934, effective April 1, 1994; amended at 18 Ill. Reg. 8718, effective June 1, 1994; amended at 18 Ill. Reg. 11231, effective July 1, 1994; amended at 19 Ill. Reg. 2905, effective February 27, 1995; emergency amendment at 19 Ill. Reg. 9280, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 11931, effective August 11, 1995; amended at 19 Ill. Reg. 15079, effective October 17, 1995; amended at 20 Ill. Reg. 5068, effective March 20, 1996; amended at 20 Ill. Reg. 15993, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 692, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7423, effective May 31, 1997; amended at 21 Ill. Reg. 7748, effective June 9, 1997; amended at 21 Ill. Reg. 11555, effective August 1, 1997; amended at 21 Ill. Reg. 13638, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 1576, effective January 5, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 7003, effective April 1, 1998; amended at 22 Ill. Reg. 8503, effective May 1, 1998; amended at 22 Ill. Reg. 16291, effective August 28, 1998; emergency amendment at 22 Ill. Reg. 16640, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19875, effective October 30, 1998; amended at 23 Ill. Reg. 2381, effective January 22, 1999; amended at 23 Ill.

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Reg. 11301, effective August 27, 1999; amended at 24 Ill. Reg. 7361, effective May 1, 2000; emergency amendment at 24 Ill. Reg. 10425, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15075, effective October 1, 2000; amended at 24 Ill. Reg. 18309, effective December 1, 2000; amended at 25 Ill. Reg. 8783, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 10533, effective August 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 16098, effective December 1, 2001; amended at 26 Ill. Reg. 409, effective December 28, 2001; emergency amendment at 26 Ill. Reg. 8583, effective June 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 9843, effective June 26, 2002; emergency amendment at 26 Ill. Reg. 11029, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 15051, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16288, effective October 25, 2002; amended at 27 Ill. Reg. 4708, effective February 25, 2003; emergency amendment at 27 Ill. Reg. 10793, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18609, effective November 26, 2003; amended at 28 Ill. Reg. 4701, effective March 3, 2004; amended at 28 Ill. Reg. 6139, effective April 1, 2004; emergency amendment at 28 Ill. Reg. 6610, effective April 19, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 7152, effective May 3, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11149, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12921, effective September 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13621, effective September 28, 2004; amended at 28 Ill. Reg. 13760, effective October 1, 2004; amended at 28 Ill. Reg. 14541, effective November 1, 2004; amended at 29 Ill. Reg. 820, effective January 1, 2005; amended at 29 Ill. Reg. 10195, effective June 30, 2005; amended at 29 Ill. Reg. 14939, effective September 30, 2005; emergency amendment at 30 Ill. Reg. 521, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 10314, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 15029, effective September 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 2629, effective January 28, 2007; emergency amendment at 31 Ill. Reg. 7323, effective May 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11667, effective August 1, 2007; amended at 31 Ill. Reg. 12756, effective August 27, 2007; emergency amendment at 31 Ill. Reg. 15854, effective November 7, 2007, for a maximum of 150 days; emergency rule suspended at 31 Ill. Reg. 16060, effective November 13, 2007; emergency rule repealed, effective May 10, 2008; preemptory amendment at 32 Ill. Reg. 7212, effective April 21, 2008; preemptory amendment suspended at 32 Ill. Reg. 8450, effective May 20, 2008; preemptory amendment repealed under Section 5-125 of the Illinois Administrative Procedure Act, effective November 16, 2008; amended at 32 Ill. Reg. 17428, effective November 1, 2008; preemptory amendment at 32 Ill. Reg. 18889, effective November 18, 2008; preemptory amendment suspended at 32 Ill. Reg. 18906, effective November 19, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 33 Ill. Reg. 6551, effective April 28, 2009; preemptory amendment repealed by emergency rulemaking at 33 Ill. Reg. 6712, effective April 28, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 1681, effective February 1, 2009; amended at 33 Ill. Reg. 2289, effective March 1,

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2009; emergency amendment at 33 Ill. Reg. 5802, effective April 2, 2009, for a maximum of 150 days; emergency expired August 29, 2009; emergency amendment at 33 Ill. Reg. 10785, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 12703, effective September 7, 2009; amended at 33 Ill. Reg. 15707, effective November 2, 2009; amended at 33 Ill. Reg. 17070, effective December 2, 2009; amended at 34 Ill. Reg. 889, effective December 30, 2009; emergency rulemaking at 34 Ill. Reg. 13538, effective September 1, 2010, for a maximum of 150 days.

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section 120.60 Cases Other Than Long Term Care, Pregnant Women and Certain Children**EMERGENCY**

The following subsections apply to all cases other than those receiving care in licensed intermediate care facilities, licensed skilled nursing facilities, Department of Human Services (DHS) facilities, or DHS approved community based residential settings under 89 Ill. Adm. Code 140.643, or pregnant women and children under age 19 who do not qualify as mandatory categorically needy.

- a) The eligibility period shall begin with:
 - 1) the first day of the month of application;
 - 2) the first day of any month, prior to the month of application, in which the client meets non-financial eligibility requirements up to three months prior to the month of application, if the client so desires; or
 - 3) the first day of a month, after the month of application, in which the client meets non-financial eligibility requirements.
- b) Eligibility Without Spenddown for MANG
 - 1) For AABD MANG, if the client's nonexempt income available during the eligibility period is equal to or below the applicable MANG standard (Sections 120.20 and 120.30) and nonexempt assets are not in excess of the applicable asset disregard (Section 120.382), the client is eligible for medical assistance from the first day of the eligibility period. The Department will pay for covered services received during the entire

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eligibility period.

- 2) For TANF MANG, if the client's nonexempt income available during the eligibility period is equal to or below the applicable MANG standard (Sections 120.20 and 120.30), the client is eligible for medical assistance from the first day of the eligibility period. The Department will pay for covered services received during the entire eligibility period.
 - 3) The client is responsible for reporting any changes that occur during the eligibility period which might affect eligibility for medical assistance. If changes occur, appropriate action shall be taken by the Department, including termination of eligibility for medical assistance. If changes in income, assets or family composition occur that would make the client a spenddown case, a spenddown obligation will be determined and subsection (c) of this Section will apply.
 - 4) A redetermination of eligibility will be made at least every 12 months.
- c) Eligibility with Spenddown for MANG
- 1) For AABD MANG, if the client's nonexempt income available during the applicable eligibility period is greater than the applicable MANG standard and/or nonexempt assets are over the applicable asset disregard, the client must meet the spenddown obligation determined for the eligibility period before becoming eligible to receive medical assistance. The spenddown obligation is the sum of the amount by which the client's nonexempt income exceeds the MANG standard and the amount of nonexempt assets in excess of the applicable asset disregard.
 - 2) For TANF MANG, if the client's nonexempt income available during the applicable eligibility period is greater than the applicable MANG standard, the client must meet the spenddown obligation determined for the eligibility period before becoming eligible to receive medical assistance. The spenddown obligation is the amount by which the client's nonexempt income exceeds the MANG standard.
 - 3) The client meets the spenddown obligation by incurring or paying for medical expenses in an amount equal to the spenddown obligation. AABD MANG clients also have the option of meeting their spenddown by

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paying or having a third-party pay the amount of their spenddown obligation to the Department.

- A) Medical expenses shall be applied to the spenddown obligation in the following order:
- i) Expenses for necessary medical or remedial services, as funded by DHS [or Department on Aging](#) from sources other than federal funds. Such expenses shall be based on the service provider's usual and customary charges to the public. Such expenses shall not be based on any nominal amount the provider may assess the client. These charges are considered incurred the first day of the month, regardless of the day the services are actually provided.
 - ii) Payments made for medical expenses within the previous six months. Payments are considered incurred the first day of the month of payment.
 - iii) Unpaid medical expenses. These are considered as of the date of service and are applied in chronological order.
- B) If multiple medical expenses are incurred on the same day, the expenses shall be applied in the following order:
- i) Health insurance deductibles (including Medicare and other co-insurance charges).
 - ii) All copayment charges incurred or paid on spenddown met day.
 - iii) Expenses for medical services and/or items not covered by the Department's Medical Assistance Program.
 - iv) Cost share amounts incurred for in-home care services by individuals receiving services through the Department on Aging (DonA).
 - v) Expenses incurred for in-home care services by individuals

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receiving or purchasing services from private providers.

- vi) Expenses incurred for medical services or items covered by the Department's Medical Assistance Program. If more than one covered service is received on the day, the charges will be considered in order of amount. The bill for the smallest amount will be considered first.
- C) If a service is provided during the eligibility period but payment may be made by a third party, such as an insurance company, the medical expense will not be considered towards spenddown until the bill is adjudicated. When adjudicated, that part determined to be the responsibility of the client shall be considered as incurred on the date of service.
- D) AABD MANG spenddown clients may choose to pay or to have a third-party pay the amount of their spenddown obligation to the Department to meet spenddown. The following rules will govern when clients or third parties choose to pay the spenddown:
 - i) Payments to the Department will be applied to the spenddown obligation after all other medical expenses have been applied per subsections (c)(3)(A) and (B) of this Section.
 - ii) Excess payments will be credited forward to meet the spenddown obligation of a subsequent month for which the client chooses to meet spenddown.
 - iii) The spenddown obligation may be met using a combination of medical expenses and amounts paid.
- 4) After application for medical assistance for cases eligible with a spenddown obligation who do not have a QMB or MANG(P) member, an additional eligibility determination will be made.
 - A) For TANF MANG, if countable income is greater than the income standard (Section 120.30), and for AABD MANG, if countable income is greater than the income standard or countable assets are

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greater than the asset disregard (Section 120.382(d)), a person will not be enrolled in spenddown unless:

- i) the person does not have a spenddown obligation for any month of the 12-month enrollment period;
 - ii) medical expenses equal the spenddown obligation for at least one month of the 12-month enrollment period; or
 - iii) the person is on a waiting list or would be on a waiting list to receive a transplant if he or she had a source of payment.
- B) Cases that meet any of these conditions will be notified, in writing, of the spenddown obligation. The client will also be notified that his or her case will be reviewed beginning in the sixth month of the 12-month enrollment period. If the client has not had medical eligibility in one of the last three months at the time of review (including the month of review), the case will terminate unless the case contains a person who is on a waiting list or who would be on a waiting list to receive a transplant if he or she had a source of payment. A new application will be required if the client wishes continued medical assistance.
- C) When proof of incurred medical expenses equal to the spenddown obligation is provided to the local office, eligibility for medical assistance shall begin effective the first day that the spenddown obligation is met. The Department will pay for covered services received from that date until the end of the eligibility period. The client shall be responsible, directly to the provider, for payment for services provided prior to the time the client meets the spenddown obligation.
- 5) Cases with a spenddown obligation that do not have a QMB, a MANG(P) member or a person on a waiting list or who would be on a waiting list to receive a transplant if he or she had a source of payment, will be reviewed beginning in the sixth month of enrollment to determine if they have had medical eligibility within the last three months, including the month of review. If so, enrollment will continue. If not, enrollment will be terminated and the client will be advised that if he or she wishes continued

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medical assistance, a reapplication must be filed. Upon reapplication, a new 12-month enrollment period will be established (assuming non-financial factors of eligibility are met). If appropriate, a new spenddown obligation will be created.

- A) If the client files a reapplication prior to four months after the end of the period of enrollment, the client will be sent through a special abbreviated intake procedure making use of current case record material to verify factors of eligibility not subject to change.
 - B) Cases that remain eligible in the tenth month of the enrollment period or that have a QMB, a MANG(P) member or a person on a waiting list or who would be on a waiting list to receive a transplant if he or she had a source of payment, will remain enrolled and will be redetermined once every 12 months.
- 6) The client is responsible for reporting any changes that occur during the enrollment period that might affect eligibility for medical assistance. If changes occur, appropriate action shall be taken by the Department, including termination of eligibility for medical assistance.
- 7) For AABD MANG, if changes in income, assets or family composition occur, appropriate adjustments to the spenddown obligation and date of eligibility for medical assistance shall be made by the Department. The client will be notified, in writing, of the new spenddown obligation.
- A) If income decreases, or assets fall below the applicable asset disregard and, as a result, the client has already met the new spenddown obligation, eligibility for medical assistance shall be backdated to the appropriate date.
 - B) If income or assets increase and, as a result, the client has not produced proof of incurred medical expenses equal to the new spenddown obligation, the written notification of the new spenddown amount will also inform the client that eligibility for medical assistance will be interrupted until proof of medical expenses equal to the new spenddown obligation is produced.
- 8) For TANF MANG, if changes in income or family composition occur,

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appropriate adjustments to the spenddown obligation and date of eligibility for medical assistance shall be made by the Department. The client will be notified, in writing, of the new spenddown obligation.

- A) If income decreases and, as a result, the client has already met the new spenddown obligation, eligibility for medical assistance shall be backdated to the appropriate date.
 - B) If income increases and, as a result, the client has not produced proof of incurred medical expenses equal to the new spenddown obligation, the written notification of the new spenddown amount will also inform the client that eligibility for medical assistance will be interrupted until proof of medical expenses equal to the new spenddown obligation is produced.
- 9) Reconciliation of Amounts Paid-in to Meet Spenddown
- A) The Department will reconcile payments received to meet an income spenddown obligation for a given month against the amount of claims paid for services received in that month and refund any excess spenddown paid to the client. Excess amounts paid for a calendar month will be determined and refunded to the client six calendar quarters later. Refund payments will be made once per quarter.
 - B) The Department will reconcile payments received to meet an asset spenddown obligation against the amount of all claims paid during the individual's period of enrollment for medical assistance. Excess amounts paid will be determined and refunded to the individual six calendar quarters after the individual's enrollment for medical assistance ends.
 - C) When payments are received to meet both an asset and an income spenddown obligation, the Department will first reconcile the amount of claims paid to amounts paid toward the asset spenddown. If the total amount of claims paid have not met or exceeded the amount paid to meet the asset spenddown by the time the individual's enrollment ends, the excess asset payments shall be handled per subsection (c)(3)(B) of this Section. Once the amount

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of claims paid equals or exceeds the amount paid toward the asset spenddown, the remaining amount of claims paid will be compared against the amount paid to meet the income spenddown per subsection (c)(3)(A) of this Section.

- 10) The Department will refund payment amounts received for any months in which the client is no longer in spenddown status and the payment cannot be used to meet a spenddown obligation. These payment amounts shall not be subject to reconciliation under subsection (c)(9) of this Section. Refunds shall be processed within six months after the case status changed.

(Source: Amended by emergency rulemaking at 34 Ill. Reg. 13538, effective September 1, 2010, for a maximum of 150 days)

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Advance Deposit Wagering (ADW)
- 2) Code Citation: 11 Ill. Adm. Code 325
- 3)

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|-------------------------|--------------------------|
| <u>Section Numbers:</u> | <u>Emergency Action:</u> |
| 325.10 | Amendment |
| 325.60 | Amendment |
| 325.80 | New Section |
- 4) Statutory Authority: Section 5/26(g) of the Illinois Horse Racing Act states that the Board shall adopt rules regarding advance deposit wagering on interstate simulcast races that shall reflect the General Assembly's desire to maximize revenues to the State, horsemen purses, and organizational licensees. The General Assembly finds that the adoption of rules to regulate advance deposit wagering is deemed an emergency and necessary for the public interest, safety, and welfare.
- 5) Effective Date of Emergency Amendments: September 2, 2010
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which they are to expire: The emergency rulemaking will expire at the end of the 150-day period, or upon adoption of permanent rules, whichever comes first.
- 7) Date filed with the Index Department: September 1, 2010
- 8) A copy of the emergency amendments, including any material incorporated by reference, is on file in the Illinois Racing Board's central office and is available for public inspection.
- 9) Reason for Emergency: Section 5/26(g) of the Illinois Horse Racing Act states that the Board may adopt rules necessary to regulate advance deposit wagering through the use of emergency rulemaking in accordance with Section 5-45 of the Illinois Administrative Procedure Act. The General Assembly finds that the adoption of rules to regulate advance deposit wagering is deemed an emergency and necessary for the public interest, safety, and welfare.
- 10) A Complete Description of the Subjects and Issues Involved: This rulemaking is a consequence of Public Act 96-762 (SB 1298). Section 5/26(g) of the Act requires the Board to adopt rules limiting the interstate commission fees charged to an ADW licensee.

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Interstate commission fees, in Section 325.60, are the fees a racetrack in another state charges an ADW licensee to broadcast, and accept wagers on, its signal. Initially, the Board approved a 5% rate cap, however, the Board on August 31, 2010, approved an increase to 9% because the 5% cap negatively impacted State revenue. New Section 325.80, Anti-Competitive Practices, will prevent out-of-state racetracks from colluding and thus charging excessive rates to ADWs licensed in Illinois.

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

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

312/814-5017

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

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NOTICE OF EMERGENCY AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULESPART 325
ADVANCE DEPOSIT WAGERING (ADW)

Section

325.10 Definitions

EMERGENCY

325.20 License to Conduct Advance Deposit Wagering

325.30 Advance Deposit Wagering Rules

325.40 Requirements to Establish an Advance Deposit Wagering Account

325.50 Powers of the Board

325.60 Organization Licensee Simulcast Signals and Commission Fees

EMERGENCY

325.70 Interstate Simulcast Signals

325.80 Anti-Competitive PracticesEMERGENCY

AUTHORITY: Implementing and authorized by Section 26(g) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/26(g)].

SOURCE: Emergency rule adopted at 33 Ill. Reg. 12860, effective September 2, 2009, for a maximum of 150 days; adopted at 34 Ill. Reg. 539, effective January 1, 2010; emergency amendment at 34 Ill. Reg. 581, effective January 1, 2010, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 34 Ill. Reg. 2761, effective February 3, 2010, for the remainder of the 150 days; emergency amendment at 34 Ill. Reg. 2823, effective February 3, 2010, for a maximum of 150 days; emergency amendment expired July 2, 2010; amended at 34 Ill. Reg. 10517, effective July 12, 2010; emergency amendment at 34 Ill. Reg. 13558, effective September 2, 2010, for a maximum of 150 days.

Section 325.10 DefinitionsEMERGENCY

"Account" means an account for advance deposit wagering with a specific identifiable record of deposits, wagers and withdrawals established by an account holder and managed by the advance deposit wagering licensee.

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"Account holder" means an individual who successfully completed an application and for whom the advance deposit wagering licensee has opened an account.

"Advance deposit wagering" or "ADW" means a method of pari-mutuel wagering that is permissible under the Interstate Horseracing Act (15 USC 3001 et seq.) and in which an individual may establish an account with an entity licensed by the Board, deposit money into the account, and use the account balance to pay for pari-mutuel wagers in person, by telephone or through other electronic media, including, but not limited to, the internet.

"Advance deposit wagering licensee" or "ADW licensee" means a person licensed by the Board to conduct advance deposit wagering. An advance deposit wagering licensee shall be an organization licensee or a person or third party who contracts with an organization licensee in order to conduct advance deposit wagering.

"Applicant" means an individual who has submitted an application to establish an ADW account with an ADW licensee.

"Confidential information" includes, but is not limited to:

The amount of money credited to, debited from, withdrawn from, or present in any particular account holder's account;

The amount of money wagered by a particular account holder on any race or series of races;

The account number and secure personal identification code of a particular account holder;

The identities of particular entries on which the account holder is wagering or has wagered; and

Unless otherwise authorized by the account holder, the name, address and other personal information in the possession of the ADW licensee or organization licensee that would identify the account holder to anyone other than the Board or the advance deposit wagering licensee.

"Credits" means all inflow of money to an account.

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"Debits" means all outflow of money from an account.

"Deposit" means a payment of money by cash, check, money order, credit card, debit card or other electronic funds transfers made by an account holder to the account holder's account.

"Individual" means any natural person at least 18 years of age, but does not include any corporation, partnership, limited liability company, trust, estate or other legal entity.

"Licensee" means an individual organization licensee, an inter-track wagering licensee, an inter-track wagering location licensee, or an advance deposit wagering licensee, as the context of this Part requires.

"Principal residence address" means the street address identified by an applicant or a current account holder as that individual's residential address, as that address may be verified by the advance deposit wagering licensee.

"Proper identification" means a form of identification accepted in the normal course of business to establish that the person making a transaction is an account holder.

"Terms of agreement" means the agreement, approved by the Board, between an advance deposit wagering licensee and an account holder that includes but is not limited to the terms and conditions for deposits, credits, debits, withdrawals and the opening and closing of accounts.

"Withdrawal" means a payment of money from an account by the ADW licensee to the account holder when properly requested by the account holder.

(Source: Amended by emergency rulemaking at 34 Ill. Reg. 13558, effective September 2, 2010, for a maximum of 150 days)

Section 325.60 Organization Licensee Simulcast Signals and Commission Fees**EMERGENCY**

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- a) All advance deposit wagering licensees shall televise or broadcast or display via the internet the simulcast signal of the live racing of all organization licensees and accept wagers on the live racing of all organization licensees.
- b) Advance deposit wagering licensees shall not be permitted to accept out-of-state wagers on any organization licensee's live racing signal without the approval and consent of the organization licensee providing the signal.
- c) The Board finds that, as a means to ~~maximize~~**maximizing** and ~~support~~**supporting** the highest simulcast commission rates charged to out-of-state entities by all organization licensees and therefore maximize revenues to horsemen's purse accounts and organization licensees, and to establish commission and purse splits consistent with existing wagering facility revenue divisions, all organization licensees shall provide their live racing simulcast signal to all advance deposit wagering licensees for a simulcast commission fee not to exceed 8%.
- d) An advance deposit wagering licensee's interstate commission fee shall not exceed ~~95~~**95**% except for Grade 1 thoroughbred races and harness races with purses of \$200,000 or more.

(Source: Amended by emergency rulemaking at 34 Ill. Reg. 13558, effective September 2, 2010, for a maximum of 150 days)

Section 325.80 Anti-Competitive Practices**EMERGENCY**

- a) No licensee shall engage in any anti-competitive practices in the process of contracting for the right to receive or send any interstate simulcast signal or wagering on such signal. For the purpose of this Part, anti-competitive practices shall include but not be limited to:
 - 1) any agreement to pay excessive or unreasonable fees for the right to receive an interstate signal. In determining whether a fee is excessive or unreasonable, the Board shall consider prevailing rates paid for comparable signals in the past, and whether any commonality of ownership or revenue sharing exists, partially or wholly, between the Illinois licensee and the entity receiving the fees; or

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- 2) any agreement, combination, trust or joint enterprise with any other track or entity wherein multiple interstate signals are bundled together for the purpose of securing an excessive or unreasonable fee for one or more signals in the group in exchange for the right to receive any of the signals in the group; or
 - 3) any other activity designed to artificially inflate prices beyond reasonable market rates.
- b) Licensees in violation of this Part shall be subject to civil penalties up to \$10,000 per occurrence and/or license suspension or revocation.

(Source: Added by emergency rulemaking at 34 Ill. Reg. 13558, effective September 2, 2010, for a maximum of 150 days)

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LISTING OF DERIVED WATER QUALITY CRITERIA

Pursuant to 35 Ill. Adm. Code 302.595 and 302.669, the following water quality criteria have been derived as listed. This listing updates revisions to existing criteria for the period April 1, 2010 through June 30, 2010.

A cumulative listing of criteria as of July 31, 1993 was published in 17 Ill. Reg. 18904, October 29, 1993. Listings of waterbodies for which water quality criteria were used during subsequent three month periods were published in 18 Ill. Reg. 318, January 7, 1994; 18 Ill. Reg. 4457, March 18, 1994; 18 Ill. Reg. 8734, June 10, 1994; 18 Ill. Reg. 14166, September 9, 1994; 18 Ill. Reg. 17770, December 9, 1994; 19 Ill. Reg. 3563, March 17, 1995; 19 Ill. Reg. 7270, May 26, 1995; 19 Ill. Reg. 12527, September 1, 1995; 20 Ill. Reg. 649, January 5, 1996; 20 Ill. Reg. 4829, March 22, 1996; 20 Ill. Reg. 7549, May 30, 1996; 20 Ill. Reg. 12278, September 6, 1996; 20 Ill. Reg. 15619, December 6, 1996; 21 Ill. Reg. 3761, March 21, 1997; 21 Ill. Reg. 7554, June 13, 1997; 21 Ill. Reg. 12695, September 12, 1997; 21 Ill. Reg. 16193, December 12, 1997; 22 Ill. Reg. 5131, March 13, 1998; 22 Ill. Reg. 10689, June 12, 1998; 22 Ill. Reg. 16376, September 11, 1998; 22 Ill. Reg. 22423, December 28, 1998; 23 Ill. Reg. 3102, March 12, 1999; 23 Ill. Reg. 6979, June 11, 1999; 23 Ill. Reg. 11774, September 24, 1999; 23 Ill. Reg. 14772, December 27, 1999; 24 Ill. Reg. 4251, March 17, 2000; 24 Ill. Reg. 8146, June 9, 2000; 24 Ill. Reg. 14428, September 29, 2000; 25 Ill. Reg. 270, January 5, 2001; 25 Ill. Reg. 4049, March 16, 2001; 25 Ill. Reg. 7367, June 8, 2001; 25 Ill. Reg. 12186, September 21, 2001; 25 Ill. Reg. 16175, December 14, 2001; 26 Ill. Reg. 4974, March 29, 2002; 26 Ill. Reg. 13370, September 6, 2002; 27 Ill. Reg. 1736, January 31, 2003; 27 Ill. Reg. 7350, April 18, 2003; 27 Ill. Reg. 17128, November 7, 2003; 28 Ill. Reg. 5038, March 19, 2004; 28 Ill. Reg. 8363, June 11, 2004; 28 Ill. Reg. 12943, September 17, 2004; 29 Ill. Reg. 1449, January 21, 2005; 29 Ill. Reg. 7239, May 20, 2005; 29 Ill. Reg. 12672, August 12, 2005; 29 Ill. Reg. 18963, November 18, 2005; 30 Ill. Reg. 5458, March 17, 2006; 30 Ill. Reg. 9195, May 12, 2006 and 30 Ill. Reg. 14377, September 1, 2006; 31 Ill. Reg. 4941, March 23, 2007; 31 Ill. Reg. 7477, May 25, 2007; 31 Ill. Reg. 13233, September 14, 2007; 31 Ill. Reg. 15875, November 26, 2007; 32 Ill. Reg. 4271, March 21, 2008; 32 Ill. Reg. 8454, June 6, 2008; 32 Ill. Reg. 13595, August 15, 2008; 32 Ill. Reg. 19961, December 19, 2008; 33 Ill. Reg. 3683, February 27, 2009; 33 Ill. Reg. 9191, June 26, 2009; 33 Ill. Reg. 13526, September 25, 2009; 33 Ill. Reg. 17178, December 18, 2009; 34 Ill. Reg. 6546, May 7, 2010 and 34 Ill. Reg. 7811, June 4, 2010.

Aquatic life and human health criteria for General Use (35 Ill. Adm. Code 303.201) and Lake Michigan Basin (35 Ill. Adm. Code 303.443) waters are listed below. General Use human health criteria are derived for protection of primary contact waters, criteria derived for waters not supportive of primary contact recreation are specified, where applicable. General Use and Lake Michigan Basin waters used as Public and Food Processing Water Supplies (35 Ill. Adm. Code 303.202) are subject to more stringent human health criteria as specified in their respective

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LISTING OF DERIVED WATER QUALITY CRITERIA

derivation procedures (35 Ill. Adm. Code 302.648 and 302.657 and 35 Ill. Adm. Code 302.585 and 302.590, respectively). Newly derived criteria or criteria used in NPDES permitting this quarter are highlighted in bold print.

General Use Criteria

| | |
|---|------------------------------|
| Chemical: Acenaphthene | CAS #83-32-9 |
| Acute criterion: 120 ug/l | Chronic criterion: 62 ug/l |
| Date criteria derived: November 14, 1991; revised February 1999 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: Acenaphthylene | CAS # 208-96-8 |
| Acute criterion: 190 ug/L | Chronic criterion: 15 ug/L |
| Date criteria derived: March 1, 1998 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: Acetochlor | CAS #34256-82-1 |
| Acute criterion: 150 ug/l | Chronic criterion: 12 ug/l |
| Date criteria derived: September 26, 2007 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: Acetone | CAS #67-64-1 |
| Acute criterion: 1,500 mg/l | Chronic criterion: 120 mg/l |
| Date criteria derived: May 25, 1993 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: Acetonitrile | CAS #75-05-8 |
| Acute criterion: 380 mg/l | Chronic criterion: 30 mg/l |
| Human health criterion (HTC): non-primary contact, 20 mg/L | |
| Date criteria derived: December 7, 1993; revised January 23, 2007 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: Acrolein | CAS #107-02-8 |
| Acute criterion: 2.7 µg/l | Chronic criterion: 0.22 µg/l |
| Date criteria calculated: February 1999; reviewed January 2008 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: Acrylonitrile | CAS #107-13-4 |
| Acute criterion: 910 ug/l | Chronic criterion: 73 ug/l |
| Human health criterion (HNC): 0.21 ug/l | |

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| | |
|--|------------------------------|
| Date criteria derived: November 13, 1991 Applicable waterbodies: Not used during this period. | |
| Chemical: Aniline | CAS #62-53-3 |
| Acute criterion: 120 µg/l | Chronic criterion: 15 µg/l |
| Date criteria calculated: July 24, 1998; reviewed April 15, 2009 Applicable waterbodies: Not used during this period. | |
| Chemical: Anthracene | CAS #120-12-7 |
| Acute criterion: 0.66 ug/L | Chronic Criterion: 0.53 ug/L |
| Human health criterion (HTC): 35 mg/l Date criteria derived: August 18, 1993, revised May 30, 2007 Applicable waterbodies: Not used during this period. | |
| Chemical: Antimony | CAS #7440-36-0 |
| Acute criterion: 1,200 ug/L | Chronic Criterion: 320 ug/L |
| Human health criterion (HTC): 12,000 ug/l Non-primary contact: 1,200 ug/l Public and food processing water supply: 6 ug/l Date criteria derived: September 29, 2008 Applicable waterbodies: Not used during this period. | |
| Chemical: Atrazine | CAS #1912-24-9 |
| Acute criterion: 82 ug/l | Chronic criterion: 9.0 ug/L |
| Date criteria derived: May 2, 2005 Applicable waterbodies: Not used during this period. | |
| Chemical: Benzo(a)anthracene | CAS #56-55-3 |
| Human health criterion (HNC): 0.16 ug/l Date criteria derived: August 10, 1993; revised February 1999 Applicable waterbodies: Not used during this period. | |
| Chemical: Benzo(a)pyrene | CAS #50-32-8 |
| Human health criterion (HNC): 0.016 ug/l Date criteria derived: August 10, 1993; revised February 1999 Applicable waterbodies: Not used during this period. | |
| Chemical: Benzo(b)fluoranthene | CAS # 205-99-2 |
| Human health criterion (HNC): 0.16 ug/l Date criteria derived: August 10, 1993; revised February 1999 Applicable waterbodies: Not used during this period. | |
| Chemical: Benzo(k)fluoranthene | CAS #207-08-9 |
| Human health criterion (HNC): 1.6 ug/l | |

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LISTING OF DERIVED WATER QUALITY CRITERIA

| |
|---|
| <p>Date criteria derived: August 10, 1993; revised February 1999 Applicable waterbodies: Not used during this period.</p> |
| <p>Chemical: Bis(2-ethylhexyl)phthalate CAS #117-81-7 Human health criterion (HNC): 1.9 ug/l</p> |
| <p>Date criteria derived: February, 1999; reviewed: June 2009 Applicable waterbodies: Not used during this period.</p> |
| <p>Chemical: Carbon tetrachloride CAS #56-23-5 Acute criterion: 3,500 ug/l Chronic criterion: 280 ug/l Human health criterion (HNC): 1.4 ug/l Date criteria derived: June 18, 1993 Applicable waterbodies: Not used during this period.</p> |
| <p>Chemical: 2-Chloroaniline CAS #95-51-2 Acute criterion: 75 ug/l Chronic criterion: 6 ug/l Date criteria derived: June 21, 1996; reviewed April 15, 2009 Applicable waterbodies: Not used during this period.</p> |
| <p>Chemical: 4-Chloroaniline CAS #106-47-8 Acute criterion: 2.4 ug/l Date criteria derived: February 26, 1992; reviewed April 15, 2009 Applicable waterbodies: Not used during this period.</p> |
| <p>Chemical: Chlorobenzene CAS #108-90-7 Acute criterion: 990 ug/l Chronic criterion: 79 ug/l Date criteria derived: December 11, 1991 Applicable waterbodies: Not used during this period.</p> |
| <p>Chemical: Chloroethane CAS #75-00-3 Acute criterion: 13 mg/l Chronic criterion: 1 mg/l Date criteria derived: December 11, 1991 Applicable waterbodies: Not used during this period.</p> |
| <p>Chemical: Chloromethane CAS #74-87-3 Acute criterion: 16 mg/l Chronic criterion: 1.3 mg/l Date criteria derived: December 11, 1991 Applicable waterbodies: Not used during this period.</p> |
| <p>Chemical: Chloroform CAS #67-66-3 Acute criterion: 1,900 ug/l Chronic criterion: 150 ug/l Human health criterion (HNC): 130 ug/l Date criteria derived: October 26, 1992</p> |

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|---|---|
| Applicable waterbodies: Not used during this period. | |
| Chemical: Chrysene | CAS #218-01-9 |
| Human health criterion (HNC): 16 ug/l | |
| Date criteria derived: August 10, 1993; revised February 1999 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: 2,4-D | CAS #94-75-7 |
| Acute criterion: 100 ug/l | Chronic criterion: 8 ug/l |
| Date criteria derived: July 1, 1993; reviewed April 15, 2009 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: Dibenz(a,h)anthracene | CAS #53-70-3 |
| Human health criterion (HNC): 0.016 ug/l | |
| Date criteria derived : February, 1999, reviewed June 2007 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: 1,2-dichlorobenzene | CAS #95-50-1 |
| Acute criterion: 210 ug/l | Chronic criterion: 17 ug/l |
| Date criteria derived: December 1, 1993 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: 1,3-dichlorobenzene | CAS #541-73-1 |
| Acute criterion: 500 ug/l | Chronic criterion: 200 ug/l |
| Date criteria derived: July 31, 1991 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: 1,1-dichloroethane | CAS #75-34-3 |
| Acute criterion: 20 mg/l | Chronic criterion: 2 mg/l |
| Date criteria derived: July 31, 1991 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: 1,2-dichloroethane | CAS #107-06-2 |
| Acute criterion: 25 mg/l | Chronic criterion: 4.5 mg/l |
| Human health criterion (HNC): 23 ug/l | |
| Date criteria derived: March 19, 1992 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: 1,1-dichloroethylene | CAS #75-35-4 |
| Acute criterion: 3,000 ug/l | Chronic criterion: 240 ug/l |
| Human health criterion (HTC): 110 ug/l | |
| | Non-primary contact: 120 ug/l |
| | Public and food processing water supply: 6.6 ug/l |
| Date criteria derived: March 20, 1992; revised May 04, 2009 | |

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| | |
|---|-----------------------------|
| Applicable waterbodies: Not used during this period. | |
| Chemical: 1,2-dichloroethylene | CAS #540-59-0 |
| Acute criterion: 14 mg/l | Chronic criterion: 1.1 mg/l |
| Date criteria derived: November 18, 2008 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: 2,4-dichlorophenol | CAS #120-83-2 |
| Acute criterion: 630 ug/l | Chronic criterion: 83 ug/l |
| Date criteria derived: November 14, 1991 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: 1,2-dichloropropane | CAS #78-87-5 |
| Acute criterion: 4,800 ug/l | Chronic criterion: 380 ug/l |
| Date criteria derived: December 7, 1993 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: 1,3-dichloropropylene | CAS #542-75-6 |
| Acute criterion: 99 ug/l | Chronic criterion: 7.9 ug/l |
| Date criteria derived: November 13, 1991 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: 2,4-dimethyl phenol | CAS #105-67-9 |
| Acute criterion: 740 ug/l | Chronic criterion: 220 ug/l |
| Date criteria derived: October 26, 1992 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: 4,6-dinitro-o-cresol = 2-methyl-4,6-dinitrophenol | CAS #534-52-1 |
| Acute criterion: 29 ug/l | Chronic criterion: 2.3 ug/l |
| Date criteria derived: November 14, 1991 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: 2,4-dinitrophenol | CAS #51-28-5 |
| Acute criterion: 85 ug/l | Chronic criterion: 4.1 ug/l |
| Date criteria derived: December 1, 1993 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: 2,6-dinitrotoluene | CAS #606-20-2 |
| Acute criterion: 1,900 ug/l | Chronic criterion: 150 ug/l |
| Date criteria derived: February 14, 1992 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: Diquat | CAS #85-00-7 |
| Acute criterion: 990 ug/l | Chronic criterion: 80 ug/l |
| Date criteria derived: January 30, 1996 | |

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|--|------------------------------|
| Applicable waterbodies: Not used during this period. | |
| Chemical: Ethyl mercaptan (ethanethiol) | CAS #75-08-1 |
| Acute criterion: 17 ug/l | Chronic criterion: 2 ug/l |
| Date criteria derived: April 8, 2002 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: Fluoranthene | CAS #206-44-0 |
| Acute criterion: 4.3 ug/L | Chronic Criterion: 1.8 ug/L |
| Human health criterion (HTC): 120 ug/l | |
| Date criteria derived: August 10, 1993; revised June 6, 2007 (Acute/Chronic) | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: Fluorene | CAS #86-73-7 |
| Acute criterion: 59 ug/L | Chronic Criterion: 16 ug/L |
| Date criteria derived: June 6, 2007 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: Formaldehyde | CAS #50-00-0 |
| Acute criterion: 4.9 mg/l | Chronic criterion: 0.39 mg/l |
| Date criteria derived: January 19, 1993 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: Hexachlorobenzene | CAS #118-74-1 |
| Human health criterion (HNC): 0.00025 ug/l | |
| Date criteria derived: November 15, 1991 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: Hexachlorobutadiene | CAS #87-68-3 |
| Acute criterion: 35 ug/l | Chronic criterion: 2.8 ug/l |
| Date criteria derived: March 23, 1992 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: Hexachloroethane | CAS #67-72-1 |
| Acute criterion: 380 ug/l | Chronic criterion: 31 ug/l |
| Human health criterion (HNC): 2.9 ug/l | |
| Date criteria derived: November 15, 1991 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: n-Hexane | CAS #110-54-3 |
| Acute criterion: 250 ug/l | Chronic criterion: 20 ug/l |
| Date criteria derived: April 8, 2002 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: Indeno(1,2,3-cd)pyrene | CAS #193-39-5 |

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| | |
|---|------------------------------|
| Human health criterion (HNC): 0.16 ug/l Date criteria calculated: February, 1992, reviewed June 2007 Applicable waterbodies: Not used during this period. | |
| Chemical: Isobutyl alcohol = 2-methyl-1-propanol | CAS #78-83-1 |
| Acute criterion: 430 mg/l | Chronic criterion: 35 mg/l |
| Date criteria derived: December 1, 1993 Applicable waterbodies: Not used during this period. | |
| Chemical: Methylene chloride | CAS #75-09-2 |
| Acute criterion: 17 mg/l | Chronic criterion: 1.4 mg/l |
| Human health criterion (HNC): 330 ug/l Non-primary contact: 490 ug/l Public and food processing water supply: 4.6 ug/l | |
| Date criteria derived: January 21, 1992; revised November 25, 2008 Applicable waterbodies: Not used during this period. | |
| Chemical: Methylethylketone | CAS #78-93-3 |
| Acute criterion: 320 mg/l | Chronic criterion: 26 mg/l |
| Date criteria derived: July 1, 1992 Applicable waterbodies: Not used during this period. | |
| Chemical: 4-methyl-2-pentanone | CAS #108-10-1 |
| Acute criterion: 46 mg/l | Chronic criterion: 1.4 mg/l |
| Date criteria derived: January 13, 1992 Applicable waterbodies: Not used during this period. | |
| Chemical: 2-methyl phenol | CAS #95-48-7 |
| Acute criterion: 4.7 mg/l | Chronic criterion: 0.37 mg/l |
| Date criteria derived: November 8, 1993 Applicable waterbodies: Not used during this period. | |
| Chemical: 4-methyl phenol | CAS #106-44-5 |
| Acute criterion: 670 ug/l | Chronic criterion: 120 ug/l |
| Date criteria derived: January 13, 1992 Applicable waterbodies: Not used during this period. | |
| Chemical: Methyl tert-butyl ether (MTBE) | CAS #134-04-4 |
| Acute criterion: 67 mg/l | Chronic criterion: 5.4 mg/l |
| Date criteria derived: September 18, 1997 Applicable waterbodies: Not used during this period. | |
| Chemical: Metolachlor | CAS #51218-45-2 |
| Acute criterion: 380 ug/l | Chronic criterion: 30.4 ug/l |

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

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|--|------------------------------|
| Date criteria derived: February 25, 1992; revised October 1, 2007 Applicable waterbodies: Not used during this period. | |
| Chemical: Naphthalene | CAS #91-20-3 |
| Acute criterion: 510 ug/l | Chronic criterion: 68 ug/l |
| Date criteria derived: November 7, 1991; revised February 1999 Applicable waterbodies: Not used during this period. | |
| Chemical: 4-nitroaniline | CAS #100-01-6 |
| Acute criterion: 1.5 mg/l | Chronic criterion: 0.12 mg/l |
| Date criteria derived: May 5, 1996 Applicable waterbodies: Not used during this period. | |
| Chemical: Nitrobenzene | CAS #98-95-3 |
| Acute criterion: 15 mg/l | Chronic criterion: 8.0 mg/l |
| Human health criterion (HTC): 0.52 mg/l Date criteria derived: February 14, 1992; revised February 1999 Applicable waterbodies: Not used during this period. | |
| Chemical: Pentachlorophenol | |
| Acute criterion: 20 ug/l | Chronic criterion: 13 ug/l |
| Date criteria derived: national criterion at pH of 7.8, September 1986 Applicable waterbodies: Not used during this period. | |
| Chemical: Phenanthrene | CAS #85-01-8 |
| Acute criterion: 46 ug/l | Chronic criterion: 3.7 ug/l |
| Date criteria derived: October 26, 1992 Applicable waterbodies: Not used during this period. | |
| Chemical: Propylene | CAS #115-07-1 |
| Acute criterion: 4.0 mg/l | Chronic criterion 0.40 mg/l |
| Date criteria derived: April 8, 2002 Applicable waterbodies: Not used during this period. | |
| Chemical: Pyrene | CAS #120-00-0 |
| Human health criterion (HTC): 3.5 mg/l Date criteria derived: December 22, 1992 Applicable waterbodies: Not used during this period. | |
| Chemical: Styrene | CAS #120-42-5 |
| Acute criterion: 2.5 mg/L | Chronic criterion: 0.2 mg/L |
| Date criteria derived: October 26, 1992; reviewed May 4, 2009 Applicable waterbodies: Not used during this period. | |
| Chemical: Tetrachloroethylene | CAS #127-18-4 |

ENVIRONMENTAL PROTECTION AGENCY

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LISTING OF DERIVED WATER QUALITY CRITERIA

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|---|--|
| Acute criterion: 1,200 ug/l Date criteria derived: March 23, 1992 Applicable waterbodies: Not used during this period. | Chronic criterion: 150 ug/l |
| Chemical: Tetrahydrofuran Acute criterion: 220 mg/l Date criteria derived: March 16, 1992 Applicable waterbodies: Not used during this period. | CAS #109-99-9 Chronic criterion: 17 mg/l |
| Chemical: Thallium Acute criterion: 86 ug/l Human health criterion (HTC): 3.0 ug/l Non-primary contact: 3.0 ug/l Public and food processing water supply: 1.2 ug/l Date criteria derived: October 22, 2007; revised November 18, 2008 Applicable waterbodies: Not used during this period. | CAS #7440-28-0 Chronic criterion: 11 ug/l |
| Chemical: 1,2,4-trichlorobenzene Acute criterion: 370 ug/l Date criteria derived: December 14, 1993; revised February 1999 Applicable waterbodies: Not used during this period. | CAS #120-82-1 Chronic criterion: 72 ug/l |
| Chemical: 1,1,1-trichloroethane Acute criterion: 4,900 ug/l Date criteria derived: October 26, 1992 Applicable waterbodies: Not used during this period. | CAS #71-55-6 Chronic criterion: 390 ug/l |
| Chemical: 1,1,2-trichloroethane Acute criterion: 19 mg/l Human health criterion (HNC): 12 ug/l Date criteria derived: December 13, 1993; revised February 1999 Applicable waterbodies: Not used during this period. | CAS #79-00-5 Chronic criterion: 4.4 mg/l |
| Chemical: Trichloroethylene Acute criterion: 12,000 ug/l Human health criterion (HNC): 25 ug/l Non-primary contact: 26 ug/l Public and food processing water supply: 2.5 ug/l Date criteria derived: October 23, 1992; revised November 18, 2008 Applicable waterbodies: Not used during this period. | CAS #79-01-6 Chronic criterion: 940 ug/l |
| Chemical: Vinyl chloride Acute criterion: 22 mg/l | CAS #75-01-4 Chronic criterion: 1.7 mg/l |

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

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|---|-----------------------------|
| Date criteria derived: June 20, 2006 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: Thallium | CAS #7440-28-0 |
| <u>Aquatic Life Criteria:</u> | |
| Acute criterion: 54 ug/l | Chronic criterion: 15 ug/l |
| <u>Human Health Threshold Criteria:</u> | |
| Public and food processing water supply: 1.3 ug/l | |
| Non-drinking water: 3.7 ug/l | |
| Date criteria derived: June 20, 2006; revised November 18, 2008 | |
| Applicable waterbodies: Not used during this period. | |
| Chemical: Vinyl Chloride | CAS #75-01-4 |
| <u>Aquatic Life Criteria:</u> | |
| Acute criterion: 8,380 ug/l | Chronic criterion: 931 ug/l |
| <u>Human Health Non-threshold Criteria:</u> | |
| Public and food processing water supply: 0.25 ug/l | |
| Non-drinking water: 14.4 ug/l | |
| Date criteria derived: June 20, 2006 | |
| Applicable waterbodies: Not used during this period. | |

For additional information concerning these criteria or the derivation process used in generating them, please contact:

Brian Koch
Illinois Environmental Protection Agency
Division of Water Pollution Control
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
217-558-2012

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 August 31, 2010 through September 7, 2010 and has been scheduled for review by the Committee at its September 14, 2010 or October 19, 2010 meetings. 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> |
|--------------------------------------|---|--------------------------------------|-------------------------|
| 10/16/10 | <u>Illinois Gaming Board</u> , Riverboat Gambling (86 Ill. Adm. Code 3000) | 7/9/10 34 Ill. Reg. 8813 | 9/14/10 |
| 10/21/10 | <u>Environmental Protection Agency</u> , Procedures for Issuing Loans from the Public Water Supply Loan Program (35 Ill. Adm. Code 662) | 6/25/10 34 Ill. Reg. 8133 | 10/19/10 |
| 10/21/10 | <u>Environmental Protection Agency</u> , Procedures for Issuing Loans from the Water Pollution Control Loan Program (35 Ill. Adm. Code 365) | 6/25/10 34 Ill. Reg. 8130 | 10/19/10 |

PROCLAMATION

**2010-290
GUBERNATORIAL PROCLAMATION**

The severe storms with high wind and torrential rain that moved through northern Illinois from the Mississippi River to Lake Michigan on July 22 through July 24, 2010, resulted in a gubernatorial proclamation of disaster on July 26, 2010. Upon further review of climate observations for the month of July, it has been determined that the severe storms that caused a major disaster in northern Illinois counties during the period of July 22 through August 7, 2010, actually were part of a series of severe storms that moved into western Illinois along the Mississippi River on July 19, 2010. The extreme amounts of rainfall and subsequent flooding occurring between July 19 and August 7, 2010, resulted in damage to roads, bridges and other public infrastructure in the western Illinois counties most severely impacted. The damage in the western Illinois counties is similar to the public infrastructure damage in the most severely impacted northern Illinois counties.

In the interest of aiding the local governments responsible for ensuring public health and safety, I hereby proclaim that a disaster exists within the State of Illinois, and specifically declare Adams, Pike and Schuyler counties as State disaster areas, pursuant to the provisions of the Illinois Emergency Management Agency Act, 20ILCS 3305/7.

This gubernatorial proclamation of disaster will aid the Illinois Emergency Management Agency in coordinating State resources to support local governments in disaster recovery operations. In addition, this proclamation will facilitate a request for federal disaster assistance. A complete and comprehensive assessment of damage indicates that effective recovery is beyond the capabilities of the State and the three western Illinois counties most severely impacted by this disaster.

Date: August 31, 2010

Filed: August 31, 2010

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 34, Issue 38 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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